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Amended National Minimum Wage effective from 1 March 2023



The new national minimum wage (NMW) was announced by the Minister of Employment and Labour, Thulas Nxesi, in *Government Gazette* No. 48094 on 21 February 2023.

The preamble to, or introductory part of the National Minimum Wage Act, 2018 (Act No. 9 of 2018) (NMWA) ("the Act") provides that South Africa has an unequal society and that income disparities are present in the national labour market. The Act notes the need to eradicate poverty and inequality and, lastly, acknowledges the need to promote stability and fair and effective competition in the labour market.

In this blog, we unpack some of the elements and provide clarity on the amended national minimum wage, as well as the legislative impact of the NMWA.

Historical development and implementation of the National Minimum Wage Act of South Africa

As stipulated in the Act, the national minimum wage shall be reviewed annually by the National Minimum Wage Commission, which makes recommendations to the Minister regarding any adjustments to the national minimum wage.

The national minimum wage is the amount payable for ordinary hours of work and does not include payment of allowances (such as transport, equipment, tools, food or accommodation) unless specified otherwise in a sectorial determination, payments in kind (board or lodging), and tips, bonuses and gifts.

The minimum wage for domestic and farm workers was previously determined separately from the national minimum wage. The aforesaid categories of workers were gradually incorporated into the NMWA.

What is the purpose of the National Minimum Wage Act (NMWA)?

In terms of section 2 of the Act its purpose is to advance economic development and social justice by–

- improving the wages of lowest paid workers;
- protecting workers from unreasonably low wages;
- preserving the value of the national minimum wage;
- promoting collective bargaining; and
- supporting economic policy.

To whom does the NMWA apply?

The Act applies to all workers and their employers, except members of the South African National Defence Force, the National Intelligence Agency and the South African Secret Service. The Act does not apply to a volunteer who performs work for another person and who does not receive, or is not entitled to receive, any remuneration for his or her services.

What are the new National Minimum Wage rates and when do they come into effect?

The latest national minimum wage amendments for the Republic of South Africa are set out below and will be effective from **1 March 2023**.

Schedule 1 of the National Minimum Wage:

1. Subject to item 2, the national minimum wage is **R25,42** for each ordinary hour worked.
2. Notwithstanding item 1–
 - farm workers are entitled to a minimum wage of **R25,42** per hour;
 - domestic workers are entitled to a minimum wage of **R25,42** per hour;
 - workers employed on an expanded public works programme are entitled to a minimum wage of **R13,97** per hour;
 - workers who have concluded learnership agreements contemplated in section 17 of the Skills Development Act, 1998 (Act No. 97 of 1998) are entitled to the allowance referred to in Schedule 2.

Schedule 2: Learnership Allowances (Section 6(5)):

NQF LEVEL	CREDITS EARNED BY LEARNER	MINIMUM ALLOWANCE PER WEEK
LEVEL 1-2	0 – 120	R382,55
	121 – 240	R765,06
LEVEL 3	0 – 120	R382,55
	121 – 240	R720,49
	241 – 360	R1 179,50
LEVEL 4	0 – 120	R382,55
	121 – 240	R765,13
	241 – 360	R1 179,50
	361 – 480	R1 721,41
LEVEL 5-8	0 – 120	R382,55
	121 – 240	R828,80
	241 – 360	R1 240,06
	361 – 480	R1 746,96
	481 – 600	R2 231,46

Sectoral Determination 1: Contract Cleaning Sector

The Contract Cleaning Sector's minimum hourly rates for contract cleaning employees have been amended as follows:

- Area A – The rate per hour is R27,97;
- Area B – The rate per hour is in accordance with the BCCCI rates;
- Area C – The rate per hour is R25,50.

Sectoral Determination 9: Wholesale and Retail Sector

The Wholesale and Retail Sector's minimum wages for Area A (Table 1) and Area B (Table 2) have been adjusted and were published in *Government Gazette* No. 48094 dated 21 February 2023.

Does the NMWA make provision for employer exemptions?

Yes, the NMWA makes provision for exemption of an employer from paying the national minimum wage. An employer, or an employer organisation registered in terms of section 96 of the Labour Relations Act, 1995 (Act No. 66 of 1995) or any other law, acting on behalf of a member, may, in the prescribed form and manner, apply for an exemption from paying the national minimum wage.

What are the consequences of non-compliance with the amended NMWA?

Should an employer unilaterally change wages, hours of work or other conditions of employment in connection with the implementation of the national minimum wage, it would be deemed an unfair labour practice.

Determination: earnings threshold

In an additional *Government Gazette* No. 48092 dated 20 February 2023, the Minister of Employment and Labour announced an increase in the annual threshold from **R224 080,48** (two hundred and twenty-four thousand and eighty rand, forty-eight cents) to **R241 110,59** (two hundred and forty-one thousand, one hundred and ten rands, fifty-nine cents). Employees who fall within this amended annual threshold category will be excluded from sections 9, 10, 11, 12, 14, 15, 16, 17(2) and 18(3) of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) (BCEA) with effect from 1 March 2023.

SERR Synergy assists employers in understanding all elements of new employment-related legislation and specifically the National Minimum Wage Act. Our professional labour teams across South Africa will provide employers with guidance regarding the adjusted national minimum wage specific to their business and industry to ensure that they are compliant with the latest adjustments and amendments and that the company continues to flourish.

Sources acknowledged:

- Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997).
- Labour Relations Act, 1995 (Act No. 66 of 1995).
- National Minimum Wage Act, 2018 (Act No. 9 of 2018).

About the author: Lané Boshoff is SERR Synergy's Corporate Legal Researcher. She obtained a BA Law degree and LLB from the University of Pretoria. Lané is also an admitted Advocate of the High Court of Gauteng – Pretoria.

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