

Understanding the impact of the Amended National Minimum Wage 2021



Employment and Labour Minister Thembelani Nxesi recently announced that the national minimum wage for each ordinary hour worked will increase from R20,76 to R21,69 as from March 2021.

To recapitulate, the National Minimum Wage Act, 9 of 2018 (NMWA) provides for, among others, a national minimum wage; the review and annual adjustment of the national minimum wage; the establishment of a National Minimum Wage Commission; and lastly, exemption from paying the national minimum wage.

Employers who fail to comply with the relevant legislation risk being caught up in unnecessary legal action and disputes as some employees and unions might see this as an opportunity to exploit the situation.

For the purpose of this blog, we have unpacked some of the elements of the amended national minimum wage as it is imperative that every employer understands the dynamics and *core elements of the National Minimum Wage Act*.

The evolution of national minimum wages

The National Minimum Wage Act No. 9 of 2018 had been proclaimed in 2018 and signed into law by the President of South Africa, taking effect on 01 January 2019 at a level of R20,00 per hour. The following year in March 2020, the national minimum wage base rate was increased to R20,76 per hour.

For the year of 2021, the acting departmental spokesperson of the Department of Employment and Labour announced that the National Minimum Wage Commission, upon investigation of various aspects, recommended that the minimum wage for farmworkers be aligned with the national minimum wage this year, and that the minimum for domestic workers be gradually increased to equal the national minimum wage by 2022.

To whom does the National Minimum Wage Act apply?

The NMWA applies to all workers and their employers, with the exception of members of the South African National Defence Force, the National Intelligence Agency and the South African Secret Service, and volunteers who perform work for another person without remuneration. It applies to any person who works for another and who receives, or is entitled to receive, any payment for such work whether for money or in kind.

What is the purpose of the Act?

The Act is intended 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.

What are the new national minimum wage rates and when do they come into effect?

In a *Government Gazette* published on 08 February 2021, the Minister of Employment and Labour indicated that the new national minimum wage for South Africa would take effect on 01 March 2021.

The national minimum wage is **R21,69** for each ordinary hour worked.

- o **Farm workers** are entitled to a minimum wage of **R21,69** per hour;
- o **Domestic workers** are entitled to a minimum wage of **R19,09** per hour;
- o **Workers employed on an expanded public works programme** are entitled to a minimum wage of **R11,93** per hour;
- o **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 contained 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	R 326,51
	121 – 240	R 652,99
LEVEL 3	0 – 120	R 326,51
	121 – 240	R 614,95
	241 – 360	R 1 006,73
LEVEL 4	0 – 120	R 326,51
	121 – 240	R 653,05
	241 – 360	R 1 006,73
	361 – 480	R 1 469,25
LEVEL 5-8	0 – 120	R 326,51
	121 - 240	R 707,39
	241 – 360	R 1 058,41
	361 - 480	R 1 491,06
	481 – 600	R 1 904,58

Sectoral Determination 1: The Contract Cleaning Sector's minimum hourly rates for contract cleaning employees have been adjusted as follows:

- o Area A – The rate per hour is R23,87;
- o Area B – The rate per hour is according to the BCCCI rates;
- o Area C – The rate per hour is R21,77.

Sectoral Determination 9: Wages in the Wholesale and Retail Sector (Table 1: Area A and Table 2: Area B) have been adjusted and were published in the *Government Gazette* No. 44136 dated 08 February 2021.

In conclusion

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

Should an employer unilaterally alter hours of work or other conditions of employment in implementing the national minimum wage, it would be deemed as an unfair labour practice.

In addition, the Minister of Employment and Labour, in *Government Gazette*, No. 44137 published on 08 February 2021, indicated that the annual earnings threshold had been increased from R205 433,30 (two hundred and five thousand, four hundred and thirty-three rand and thirty cents) to R211 596,30 (two hundred and eleven thousand, five hundred and ninety-six rand, thirty cents).

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

About the Author: Lané Boshoff is an admitted Advocate of the High Court of South Africa. She obtained her *BA Law* and *LLB* degrees from the University of Pretoria. She joined SERR Synergy in July 2018, where she is currently employed as a Corporate Legal Researcher.

©SERR Synergy, www.serr.co.za

