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Minimum wage – what to know

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he National Minimum Wage Act 9 (NMWA) of 2018 came into effect on January 1, 2019.

Section 4(6) of the Act – which prohibits the payment of the national minimum wage being waived and provides that it takes precedence over any contrary provision in any contract, collective agreement, sectoral determination or law – operates with retrospective effect from May 1, 2017.

Who does the NMWA apply to?

The Act applies to all workers and their employers, except members of the South African National Defence Force, the National Intelligence Agency, the South African Secret Service and volunteers.

What is it?

The national minimum wage is R20 for each ordinary hour worked, with certain exceptions:

- ► Farm workers are entitled to R18 per hour;
- ▶ Domestic workers are entitled to R15 per hour;
- ► Workers employed on an expanded public works programme are entitled to R11 per hour; and

▶ Workers who have concluded learnership agreements contemplated in section 17 of the Skills Development Act 97 of 1998.

How is it calculated?

It is the amount payable for ordinary hours of work. It excludes:

- ▶ Any payment made to enable a worker to work including transport, equipment, tools, food or accommodation allowance, unless specified otherwise in a sectoral determination;
- ► Gratuities including bonuses, tips or gifts; and
- ► Any other prescribed category of payment.

Ordinary hours of work means the hours permitted in terms of section 9 of the Basic Conditions of Employment Act (BCEA) – currently 45 hours per week – or in terms of any agreement in section 11 or 12 of the BCEA.

A worker who works for less than four hours on any day must be paid for four hours on that day. This applies to employees or workers who earn less than the earnings threshold set by the labour minister over time – presently R205 433.30. If the worker is paid on a basis other than the number of hours worked, he or she may not be paid less than the

national minimum wage for the ordinary hours of work.

Does a worker have right to it?

Every worker will be entitled to payment of a wage not less than the national minimum wage.

Can an employer be exempt?

An employer registered in terms of section 96 of the Labour Relations Act, or any other law, acting on behalf of a member, may apply for exemption from paying the national minimum wage.

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