

EMPLOYMENT

Regulations on national minimum wage exemptions

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The National Minimum Wage Bill ("the NMW Bill"), which was published on 17 November 2017, provides, among others, that the new national minimum wage will be:

- a. Subject to (b), R20 per each ordinary hour for all workers with effect of 1 May 2018'
- b. Despite (a),
 - I. Farm workers are entitled to a minimum wage of R18 per hour from 1 May;
 - II. Domestic workers are entitled to a minimum of R15 per hour from 1 May 2018;
 - III. Workers employed on an expanded public works programme are entitled to a minimum wage of R11 per hour from 1 May 2018; and
 - IV. Workers who concluded learnership agreements contemplated in section 17 of the Skills Development Act, 1998 are entitled to allowances as specified in schedule 2 to the NMW Bill.

The calculation of the minimum wage will exclude:

- a. Any payments made to enable a worker to work including any transport, equipment, tool, food or accommodation allowance;
- b. Any payment in kind including board or accommodation;
- c. Gratuities including bonuses, tips or gifts; and
- d. Any prescribed category of payment.

It is contemplated that the minimum wage will be reviewed on an annual basis.

Section 15 of the NMW Bill provides, further, that an employer or employer's organisation may apply for an exemption. An exemption granted in terms of the section must specify the period for which it is granted, which may not be longer than one year, the wage that the employer is required to pay the workers and any other relevant condition.

Section 16 of the NMW Bill, in turn, provides that the Minister of Labour may make regulations relating to such exemptions. On 7 February 2018, the Department of [Labour](#) announced that they were finalising the drafting of exemption regulations. The regulations will include the procedure for obtaining exemptions, the information to be submitted with an exemption application, the obligation on employers to consult with employees or their trade unions on exemption applications, the criteria for evaluating exemptions, the period within which an application must be made, the period within which a decision on an exemption application must be made and any other matter which may be prescribed.



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