

EMPLOYMENT

Understanding the 1 May 2026 BCEA Earnings Threshold Adjustment: Implications for employers and employees

30 April 2026 4 min read

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The Minister of Employment and Labour has, in terms of section 6(3) of the Basic Conditions of Employment Act 75 of 1997 (“**BCEA**”), increased the annual earnings threshold from R261,785.45 to R269,600.90, effective from 1 May 2026. This translates to a monthly threshold of R22,466.67. This means that employees earning above R269,600.90 per annum will no longer be entitled to certain protections contained in the BCEA, unless more favourable terms are provided for in their employment contracts or in applicable collective agreements.

The BCEA is a core feature of South African labour legislation that gives effect to the right to fair labour practices in terms of section 23(1) of the Constitution, and serves to safeguard and reinforce employees' rights in relation to fair treatment and working conditions. By regulating and establishing rules in areas such as working hours, leave and remuneration, it promotes a productive work environment in which the rights and wellbeing of employees are prioritised.

The BCEA is subject to periodic amendments, including the recent adjustment to the earnings threshold, to reflect changing socio-economic circumstances and developments in the labour market. It is therefore essential for both employers and employees to stay informed about such changes to ensure ongoing compliance. These amendments ensure that the Act remains relevant and continues to provide adequate protection to employees while balancing the operational needs of employers.

The revised threshold affects the application of the following provisions:

- section 9 – ordinary hours of work;
- section 10 – overtime;
- section 11 – compressed working week;
- section 12 – averaging of hours of work;
- section 14 – meal intervals;
- section 15 – daily and weekly rest periods;
- section 16 – pay for work on Sundays;
- section 17(2) – certain protections relating to night work; and
- section 18(3) – pay for work on public holidays not ordinarily worked.

For instance, an employee who was earning above the previous R261,785.45 threshold, and therefore not entitled to overtime pay, may from 1 May 2026 become entitled to additional remuneration for overtime worked if they earn below the new R269,600.90 threshold.

Beyond the BCEA, the threshold has implications for other key labour statutes. The Labour Relations Act 66 of 1995 (“**LRA**”) extends further protection to employees earning below the prescribed earnings, particularly through its deeming provisions. These refer to employees who work in non-standard employment arrangements, such as those employed by labour brokers, also known as temporary employment services, and under fixed-term contracts. Section 198A provides that employees placed by a labour broker to render services to a client may be deemed to be employees of the client if they are not performing a temporary service, such as where the employee works for the client for longer than three months. Section 198B of the LRA further provides that, where there is no justifiable reason for fixing the term of a contract, such employees may be deemed to be employed indefinitely.

In addition to the above provisions, the earnings threshold has implications under the Employment Equity Act 55 of 1998. Employees whose earnings exceed the prescribed threshold may not have disputes under Chapter II of the Act relating to unfair discrimination arbitrated by the Commission for Conciliation, Mediation and Arbitration (“**CCMA**”), and are generally required to refer such matters to the Labour Court for adjudication. This is subject to limited exceptions, such as cases involving alleged sexual harassment or where all parties consent to arbitration.

Employers are therefore advised to take proactive steps in response to the increase. This includes conducting a thorough review of employee remuneration structures across the workforce, evaluating the status of employees engaged on fixed-term contracts and reassessing arrangements involving labour brokers to ensure complete alignment with the applicable deeming provisions. As a whole, such proactive measures will assist in ensuring compliance with the relevant legislation and in reducing the risk of potential legal and operational complications.

In conclusion, the upward adjustment of the BCEA earnings threshold represents more than a routine annual revision; it has substantive implications for the scope of employee protections under South African labour law. The amendment affects not only the application of core BCEA provisions but also intersects with key protections under the Labour Relations Act and Employment Equity Act. Ultimately, the amendment reinforces the dynamic nature of labour legislation and the ongoing need to balance employee protection with operational efficiency in the modern workplace.



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