

“Knowledge is too important to leave in the hands of the bosses.”

National Minimum Wage Commission

A REPORT ON PROCEEDINGS OF THE COMMISSION COMPILED BY TRENTON ELSLEY,
LABOUR RESEARCH SERVICE | SEPTEMBER 2019

LRS Labour
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The National Minimum Wage came into effect on the 1st of January 2019. The Act is intended to contribute towards the eradication of poverty and inequality, the promotion of fair and effective competition in the labour market, and the promotion of labour market stability. Time will tell if the national minimum wage Act is able to meet these lofty ambitions. What is not in dispute is that the Act sets a wage floor meant to protect the most poorly paid workers in the South African economy. The Act sets a minimum beyond which a worker may not be exploited, despite how precarious or vulnerable their position in the labour market is.

The National Minimum Wage Commission was established in terms of the Act. In terms of Section 11 of the Act, the functions of the Commission are to—

- (a) review the national minimum wage and recommend adjustments;
- (b) investigate and report annually to the Minister on the impact of the national minimum wage on the economy, collective bargaining and the reduction in income differentials and make such information available to the public;
- (c) investigate income differentials and recommend benchmarks for proportion- ate income differentials;
- (d) set medium term targets for the national minimum wage within three years of the commencement of this Act; and
- (e) advise the Minister on measures to reduce income differentials or any other 5 matter on which the Minister requests the Commission’s advice;
- (f) advise the Minister on sectoral determinations;
- (g) advise the Minister on any matter concerning basic conditions of employment; and
- (h) perform any such function as may be required of the Commission in terms of any other employment law.”

An overview of the national minimum wage Act by the chair of the commission, Professor Adriaan van der Walt is attached to this report and provides the reader with a good grounding in the Act.

There are conflicting views of the national minimum wage within the trade union movement. The leading argument of those who oppose the NMW is that it is set too low, that it is too far from a living wage. From this standpoint, the national minimum wage is institutionalized exploitation.

The social partners agree that the level at which the national minimum wage is set is below the value of what we would call a living wage. I note that while there have been a few efforts to calculate the value of a living wage, we do not yet have a proper measure of how much a living wage is in South Africa. The LRS is working to fill this gap in a collaboration with two other organisations and you can find information about the decent standard of living measure on our site www.lrs.org.za and www.dslnow.net

An estimated 2,4 million workers (upwards of 22% of all workers in South Africa) were not covered by any form of wage regulation in the past. An estimated 4,9 million workers (almost half of all workers) were covered by sectoral determinations (DPRU, 2016). Many of the sectoral determinations set minimum wages below the level of the national minimum wage. The median minimum wage across all sectoral determinations was R3277 per month (Elsley et al, 2018). This means that half or more of sectoral minimums were R3277 or LOWER.

From this standpoint, the national minimum wage matters. It provides a minimum where there was not minimum before and in the case of the sectoral determinations, it often raised minimums that did exist.

1. Sectoral determinations: The Wholesale & Retail Trade

The review of sectoral determinations now falls to the national minimum wage commission. The annual adjustment of wage minima in this SD for occupations earning above the national minimum wage rate, was caught between the old ECC (Employment Conditions Commission) and the NMWC. The commission subsequently advised the Minister to increase minimums reflected in the wholesale and retail trade sectoral determination (SD). In line with the established formula, the commission advised the Minister that the minimum wages in the SD be adjusted upwards as of 1 June 2019 by 4,53%.

Table 1: Area A					
Metropolitan and Local Municipality					
Bergrivier, Breede Valley, Buffalo City, Cape Agulhas, Cederberg, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane, Drakenstein, Ekurhuleni, Emalahleni, Emfuleni, Ethekekwini Metropolitan Municipality, Gamagara, George, Hibiscus Coast, Karoo Hoogland, Kgatelopele, //Khara Hais, Knysna, Kungwini, Kouga, Hessequa local authority, Lesedi, Makana, Mangaung, Matzikama, Metsimaholo, Middelburg (Mpumalanga), Midvaal, Mngeni, Mogale, Mosselbaai, Msunduzi, Mtubatuba, Nama Khoi, Nelson Mandela, Nokeng tsa Taemane, Oudtshoorn, Overstrand, Plettenbergbaai, Potchefstroom, Randfontein, Richtersveld, Saldanha Bay, Sol Plaatjie, Stellenbosch, Swartland, Swellendam, Theewaterskloof, Umdoni, uMhlathuze and Witzenberg.					
	Minimum wages for the periods:				
	01 January 2019 – NMWA REVIEW				
	27 Hrs or less		CI 2 (2)		
	CI 2 (3)(b)	CI 2(3)(a)			
Job category	R.p.h	R.p.h	R.p.h.	R.p.w	R.p.m
General Assistant/Trolley Collector	20.81	25	20.00	900.00	3899.70
Security Guard	20.73	25	20.00	900.00	3899.70
Forklift Operator	20.72	25	20.00	900.00	3899.70
Driver < 3500kg	20.72	25	20.00	900.00	3899.70
Merchandiser/Shop Assistant/Checker/Deli Assistant	20.71	25	20.00	900.00	3899.70
1 June 2019¹ – NMWA REVIEW					
Cashier	22.68	27.66	22.13*	995.81	4314.82
Driver 3501 <9000kg	24.70	30.07	24.05*	1082.36	4689.85
Clerk/Sales Assistant/Sales person/Block man/Baker	26.72	32.55	26.04*	1171.73	5077.10
Driver 9001 <16000kg	26.90	32.73	26.18*	1178.31	5105.64
Displayer	27.74	33.80	27.04*	1216.89	5272.77

¹ *4.53% Adjustment to CI 2(2) minimum wage rate for 2018 from 1 June 2019, for employees earning above the NMWA rate of R20 per hour

Driver 16001kg >	29.50	35.97	28.78*	1294.97	5611.10
Supervisor	32.88	40.03	32.03*	1441.26	6244.98
Trainee Manager	35.48	43.25	34.60*	1556.97	6746.37
Assistant Manager	38.70	47.08	37.66*	1694.80	7343.56
Manager	42.38	51.62	41.30*	1858.49	8052.84

Table 2: Area B					
Metropolitan and Local Municipality					
AREAS NOT MENTIONED IN AREA A					
	Minimum wages for the periods:				
	01 January 2019- NMWA REVIEW				
	27 Hrs or less		CI 2 (2)		
	CI 2 (3)(b)	CI 2(3)(a)			
Job category	R.p.h	R.p.h	R.p.h.	R.p.w	R.p.m
General Assistant/Trolley Collector	20.82	25.00	20.00	900.00	3899.70
Security Guard	20.73	25.00	20.00	900.00	3899.70
Forklift Operator	20.89	25.00	20.00	900.00	3899.70
Driver < 3500kg	20.83	25.00	20.00	900.00	3899.70
Merchandiser/Shop Assistant/Checker/Deli Assistant	20.82	25.00	20.00	900.00	3899.70
Cashier	20.86	25.00	20.00	900.00	3899.70
Driver 3501 <9000kg	20.85	25.00	20.00	900.00	3899.70
1 June 2019² – NMWA REVIEW					
Clerk/Sales Assistant/Sales person/Block man/Baker	23.92	28.69	22.95**	1032.97	4475.84
Driver 9001 <16000kg	25.89	31.11	24.89**	1119.99	4852.90
Displayer	23.02	27.73	22.18**	998.16	4325.01
Driver 16001kg >	28.46	34.19	27.36**	1231.00	5333.91
Supervisor	28.91	34.81	27.85**	1253.11	5429.71
Trainee Manager	30.97	37.21	29.77**	1339.66	5804.73
Assistant Manager	34.15	40.99	32.79**	1475.60	6393.77
Manager	37.04	44.45	35.56**	1600.25	6933.88

² ** 4.53% Adjustment to CI 2(2) minimum wage rate for 2018 from 1 June 2019, for employees earning above the NMWA rate of R20 per hour

2. Research & Monitoring

- 2.1. The commission is in the process of finalising the terms of reference for research that will support it in discharging its functions as outlined above. This is a key part of the work of the commission and one which will allow the commission to draw on evidence-based research in the execution of its duties.
- 2.2. The core research on the impact of the national minimum wage will be both quantitative and qualitative.
- 2.3. The quantitative analysis heavily dependent on the Quarterly Labour Force Survey (QLFS) administered by Statistics South Africa (StatsSA). There is an inevitable time lag in the release of the quarterly surveys, but this amounts to only two months or so. The wage data from the QLFS is however only released annually as the Labour Market Dynamics Survey (LMDS) and the time lag is close to a year. This would mean that wage data for the first year of implementation of the NMW (2019) would only be available in late 2020, never mind allowing time for analysis of the data.
- 2.4. A representative of Stats SA has assured the commission that the release of the current LMDS (2018) is in process and that the commission can request the early release of unedited data for the 2019 period. This would allow the commission to produce analysis of the impact of the NMW sooner than the end of the 2020 calendar year.
- 2.5. The qualitative research component will allow the commission to explore outcomes that are not easily revealed in quantitative data.

2.6. The commission has established a reference group to oversee the research and the next steps will involve finalisation of the terms of reference for the qualitative research component.

2.7. Applications for exemption from NMW

Here are some facts and figures relating to the NMW exemption process from the department of labour. The table below describes the number of exemption granted and the number of workers affected. This data covers the first six months of the year to end June 2019. The number of workers in the manufacturing affected by exemptions is higher than in other sectors by some margin.

SIC	Number of exemptions	Affected workers
Accommodation & food services	11	172
Administration and support services	1	2
Agriculture, hunting, forestry & fishing	18	2027
Arts, entertainment & recreation	2	43
Construction	9	1543
Domestic sub-sector	4	6
Education	7	48
Financial intermediation, insurance, real estate and business services	3	523
Human health and social work activities	4	138
Information and communication	1	1
Manufacturing	77	12795
Mining & quarrying	1	149
Other services: NPOs	73	2715
Other service activities	72	2904
Professional, scientific & technical services	2	8
Public administration & defence	3	208
Transport, storage & communication	1	250
Water supply	7	491
Wholesale & Retail	35	2616
Totals	331	26467

2.7.1. Exemption application status

Granted	201
Refused	25
Audit – in process	24
Outstanding documents	81
Total applications received	331
Applications withdrawn	2

2.7.2. Provincial breakdown of applications

Eastern Cape	16
Free State	29
Gauteng	100
KwaZulu Natal	70
Limpopo	0
Mpumalanga	17
Northern Cape	7
North West	15
Western Cape	22
National	55
Total	331

2.8. CCMA case referral statistics

January 2019 to 21 May 2019

Total cases	78 495
Legislative referrals (BCEA & NMW)	7 991
Proportion of legislative referrals of total	10%

Top 5 referring sectors

- i) Business & professional services (2259)
- ii) Private safety & security (2267)
- iii) Building & construction (668)
- iv) Retail (616)
- v) Domestic (397)

Claims in respect of payment for alleged outstanding statutory monies constitute approximately 80% of disputes referred.

2.9. The department of labour is undertaking a review of the Employment Equity Act (EEA) 4 form that describes income differentials by occupation and racial group within organisations. The commission advised the department to introduce a measure of average wages for different occupational levels to complement the proposed “single highest earner” in each level approach. This would present a more robust reading of wage differentials within South African companies.

2.10. The Inspectorate and Enforcement Section (IES) of the department presented on the enforcement of the national minimum wage in August of this year and that report is attached here for your reference.