

Presented by Natalie Singer



GLOBAL BUSINESS SOLUTIONS

future thinking, now

SA PAYROLL ASSOCIATION BREAKFAST
14 June 2018

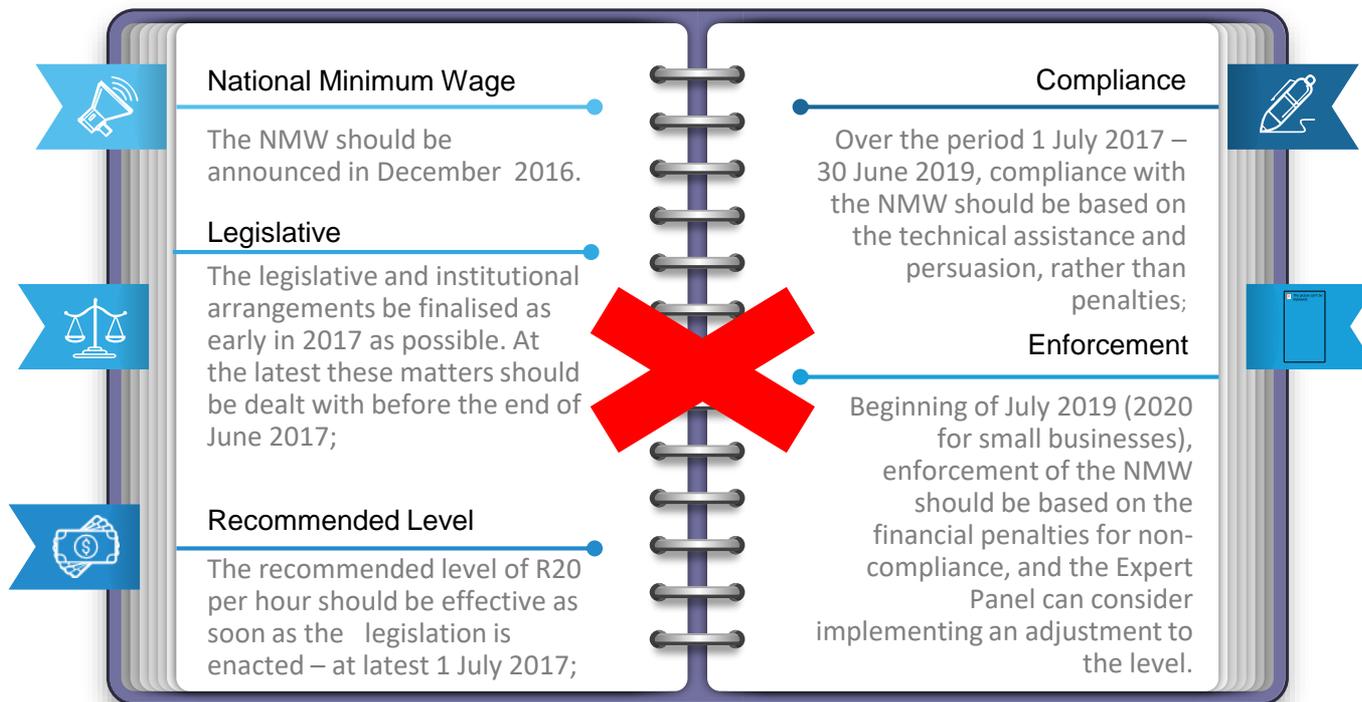


PANELS RECOMMENDATIONS

Lets start somewhere

Panels Recommendations

1. The Panel proposed that the first national minimum wage for South Africa be set at R20 per hour. This is equivalent to approximately R3500.00 per month on a 40 hour working week.
2. A critical issue that the Panel considered is the adjustment or transition period. The Panel suggests the following:



Where are we in relation to Panel Recommendations on the Amendments



PANEL RECOMMENDATION

1. LEVEL

The panel proposes that the first NMW for South Africa be set at R20/h. This is equivalent to approximately R3 500 a month on a 40 hour week.

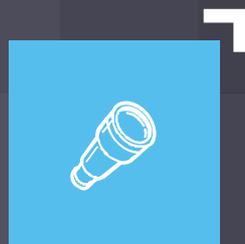


STATUS UPDATE

This has been passed by Parliament.

Anticipated implementation date 1 November 2018





SO WHERE ARE WE NOW?

National Minimum Wage Bill

National Minimum Wage Bill, 2017 Proposed by the Department of Labour.

1. Nature of NMW



NMW as minimum floor for wages.



Workers entitled to at least the minimum wage. **“worker”** means any person who works for another and who receives, or is entitled to receive, any payment for that work whether in money or in kind.



No variation possible (by contract or collective agreement)



Unfair labour practice to unilaterally alter hours or conditions in implementing the minimum wage.



National Minimum Wage Bill, 2017 Proposed by the Department of Labour.

2. Calculation of the NMW



NMW amount payable for ordinary hours of work. If work is less than 5 hours, worker must be paid for 4 hours.



Minimum wage does not include payment of allowances, payments in kind, tips, bonuses, etc.



This is different to the current Basic Conditions of Employment Act "includes ..."



Minister may exclude other forms of payment by regulation.

Comment: Applies to all employees earning less than the threshold currently of R205 433



National Minimum Wage Bill

National Minimum Wage

1. The national minimum wage is the amount stated in Schedule 1 (current R20 per hour) and reviewed for adjustment annually in terms of Chapter 4. *(Note: 18 months from implementation date of the National Wage Commission)*
2. **Every worker** is entitled to payment of a wage in an amount no less than the national minimum wage.
3. The payment of the national minimum wage cannot be waived and the minimum wage takes precedence over any contrary provision in any contract, collective agreement or law.
4. The national minimum wage constitutes a term of the workers' contract except to the extent that the contract, collective agreement or any law provides a wage that is more favourable to the worker.
5. It is an unfair labour practice for an employer to unilaterally alter wages, hours of work or other conditions of employment.



National Minimum Wage Bill

Purpose

The purpose of the Act is to advance economic development and social justice by:

- a) Improving the wages of lowest paid workers;
- b) Protecting workers from unreasonably low wages;
- c) Preserving the value of the national minimum wage;
- d) Promoting collective bargaining;
- e) Supporting economic policy, and
- f) Reducing wage inequality

Application

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



National Minimum Wage Bill

Calculations of wage:

Notwithstanding any contract or law to the contrary, the calculation of a wage for the purposes of this Act is the amount payable in money for ordinary hours of work excluding –

- a) any payment 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;
- d) any other *prescribed category* of payment.



National Minimum Wage Bill

Annual review

- (1) The Commission must review the national minimum wage annually and make recommendations to the Minister on any adjustment of the national minimum wage within 18 months of promulgation of the law.

Establishment of commission

- (1) A National Minimum Wage Commission is established.



National Minimum Wage Bill

Functions of National Minimum Wage Commission:

- (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.;
- (c) Investigate income differentials and recommend benchmarks for proportionate income differentials;
- (d) Set medium term targets for the national minimum wage on a three yearly cycle;
- (e) Advise the Minister on measures to reduce income differentials or any other matter on which the Minister requests the Commission's advise.



National Minimum Wage Bill

Exemptions

- (1) An employer or an employers' organisation registered in terms of section 98 of the Labour Relations Act , 1995 (Act 66 of 1995) on behalf of its members may apply for an exemption in the prescribed form and manner from paying the national minimum wage.
- (2) An exemption granted in terms of this section-
 - (a) must specify the period for which it is granted, which may not be longer than one year;
 - (b) must specify the wage that the employer is required to pay workers;
 - (c) may contain any other relevant condition.



National Minimum Wage Bill

Schedule 1: National Minimum Wage

- (1) Subject to item 2, the national minimum wage is R20 for each ordinary hour worked.
- (2) Not withstanding item 1-
 - a) farm workers are entitled to minimum wage of R18 per hour;
 - b) domestic workers are entitled to a minimum wage of R15 per hour;
 - c) workers employed on an Expanded Public Works Programme are entitled to a minimum wage of R11 per hour
 - d) 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 allowances contained in Schedule 2.



Schedule 2: Learnership Allowances

NQF level	Credit already earned by learner	Minimum allowance per week
NQF 1 to 2	0-120	R301.01
	121-240	R601.99
NQF 3	0-120	R301.01
	121-240	R566.93
	241-360	R928.11
NQF 4	0-120	R301.01
	121-240	R602.05
	241-360	R928.11
	361-480	R1354.51
NQF 5 to 8	0-120	R301.01
	121-240	R652.15
	241-360	R975.75
	361- 480	R1374.61
	481-600	R1755.84

National Minimum Wage Bill

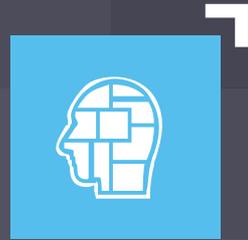
Schedule 1: National Minimum Wage

“farm worker” means a worker who is employed mainly or wholly in connection with farming or forestry activities, and includes a domestic worker employed in a home on a farm or forestry environment and a security guard on a farm or other agricultural premises, excluding a security guard employed in the private security industry in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);

“domestic worker” means a worker who performs domestic work in a private household and who receives, or is entitled to receive, a wage and includes—

- (a) a gardener;
- (b) a person employed by a household as a driver of a motor vehicle;
- (c) a person who takes care of children, the aged, the sick, the frail or the disabled; and
- (d) domestic workers employed or supplied by employment services





NATIONAL MINIMUM WAGE REGULATION, 2018

National Minimum Wage Exemption System

- 1) There is hereby established an online National Minimum Wage Exemption System managed by the Department of Labour.
- 2) The National Minimum Wage Exemption System is publicly accessible
 - a) Online at www.nmw.labour.gov.za
 - b) At any office of the Department of Labour or labour centre established under section 23(1)(a) of the Skills Development Act, 1996 (Act No. 97 of 1998), the addresses of which are to be found online at www.labour.gov.za

Acronyms:

EBDA	- Earnings before Depreciation Allowance
TL	- Total Liability
TA	- Total Assets
ROA	- Return on Assets
CA	- Current Assets
CL	- Current Liabilities



Applicants for exemption from paying national minimum wage

- 1) An employer or a registered employers' organisation may assist its members to apply for an exemption.
- 2) The application must be lodged on the National Minimum Wage Exemption System in the form required by the System.
- 3) Granted if:
 - a) The employer cannot afford to pay the minimum wage; and
 - b) Every representative trade union representing on or more of the affected workers has been meaningfully consulted or, if there is no such trade union, the effected workers have been meaningfully consulted.
- 4) The employer must provide the bargaining council, union or, if there is no such union, the effected workers with a copy of the application to be lodged.
- 5) The wage thresholds below which no exemption may be granted are:
 - a) Ninety percent (90%) of the national minimum wage in respect of workers other than those referred to in paragraphs (b) and (c) (R20 to R18);
 - b) Ninety percent (90%) of the national minimum wage in respect of farm workers (48 to 16,20);
 - c) Ninety percent (90%) of the national minimum wage in respect of domestic workers (R15 to R13,50)

Comment: During online exemption application process, company is required to show a financial loss or a return on assets less than 8% to be granted exemption.



Display and copies of exemption notice

An employer must:

- a) Display a copy of the exemption notice conspicuously at the workplace where it can be read by the employees to whom the exemption applies.

Withdrawal of exemption notice

- 1) The delegated authority may withdraw an exemption notice if satisfied that;
 - a) The employer has provided false or incorrect information the granting in its application for an exemption under regulation 2; or
 - b) The employer is not complying with the exemption notice;
 - c) The employer's financial position has improved
 - d) There are other justifiable grounds for withdrawing



Audit Triggers

The required financial information above is a capture on the system. The system will immediately perform tests to determine the presence of any of the following audit triggers based on determined percentage (Commercials) and discrepancies between financial years data:

- Discrepancies in depreciation
- Out of proportion net loses
- Discrepancies in donations, entertainment, write-offs and loss on disposal of assets
- Discrepancies in reported total expenditure
- Discrepancies in reported revenue
- Discrepancies in non-current assets
- Discrepancies in total liabilities

For individual household applicants, an audit is triggered if the amount captured by the user is more than the set cap [Stats SA Living Conditions]



Liquidity

- Liquidity analysis is conducted only if the profitability analysis above indicates that the required increases in wages can be accommodated within the 92% of the EBDA.
- The total liquid assets such as debtors, inventory and other current assets are compared against the bank overdraft.
- If these liquid assets cannot cover the bank overdraft, the required shortfall is deducted from 92% of the EBDA to get the adjusted EBDA. Required increases in wages are then compared with this adjusted EBDA. If these required increases in wages cannot be covered from the adjusted EBDA, the employer's application for exemption will be granted. However, if the increases can be covered from the adjusted EBDA, the application will be refused.
- If the liquid assets can cover the bank overdraft the application will be refused

Affordability

- Affordability test for businesses are based in the assessment if the elements of 1) Profitability, 2) Liquidity and 3) Solvency, positions.
- Analysis begins by determining increases required on the employer's wage costs to comply with legislated minimum wage. This is the difference between the rate that the employer is currently paying and the rate required by DOL.
- The steps to follow, in the financial analysis, are then aimed at determined whether the above difference can be afforded by the employer.
- NB: Financial analysis is only conducted if the applicant's financial information does not trigger any audit mentioned above.



Profitability

Profitability is the primary consideration in the entire financial analysis [commercial]. Depreciation expenditure and dividends are added back to the reported profit. The result of this process will be referred to as Earnings before Depreciation Allowance (EBDA)

The calculated EBDA is used to determine employers' Returns on Assets (ROA)

$$\underline{\text{ROA}} = \text{EBDA} / \text{Average Assets}$$

Is the calculated ROA is **less than 8%**, then Solvency tests are conducted in order to gain further insight into the financial asset structure of the business (See "Solvency" below)

If the calculated ROA is **more than 8%**, then the required increases in wages are compared to 92% of the EBDA. If the required increases in wages can be accommodated, then further tests of **Liquidity** are conducted. However, if the required increases in wages cannot be accommodated within the 92% of EBDA, then applicant qualifies for an exemption and no further tests are performed.



Solvency

Solvency analysis is conducted only if the profitability analysis above indicates that **ROA is less than 8%**.

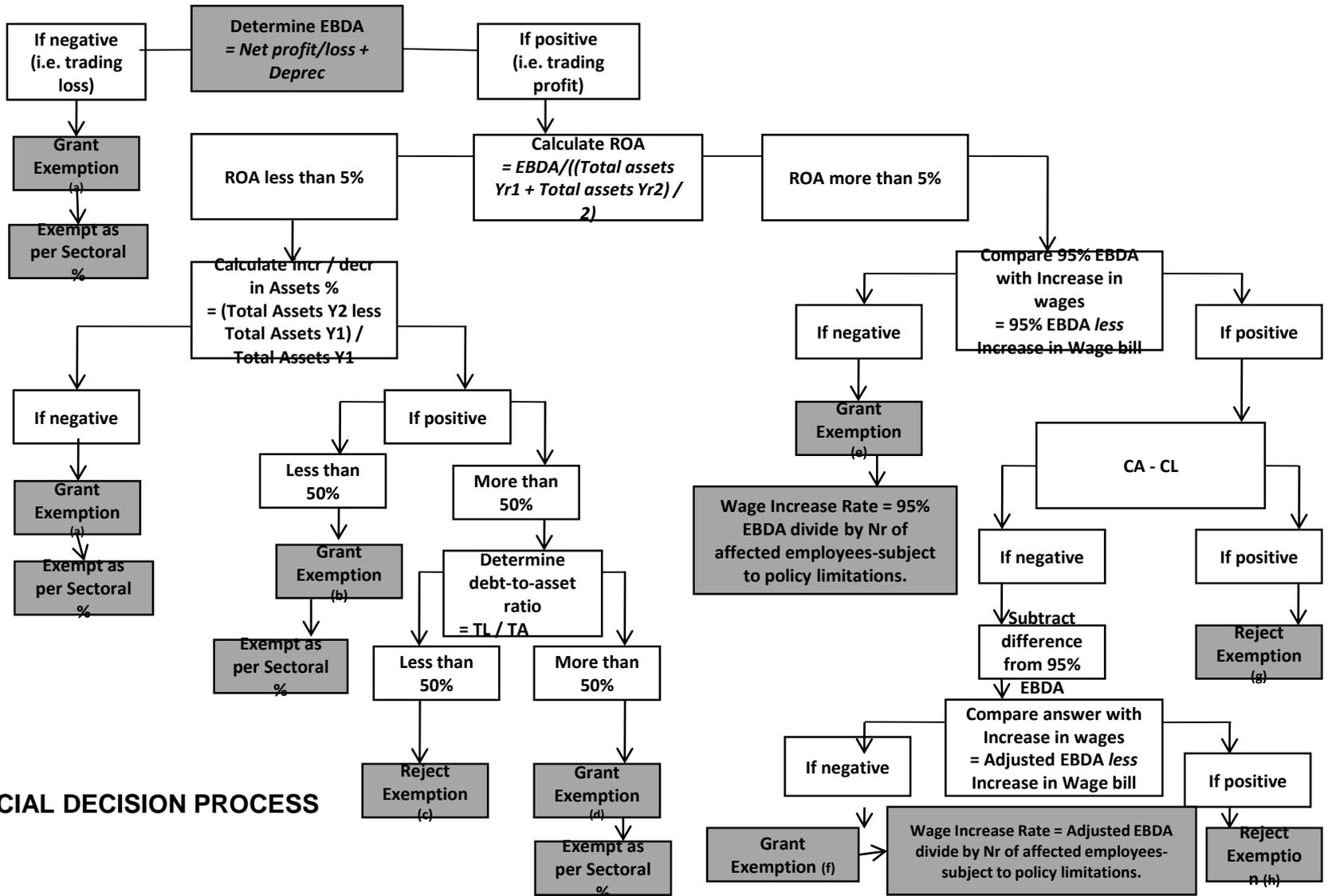
The analysis first determines if there were increases or decreases in the applicant's assets, and to what percentage.

If there was an increase in the average assets of the applicant, of **more than 50%**, then a debt-to-asset ratio is determined. This ratio is used to ascertain how much of that increase was financed through debt.

If the debt-to-asset is **more than 50%** (i.e. more than 50% of assets are owned by creditors), the applicant will be granted an exemption. However, if the debt-to-asset ratio is **less than 50%**, then applicant will be refused.

If there was a decrease in the average assets of the applicant, the application for exemption will be granted.





COMMERCIAL DECISION PROCESS



IMPACT ON THE PAYROLL

Pay Scale Compression due to National Minimum Wage

What is Pay Compression?

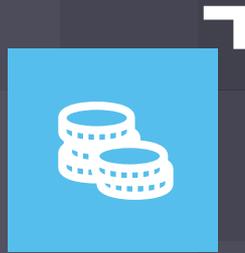
Pay compression is the situation that occurs when there is only a small difference in **pay** between employees regardless of their skills or experience. ...



Raising the entry point causes problems throughout...

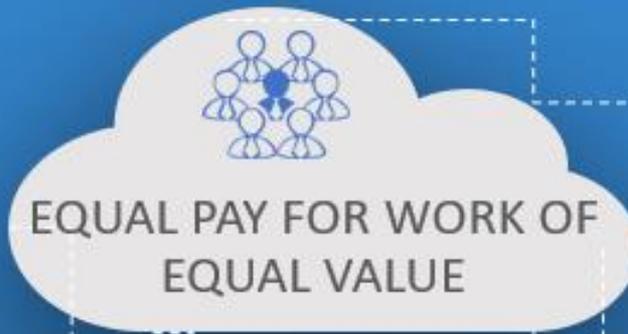
- Raising the entry point can cause problems where newcomers are now earning as much as their colleagues who have long service/experience resulting in employee disengagement and potential labour unrest
- Shifting the pay scale for lower skilled jobs has knock-on effect for jobs higher up the chain, i.e. team leader / supervisor etc.





EQUAL PAY FOR WORK OF EQUAL VALUE

Shifting Goal Posts caused by the National Minimum Wage



QUANTIFY WORK
WITHIN YOUR
CONTEXT



CONSULT



Managing Expectations

Value of a Job



Work is the prerogative of the Employer



Section 2.5 Code of Good Practice, provides further explanation: **“Employers must, therefore, examine all aspects of their pay/remuneration policies and practices to ensure compliance with the principle of equal pay/remuneration for work of equal value.”**

Section 3.8 provides clarity; “Section 27 of the Act requires designated employers to report on the pay/remuneration and benefits received by employees in each occupational level of their workforce, and where there are disproportionate income differentials or unfair discrimination by virtue of a difference in terms and conditions of employment, employers must take steps to progressively reduce these differentials.”

- Objective
- Independent
- Devil's Advocate



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Compliance



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Are you prepared?

- What is the real cost of the new National Minimum Wage?
- Have you budgeted for the increase in this financial year?
- What is the knock-on effect for benefits, particularly those calculated as a % of base pay?
- How does this impact your current remuneration strategy (grading & pay scale)?
- What are employee expectations?
- Do you have a strategy to manage Trade Union Demands / Negotiations?





THE END

Thank You

Questions | Answers

Need assistance?
Have any further questions?

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