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EMPLOYMENT ALERT

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Increased wages: a step forward

The National Minimum Wage Act 9 of 2018 (NMWA) which came into force on 1 January 2019 was enacted within the context of advancing economic development and social justice by reducing wage inequality and protecting the lowest paid workers from exploitation by employers who pay unconscionably low wages, amongst other things. It is within this context that the amendments made in terms of the NMWA and the Basic Conditions of Employment Amendment Act 75 of 1997 (BCEA) have helped contribute to the progression of the employment law legislative framework in South Africa.

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On the 17 February 2020 the Minister of Employment and Labour amended the national minimum wages as contained in Schedule 1 and Schedule 2 of the NMWA, and also increased the wages and the remuneration and associated benefits based on sectoral determinations as allowed by the BCEA, specifically in the contract cleaning sector and wholesale and retail sector.

The amendment to Schedule 1 of the NMWA saw the national minimum wage increase from R20,00 to R20,76 for each ordinary hour worked, to the exceptions of R18,00 to R18,68 for farm workers; R15,00 to R15,57 for domestic workers and R11,00 to R11,42 for workers employed pursuant to an expanded public works programme. The amendments contained in Schedule 2 are applicable to workers who have concluded learnership agreements contemplated in section 17 of the Skills Development Act 97 of 1998.

Contract cleaning employees in Metropolitan Councils and Local Councils (Area A) will now earn no less than R22,84 per hour while those

in all areas in KwaZulu-Natal (Area B) will earn R23,04 per hour, and those in the rest of the Republic of South Africa (Area C) earning no less than R20,83 per hour. In this regard, the rates contained in clause 3(1) as reflected in Government Gazette No. 42182 of 23 January 2019 were replaced with the aforementioned rates. The amendments to table 1 and 2 as illustrated in Government Gazette No. 42766 of 14 October 2019, dealing with Area A and B in the wholesale and retail sector, also saw a slight increase in minimum wages.

The above amendments will indeed impact the remuneration structures of companies. In terms of section 4(6) of the NMWA, payment of a national minimum wage cannot be waived as the national minimum wage takes precedence over any contrary provision in a contract, collective agreement or sectoral determination or law. In the event that the hourly rates contained in a sectoral determination are not more favorable than those contained in the NMWA, the NMWA will prevail. This is provided for by section 5(3), subject to section 5(2) of the NMWA. Employers therefore may not rely on the abovementioned sectoral determinations to justify paying employees' rates lower than those prescribed by the NMWA.

The need to address wage inequality, especially within the context of South Africa, is imperative. Whilst the amendments don't solve all the problems that stem from unreasonably low wages, they certainly help foster an environment that is ripe for equality across sectors that generally see workers being paid unreasonably low wages.

Michael Yeates and Charles Britz

EMPLOYMENT

CASE LAW UPDATE 2019

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booklet to assist
you in navigating
the employment
relationship during
the current economic
uncertainty.



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E-learning Offering

Our Employment practice recently launched an e-learning module:
A better place to work

The module will empower your organisation with a greater appreciation and understanding of what constitutes sexual harassment, how to identify it and what to do if it occurs.

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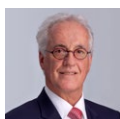
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OUR TEAM

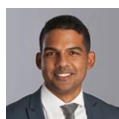
For more information about our Employment practice and services, please contact:



Aadil Patel
National Practice Head
Director
T +27 (0)11 562 1107
E aadil.patel@cdhlegal.com



Hugo Pienaar
Director
T +27 (0)11 562 1350
E hugo.pienaar@cdhlegal.com



Steven Adams
Senior Associate
T +27 (0)21 481 6341
E steven.adams@cdhlegal.com



Gillian Lumb
Regional Practice Head
Director
T +27 (0)21 481 6315
E gillian.lumb@cdhlegal.com



Thabang Rapuleng
Director
T +27 (0)11 562 1759
E thabang.rapuleng@cdhlegal.com



Anli Bezuidenhout
Senior Associate
T +27 (0)21 481 6351
E anli.bezuidenhout@cdhlegal.com



Jose Jorge
Director
T +27 (0)21 481 6319
E jose.jorge@cdhlegal.com



Michael Yeates
Director
T +27 (0)11 562 1184
E michael.yeates@cdhlegal.com



Sean Jamieson
Senior Associate
T +27 (0)11 562 1296
E sean.jamieson@cdhlegal.com



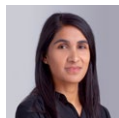
Fiona Leppan
Director
T +27 (0)11 562 1152
E fiona.leppan@cdhlegal.com



Avinash Govindjee
Consultant
M +27 (0)83 326 5007
E avinash.govindjee@cdhlegal.com



Bheki Nhlapho
Senior Associate
T +27 (0)11 562 1568
E bheki.nhlapho@cdhlegal.com



Asma Cachalia
Associate
T +27 (0)11 562 1333
E asma.cachalia@cdhlegal.com



Tamsanqa Mila
Associate
T +27 (0)11 562 1108
E tamsanqa.mila@cdhlegal.com

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JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

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