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# EMPLOYMENT LAW ALERT

## IN THIS ISSUE >

### New earnings threshold and new minimum wage, effective 1 March 2021

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## New earnings threshold and new minimum wage, effective 1 March 2021

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The earnings threshold impacts on the application of provisions of the Basic Conditions of Employment Act, 1997 (BCEA), the Labour Relations Act, 1995 (LRA) and the Employment Equity Act, 1998 (EEA).

In terms of the BCEA, employees earning in excess of the earnings threshold are excluded from the provisions which regulate ordinary hours of work, overtime, compressed working weeks, averaging of hours of work, meal intervals, daily and weekly rest periods, Sunday pay, pay for night work and pay for work on public holidays.

In terms of the LRA, employees earning in excess of the earnings threshold are not subject to the deeming provision in accordance with which employees engaged by a temporary employment service/labour broker who are not performing a temporary service are deemed to be employees of the client for purposes of the LRA. In addition, employees earning in excess of the earnings threshold fall outside the scope of the provisions relating to fixed term employees who are deemed to be employed indefinitely after three months (in the absence of justifiable reasons for fixing the term of the contract).

In terms of the EEA, an employee earning in excess of the earnings threshold who has a dispute under Chapter II of the EEA relating to unfair discrimination, is not permitted to refer the dispute to the CCMA for arbitration (unless the dispute relates to alleged unfair discrimination on the grounds of sexual harassment, or the parties all agree to arbitration) and is obliged to refer the dispute to the Labour Court for adjudication.

For purposes of determining whether an employee earns in excess of the earnings threshold, "earnings" means an employee's regular annual remuneration before the deduction of income tax, pension fund contributions, medical aid contributions and similar payments, but excludes similar contributions made by the employer in respect of the employee. This is subject to the proviso that subsistence and transport allowances received, achievement awards and payments for overtime worked do not fall within the scope of remuneration.

1 March 2021 will also see the introduction of the increased national minimum wage. The Minister has determined the new minimum wage to be R21,69 for every ordinary hour worked. The amount is less for domestic workers for whom the minimum is set at R19,09 an hour and workers on an expanded public works programme for whom the minimum is set at R11,93 an hour.


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*Gillian Lumb, Mbulelo Mango  
and Mariam Jassat*



CDH'S 2020 EDITION OF  
**DOING BUSINESS IN SOUTH AFRICA**

[CLICK HERE](#) to download our thought leadership.




**EMPLOYMENT**


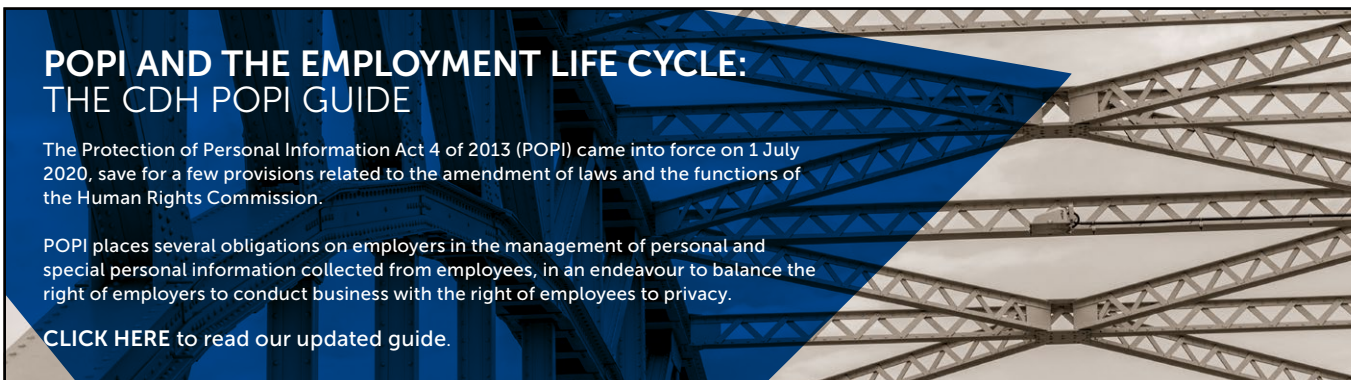
## RETRENCHMENT GUIDELINE

[CLICK HERE](#) for the latest thought leadership and explanation of the legal position in relation to retrenchments, temporary layoffs, short time and retrenchments in the context of business rescue.

Our Employment practice is ranked as a Top-Tier firm in THE LEGAL 500 EMEA 2020.  
 Fiona Leppan is ranked as a Leading Individual in Employment in THE LEGAL 500 EMEA 2020.  
 Aadil Patel is recommended in Employment in THE LEGAL 500 EMEA 2020.  
 Gillian Lumb is recommended in Employment in THE LEGAL 500 EMEA 2020.  
 Hugo Pienaar is recommended in Employment in THE LEGAL 500 EMEA 2020.  
 Michael Yeates is recommended in Employment in THE LEGAL 500 EMEA 2020.  
 Jose Jorge is recommended in Employment in THE LEGAL 500 EMEA 2020.  
 Imraan Mahomed is recommended in Employment in THE LEGAL 500 EMEA 2020.



CHAMBERS GLOBAL 2014 - 2020 ranked our Employment practice in Band 2: Employment.  
 Aadil Patel ranked by CHAMBERS GLOBAL 2015 - 2020 in Band 2: Employment.  
 Fiona Leppan ranked by CHAMBERS GLOBAL 2018 - 2020 in Band 2: Employment.  
 Gillian Lumb ranked by CHAMBERS GLOBAL 2020 in Band 3: Employment.  
 Imraan Mahomed ranked by CHAMBERS GLOBAL 2020 in Band 3: Employment.  
 Hugo Pienaar ranked by CHAMBERS GLOBAL 2014 - 2020 in Band 2: Employment.  
 Michael Yeates ranked by CHAMBERS GLOBAL 2020 as an up and coming employment lawyer.

## POPI AND THE EMPLOYMENT LIFE CYCLE: THE CDH POPI GUIDE

The Protection of Personal Information Act 4 of 2013 (POPI) came into force on 1 July 2020, save for a few provisions related to the amendment of laws and the functions of the Human Rights Commission.

POPI places several obligations on employers in the management of personal and special personal information collected from employees, in an endeavour to balance the right of employers to conduct business with the right of employees to privacy.

[CLICK HERE](#) to read our updated guide.

## OUR TEAM

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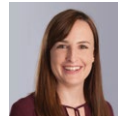
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### BBBEE STATUS: LEVEL TWO CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

### PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

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