



EMPLOYMENT ALERT

EMPLOYERS URGED TO MAKE REPRESENTATIONS ON THE PROPOSED INCREASE OF THE EARNINGS THRESHOLD

On 26 April 2012, the Minister of Labour (Minister) announced that the Employment Conditions Commission (Commission) will consider representations on increasing the Earnings Threshold (Threshold) in the Basic Conditions of Employment Act, No 75 of 1995 (BCEA). Interested parties have until 25 May 2012 to make representations to the Commission. The Commission is a body established in terms of s59 of the BCEA, to advise the Minister on various matters, including those concerning basic conditions of employment.

The Threshold, determined by the Minister from time to time, is of crucial importance to employers and employees alike as employees earning in excess of this threshold do not enjoy the benefit of certain basic conditions of employment. These conditions include the right to extra pay for overtime, maximum ordinary hours of work per day and week, the right to meal intervals, payment for work done on Sundays and limitations on payment for work done on public holidays. Employees earning below the threshold are statutorily entitled to these rights and can demand payment for overtime, work done on Sundays and other rights that remain unaffected by the Threshold.

The Threshold is a significant factor influencing the labour cost of businesses. This is especially visible with many smaller and medium enterprises that struggle to keep this aspect of their operational expenditure under control. Every time the Threshold increases, employers have to audit their remuneration to ensure that employees who previously earned above the threshold still

earn in excess of the new limit. Where employees who were previously excluded now earn below the new Threshold, they are automatically entitled to the rights contained in the applicable sections of Chapter II of the BCEA listed above. This means that an employer could be forced to pay overtime to an employee to whom no overtime was payable under the current threshold. This will have a direct impact on the employer's labour cost component.

Employers who may be affected are advised to make representations to the Commission on the proposed increase. While employees would like to see the Threshold increase as much as possible, employers will dread a significant increase due to the additional cost associated with such a move. The current Threshold (R172,000 per annum) has only been in place since May 2011. It thus came as a surprise to many when the Minister announced that the Commission is reviewing the threshold again. Prior revisions to the Threshold occurred less frequently with the previous threshold (R149,736) remaining in place from March 2008.

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