

# Employment Law

ALERT | 5 February 2024



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For More Insight Into Our  
Expertise and Services

## Annual increase to the national minimum wage – effective 1 March 2024

The National Minimum Wage Act 9 of 2018 (Act) was enacted to advance economic development and social justice by, *inter alia*, improving the wages of the lowest paid workers, and protecting workers from unreasonably low wages by establishing the national minimum wage (NMW).



### NMW

increases from R25,42 to **R27,58** for each ordinary hour worked.



### Farm workers

R27,58 per hour.



### Domestic workers

R27,58 per hour.



### Expanded public works programme worker

R15,16 per hour.

## Workers who have learnership agreements

(section 17 of the Skills Development Act 97 of 1998)

NQF level	Credits already earned by learner	Minimum allowance per week
Level 1 to 2	0-120	415,07
	121-240	830,09
Level 3	0-120	415,07
	121-240	781,73
	241-360	1279,76

# Annual increase to the national minimum wage – effective 1 March 2024

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NQF level	Credits already earned by learner	Minimum allowance per week
Level 4	0-120	415,07
	121-240	830,17
	241-360	1279,76
	361-480	1867,73
Level 5 to 8	0-120	415,07
	121-240	899,25
	241-360	1345,47
	361-480	1895,45
	481-600	2421,13

## Contract cleaning sector

### Area A:

City of Cape Town, Greater East Rand Metro, City of Johannesburg, Tshwane and Nelson Mandela Bay: **R30,35** per hour

### Area B:

KwaZulu-Natal: Determined by the Bargaining Council for the Contract Cleaning Service Industry.

### Area C:

All other areas: **R27,67** per hour



# Annual increase to the national minimum wage – effective 1 March 2024

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## Webinar Invitation

### Another Draft Employment Equity Economic Sector Targets:

Have comments been considered?

Join us for an important discussion unpacking the republished draft targets and the extent to which it differs from the previous draft targets.

Friday, 9 February 2024  
09h00 - 10h00

[Register Here](#)


## Wholesale and retail sector

Bergrivier, Breede Valley, Buffalo City, Cape Agulhas, Cederberg, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane, Drakenstein, Ekurhuleni, Emalahleni, Emfuleni, Ethekewini Metropolitan Unicity, 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.

JOB CATEGORY	< 27 hours per week – no agreement – rate per hour	< 27 hours per week – agreement – rate per hour	< 27 hours a per week – rate per hour	> 27 hours a per week – rate per week	> 27 hours a per week – rate per month
General Assistant/ Trolley Collector	27,58	32,41	27,58	1241,10	5377,69
Security Guard	27,58	32,94	27,58	1241,10	5377,69
Forklift Operator	27,58	35,19	27,58	1241,10	5377,69
Driver < 3500kg	27,58	35,90	27,58	1241,10	5377,69
Merchandiser/Shop Assistant/Checker/Deli Assistant	29,78	37,25	27,58	1241,10	5377,69
Cashier	31,58	39,49	30,51	1372,95	5948,99
Driver 3501 <9000kg	34,36	42,94	33,16	1492,20	6465,70

# Annual increase to the national minimum wage – effective 1 March 2024

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**Employment 2023 Rankings**

**Employment Law practice is ranked in Tier 1.**

**CDH Kenya's Employment Law practice is ranked in Tier 3.**

**Leading Individuals:**  
Fiona Leppan | Aadil Patel

**Recommended Lawyers:**  
Anli Bezuidenhout | Jose Jorge  
Rizichi Kashero-Ondego | Imraan Mahomed  
Phetheni Nkuna | Hugo Pienaar  
Thabang Rapuleng | Njeri Wagacha

## Wholesale and retail sector...continued

JOB CATEGORY	< 27 hours per week – no agreement – rate per hour	< 27 hours per week – agreement – rate per hour	< 27 hours a per week – rate per hour	> 27 hours a per week – rate per week	> 27 hours a per week – rate per month
Clerk/Sales Assistant/ Sales person/Block man/Baker	37,18	46,47	35,91	1615,95	7001,91
Driver 9001 <16000kg	37,42	46,75	36,09	1624,05	7037,01
Displayer	38,62	48,26	37,28	1677,60	7269,04
Driver 16001kg	41,08	51,37	39,66	1784,70	7733,11
Supervisor	45,74	57,19	44,17	1987,65	8612,49
Trainee Manager	49,40	61,76	47,71	2146,95	9302,73
Assistant Manager	53,81	67,28	51,93	2336,85	10125,57
Manager	58,98	73,73	56,95	2562,75	11104,40



# Annual increase to the national minimum wage – effective 1 March 2024

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## Metropolitan and local municipalities not mentioned in the table above

JOB CATEGORY	< 27 hours per week – no agreement – rate per hour	< 27 hours per week – agreement – rate per hour	< 27 hours a per week – rate per hour	> 27 hours a per week – rate per week	> 27 hours a per week – rate per month
General Assistant/ Trolley Collector	27,58	30,26	27,58	1241,10	5377,69
Security Guard	27,58	32,94	27,58	1241,10	5377,69
Forklift Operator	27,58	30,48	27,58	1241,10	5377,69
Driver < 3500kg	27,58	31,27	27,58	1241,10	5377,69
Merchandiser/Shop Assistant/Checker/Deli Assistant	27,58	32,93	27,58	1241,10	5377,69
Cashier	27,58	34,89	27,58	1241,10	5377,69
Driver 3501 <9000kg	29,90	37,39	27,58	1241,10	5377,69

# Annual increase to the national minimum wage – effective 1 March 2024

CONTINUED

## Metropolitan and local municipalities not mentioned in the table above...continued

JOB CATEGORY	< 27 hours per week – no agreement – rate per hour	< 27 hours per week – agreement – rate per hour	< 27 hours a per week – rate per hour	> 27 hours a per week – rate per week	> 27 hours a per week – rate per month
Clerk/Sales Assistant/ Sales person/Block man/Baker	37,18	46,47	31,64	1423,80	6169,33
Driver 9001 <16000kg	35,78	44,73	34,32	1544,40	6691,89
Displayer	31,86	39,83	30,60	1377,00	5966,54
Driver 16001kg	39,32	49,16	37,74	1698,30	7358,73
Supervisor	39,98	50,00	38,40	1728,00	7487,42
Trainee Manager	42,80	53,49	41,05	1847,25	8004,13
Assistant Manager	47,18	58,98	45,21	2034,45	8815,27
Manager	51,17	63,95	49,03	2206,35	9560,11

CDH's Employment Law practice

## Justice delayed could mean suspension without pay

In the case of *Mark Strydom v ArcelorMittal South Africa J17647/2023*, Mr Strydom approached the Labour Court on an urgent basis for an order that the decision taken by ArcelorMittal on 5 December 2023 to suspend him **without pay**, be declared unlawful and null and void, alternatively be set aside.

### Background

The background to this matter is important for understanding the Labour Court's finding:

- A disciplinary hearing was initiated against Strydom on 31 January 2023, and he was placed on precautionary suspension with full pay. The disciplinary hearing was set down for 6 and 7 February 2023, and Strydom was informed that he would be entitled to have legal representation, which he and ArcelorMittal each then secured.
- ArcelorMittal's representative was not available to proceed with the hearing on 6 and 7 February 2023.
- The disciplinary hearing was then set down for 26 May 2023, on which occasion Strydom was unrepresented and the hearing did not proceed. By agreement between the parties, the disciplinary hearing was rescheduled to 29 June 2023.
- On 29 June 2023, before the disciplinary hearing commenced, Strydom's representative, Advocate Nel, raised a number of preliminary issues. The disciplinary hearing was adjourned to decide these issues and, after they were dismissed, the hearing was set down to proceed on 21 and 22 August 2023 and 4 and 5 September 2023. ArcelorMittal's main witness was not available from 13 to 29 August 2023 and the hearing could not proceed on 21 and 22 August 2023. The parties agreed that the disciplinary hearing would continue on 4, 5, 27 and 28 September 2023.
- On 4 September 2023 Nel raised three preliminary points, which were all dismissed by the chairperson on 5 September 2023. The matter was then postponed to 27 and 28 September 2023. On 27 September 2023 Nel made an application for the disciplinary hearing to be terminated and for the matter to be referred to the Commission for Conciliation, Mediation and Arbitration in terms of the provisions of section 188A (11) of the Labour Relations Act 66 of 1995. The chairperson dismissed the application on 28 September 2023 and ArcelorMittal called its first witness.
- After the first witness concluded their evidence, the matter was postponed by agreement to 20 to 23 November 2023, for the cross-examination of the first witness and for ArcelorMittal to call more witnesses.



## Justice delayed could mean suspension without pay

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Cliffe Dekker Hofmeyr

### 2023 RESULTS

**Chambers Global 2014 - 2023**  
ranked our Employment Law practice in  
Band 2: Employment.

**Aadil Patel** ranked by  
**Chambers Global 2015 - 2023**  
in Band 2: Employment.

**Fiona Leppan** ranked by  
**Chambers Global 2018 - 2023**  
in Band 2: Employment.

**Imraan Mahomed** ranked by  
**Chambers Global 2021 - 2023**  
in Band 2: Employment.

**Hugo Pienaar** ranked by  
**Chambers Global 2014 - 2023**  
in Band 2: Employment.

- Nel cross-examined the first witness over three days (20, 21 and 22 November 2023) and the re-examination was concluded on 23 November 2023. ArcelorMittal's second witness was called and after evidence was concluded, cross-examination started, and the hearing was postponed for the finalisation of the witness' cross-examination.
- The parties and the chairperson agreed that the matter be postponed to 1 to 4 and 10 and 11 February 2024.

### Repeated delays

It is clear from these facts that there were inordinate delays to the disciplinary process, particularly due to the matter being made unnecessarily complicated by Strydom's legal representative. Accordingly, ArcelorMittal sent correspondence to Strydom explaining this and suspending him without pay on 5 December 2023. Strydom then approached the Labour Court.

The Labour Court ruled that it had no jurisdiction to hear the matter given that Strydom had already referred a dispute regarding his suspension to the Metal and Engineering Industries Bargaining Council (MEIBC), including his suspension without pay dispute, which is pending before the MEIBC. He further failed to point to the specific provision of any other law that confers jurisdiction on the Labour Court to adjudicate his unlawful suspension dispute.

### Finding on suspension in these circumstances

What is interesting about the judgment, however, is that the judge included an obiter regarding the issue of unpaid suspension in these circumstances. The obiter highlighted that disciplinary hearings are to be conducted simply and expeditiously and should not adopt the complicated criminal justice model. The Court also stated that when an employee is suspended pending a disciplinary hearing, due to a delay where the suspension is extended for an unreasonably long period as a result of the employee's requests for postponement or other reasons causing a delay and related to the conduct of the suspended



## Justice delayed could mean suspension without pay

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employee, it would be unfair to apply the general principle that a suspended employee is entitled to full pay. The Court noted that there were previous arbitration awards where it was confirmed that an employer was entitled to place an employee on unpaid suspension due to delaying tactics.

In addition, the Labour Court held that the interests of justice required that Strydom pay 20% of ArcelorMittal's legal costs.

This case clearly demonstrates that disciplinary hearings should be concluded expeditiously and with minimal legal technicalities.

In addition, suspended employees facing disciplinary action cannot be allowed to find reasons or to employ tactics to delay the disciplinary proceedings at the employer's cost, as that would constitute an abuse of process. Employers should consider including the right to suspend without pay in their disciplinary codes and procedures.

CDH published an alert in 2017 regarding suspension without pay due to delay tactics, which can be accessed [here](#).

**Hugo Pienaar and Asma Cachalia**



## OUR TEAM

For more information about our Employment Law practice and services in South Africa and Kenya, please contact:



### Aadil Patel

Practice Head & Director:  
Employment Law  
Joint Sector Head:  
Government & State-Owned Entities  
T +27 (0)11 562 1107  
E aadil.patel@cdhlegal.com



### Anli Bezuidenhout

Director:  
Employment Law  
T +27 (0)21 481 6351  
E anli.bezuidenhout@cdhlegal.com



### Jose Jorge

Director:  
Employment Law  
T +27 (0)21 481 6319  
E jose.jorge@cdhlegal.com



### Fiona Leppan

Director:  
Employment Law  
T +27 (0)11 562 1152  
E fiona.leppan@cdhlegal.com



### Imraan Mahomed

Director:  
Employment Law  
T +27 (0)11 562 1459  
E imraan.mahomed@cdhlegal.com



### Phetheni Nkuna

Director:  
Employment Law  
T +27 (0)11 562 1478  
E phetheni.nkuna@cdhlegal.com



### Desmond Odhiambo

Partner | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E desmond.odhiambo@cdhlegal.com



### Hugo Pienaar

Sector Head:  
Infrastructure, Transport & Logistics  
Director: Employment Law  
T +27 (0)11 562 1350  
E hugo.pienaar@cdhlegal.com



### Thabang Rapuleng

Counsel:  
Employment Law  
T +27 (0)11 562 1759  
E thabang.rapuleng@cdhlegal.com



### Njeri Wagacha

Partner | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E njeri.wagacha@cdhlegal.com



### Mohsina Chenia

Executive Consultant:  
Employment Law  
T +27 (0)11 562 1299  
E mohsina.chenia@cdhlegal.com



### Jean Ewang

Consultant:  
Employment Law  
M +27 (0)73 909 1940  
E jean.ewang@cdhlegal.com



### Ebrahim Patelia

Legal Consultant:  
Employment Law  
T +27 (0)11 562 1000  
E ebrahim.patel@cdhlegal.com



### Nadeem Mahomed

Professional Support Lawyer:  
Employment Law  
T +27 (0)11 562 1936  
E nadeem.mahomed@cdhlegal.com

## OUR TEAM

For more information about our Employment Law practice and services in South Africa and Kenya, please contact:



**Asma Cachalia**

Senior Associate:  
Employment Law  
T +27 (0)11 562 1333  
E asma.cachalia@cdhlegal.com



**Rizichi Kashero-Ondego**

Senior Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E rizichi.kashero-ondego@cdhlegal.com



**Jordyne Löser**

Senior Associate:  
Employment Law  
T +27 (0)11 562 1479  
E jordyne.loser@cdhlegal.com



**Leila Moosa**

Senior Associate:  
Employment Law  
T +27 (0)21 481 6318  
E leila.moosa@cdhlegal.com



**Christine Mugenyu**

Senior Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E christine.mugenyu@cdhlegal.com



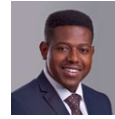
**Malesale Letwaba**

Associate:  
Employment Law  
T +27 (0)11 562 1710  
E malesale.letwaba@cdhlegal.com



**Biron Madisa**

Associate:  
Employment Law  
T +27 (0)11 562 1031  
E biron.madisa@cdhlegal.com



**Kgodisho Phashe**

Associate:  
Employment Law  
T +27 (0)11 562 1086  
E kgodisho.phashe@cdhlegal.com



**Taryn York**

Associate:  
Employment Law  
T +27 (0)11 562 1732  
E taryn.york@cdhlegal.com

**BBBEE STATUS:** LEVEL ONE 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.

**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](mailto: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](mailto:ctn@cdhlegal.com)

**NAIROBI**

Merchant Square, 3<sup>rd</sup> floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.

T +254 731 086 649 | +254 204 409 918 | +254 710 560 114

E [cdhkenya@cdhlegal.com](mailto:cdhkenya@cdhlegal.com)

**STELLENBOSCH**

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.

T +27 (0)21 481 6400 E [cdh Stellenbosch@cdhlegal.com](mailto:cdh Stellenbosch@cdhlegal.com)

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