



NEWSLETTER

**NEW
LABOUR
LAWS**

THE NATIONAL MINIMUM WAGE BILL



**New Labour Law Information:
National Minimum Wage Bill
(NMWB)**

President Cyril Ramaphosa has laid great emphasis on the National Minimum Wage Bill (NMWB) as a means of reducing the widening income gap.

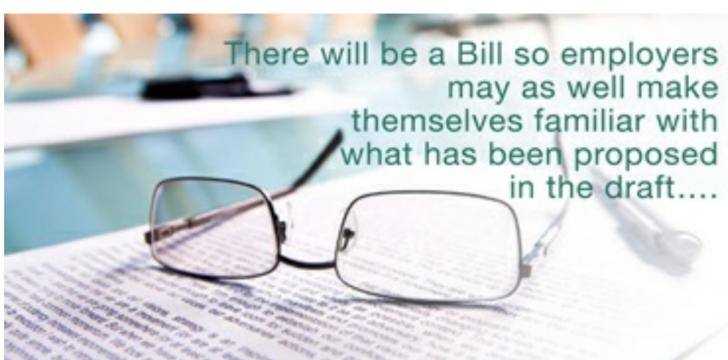
However, the Bill – which was due to come into effect on the 1st May (Workers' Day) – has seen more delays. The Minister of Labour, Mildred Oliphant, has yet to give a firm date. The reason for the urgent cancellation? 'Cosatu Secretary-General Bheki Ntshalintshali reached out to President Cyril Ramaphosa with concerns that a rushed-through national minimum wage would backfire.' (Source: Daily Maverick)

There will be a Bill, however, so employers may as well make themselves familiar with what has been proposed in the draft....

The NMW 'seeks to provide for a national minimum wage; to establish the National Minimum Wage Commission; to provide for the composition and functions of the National Minimum Wage Commission; to provide for the review and annual adjustment of the national minimum wage; to provide for exemption from paying the national minimum wage; to provide for transitional provisions in respect of farm workers and domestic workers; and to provide for matters connected therein.' (Source: Department of Labour)

The NMW is as a result of the amendments to the Basic Conditions of Employment Act No. 75 of 1997. The amendments aim to: provide for daily wage payments applicable to certain employees; to repeal the provisions dealing with sectoral determinations and Employment Conditions Commission; to extend the jurisdiction of the Commission for Conciliation, Mediation and Arbitration; to extend the provisions for monitoring and enforcement by the labour inspector to include enforcement of the provisions of the National Minimum Wage Act, 2017, the Unemployment Insurance Act and the Unemployment Insurance Contributions Act; to provide for claims of underpayment; to provide for transitional arrangements to regulate sectoral determinations currently in force and to strengthen collective bargaining in respect of the sectors regulated by those sectoral determinations; and to provide for matters connected therein. (Source: Department of Labour)

The Commission mentioned will take over from the existing Employment Conditions Commission. It will be comprised of representatives from Labour, the Business Sector and the community, with an independent Chairperson and 3 independent experts. (Source: Department of Labour Roadshows)



How will this affect you, the employer, when the legislation is passed?

In its current form, there are actions you must take, and others you can't. Some are listed below – however, the labour experts at GEO will be able to give advice in more detail upon publishing of the NMW in a few months' time – Parliamentary co-ordinator Matthew Parks has indicated this will be in June.

An employer must:

- Pay a minimum wage of R20 per hour per worker for each ordinary hour worked – this payment excludes any monetary benefits
- Pay a minimum wage of R15 per hour per domestic worker for each ordinary hour worked
- Include the minimum wage if relevant in any employment contract
- If required, give a written compliance to the Act to a labour inspector

An employer must not:

- Negotiate any contract below the minimum wage
- Alter the hours worked of any employee working on a basis other than 'ordinary' hours
- Refuse to adhere to a request from a labour inspector, although the employer may approach the CCMA for arbitration

So why the delay?

One of the most embarrassing reasons is that the Labour Department had an incorrect definition of a worker in the Bill, contravening the definition agreed to at Nedlac, which is: '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'. In addition, the Department included 'matters into the draft legislation that fell outside the Nedlac agreement'. (Source: Daily Maverick)

The draft Bill as it stands is full of misinterpretations, exclusions of vital sectors, lack of planning for the way going forward after 3 years and a general disregard for the agreements reached at NEDLAC.

For more insight into the proposed Bill, there are three excellent articles worth reading:

- [**Fin24**](#)
- [**Daily Maverick**](#)
- [**Daily Maverick**](#)

GEO will ensure their members are kept updated as to the progress of the editing of the amendments. As previously mentioned, passing of the legislation is foreseen to be in June.

**Regards
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**For assistance with
POPI compliance,**



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**In This Issue
NMWB**

- Familiarising yourself with the draft bill
- How will this affect the employer
- The do's and don't's
- Why the delay

GEO members are advised to subscribe to the CIRIS internet labour law advice site. It provides valuable information on all matters related to Labour Law. Contact Andre Rabe on 0824910708 or email him on andrer@geo.org.za



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Summary

How will the Bill affect you, the employer, when the legislation is passed?



GEO will ensure their members are kept updated as to the progress of the editing of the amendments.

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