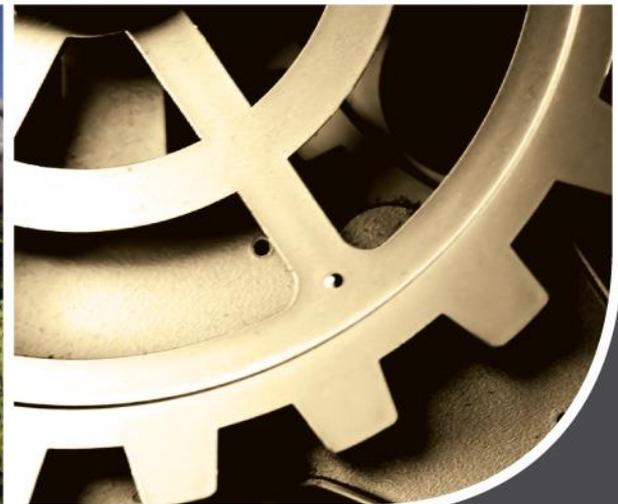


Labour Law Reform: National Minimum Wage Act, BCEA & LRA Amendment Acts, 2017



labour

Department:
Labour
REPUBLIC OF SOUTH AFRICA



Background

- Announcement in 2014 SONA by President Jacob Zuma for social partners to deliberate on the state of the labour relations environment in SA and wage inequality
- Two years deliberation in NEDLAC
- Agreement & Declaration in February 2017 on the introduction of a NMW, Accord on Collective Bargaining, Code of Good Practice and amendments to BCEA and LRA.
- Bills submitted to Parliament in November 2017

The National Minimum Wage Act, 2017



labour

Department:
Labour
REPUBLIC OF SOUTH AFRICA



1. Introduction

- The SA labour market is characterised by high levels of inequality, unemployment and poverty.
- The social partners committed to engaging on modalities of introducing a national minimum wage, as one of the measures to reduce these levels.
- A single minimum wage is preferred by the ILO and minimum wage experts because it:
 - Covers all workers;
 - Is easier to enforce and enjoy higher compliance;
 - Benefits all workers equally;
 - Can be set to serve broader policy objectives such as the reduction of poverty and inequality;

2. What is the NMW?

- The national minimum wage is R20 per hour and implemented and enforced as from 1 Jan 2019
- Sectors exempted;
 - Farm/Forestry workers are entitled to R18 per hour
 - Domestic workers are entitled R15 per hour
 - Workers employed on an expanded public works programme -are entitled to R11 per hour
 - Workers on learner ship agreements are entitled an allowance contained in schedule 2 of NMW Act.

3. To whom will the NMW apply?

- NMW will apply to all workers – that is, any person who works for another person and who receives or is entitled to receive any payment for that work.
- Every employer may not pay wages that are below the minimum wage;
- The NMW cannot be varied by contract, collective agreement or law. The NMW constitutes a term of the worker's contract except to the extent that the contract provides for a more favourable wage.
- It is unfair labour practice for an employer to unilaterally alter hours of work or other conditions of employment in implementing the NMW. (Currently promotion , demotion and training)

4. How will the NMW be calculated?

- The NMW is the amount payable for the ordinary hours of work. This means that a worker is entitled to receive the minimum wage for the number of hours worked in a day
- The NMW does not include payment of allowances (such as transport, tools, food or accommodation) payments in kind (board or lodging), tips, bonuses and gifts
- Provision is made for the Minister to exclude other forms of payment by regulation

5. Who will review the NMW?

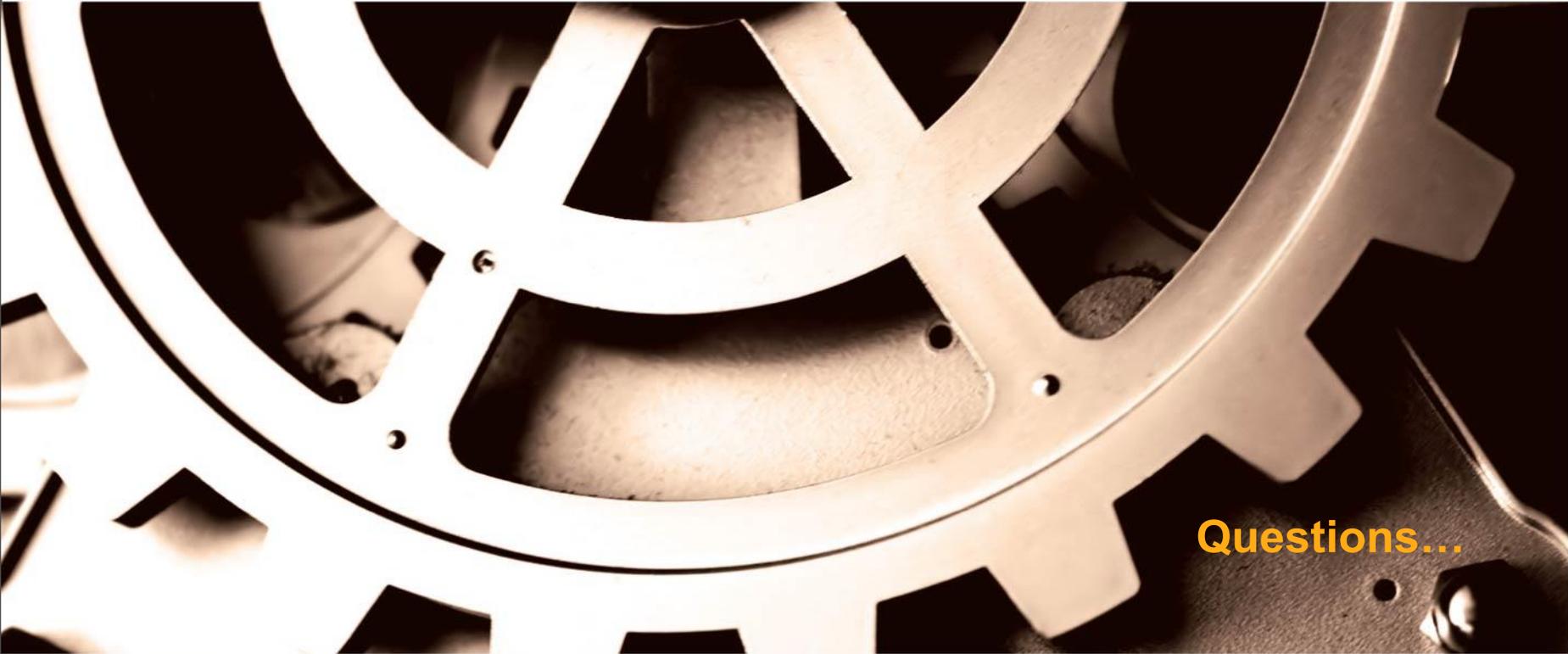
- The Act provides for the establishment, functions and composition of the Commission.
- The Commission will take over the functions of the Employment Conditions Commission.
- Primary function of the Commission:
 - **To review the NMW and make recommendations annually for its adjustment;**
 - **To investigate the impact of the NMW on the economy, collective bargaining and income differentials.**
- Commission appointed by the Minister of Labour: 3 members each from Labour, Business and Community, Independent Chairperson and 3 independent experts

6. How will the NMW be adjusted?

- The NMW must be adjusted on 1 May each year.
- In the review of the NMW, the Commission has to take a number of factors into consideration:
 - **inflation;**
 - **the cost of living;**
 - **wage levels;**
 - **wage differentials;**
 - **productivity;**
 - **the ability of businesses to carry on successfully;**
 - **the impact on SMME's and employment.**
- The review process should also promote medium term targets to reduce wage differentials and alleviation of poverty.

7. General

- The Act provides for the Minister to grant exemptions from the NMW– the exercise of which is to be regulated by a regulation
- The regulation includes the procedure for exemption, the obligation on employer to consult with employees or their trade unions, the criteria for evaluating exemptions etc.



Questions...