

[HOME](#)[LEGAL TOPICS](#)[PRESS OFFICE](#)[EVENTS](#)[STUDENT ZONE](#)[CAREERS](#)[ABOUT](#)

[Home](#) » [Labour Law](#) » Exemption from the minimum wage rule

# Exemption from the minimum wage rule



Provided By [SCHOEMANLAW INC](#)

SchoemanLaw Inc Attorneys, Conveyancers And Notaries Public, Based In Cape Town, Is A Boutique Law Firm Offering Its Clients Access To High Quality Online Legal D... [MORE](#)

By [JARED POOLE](#)

**Topics** [Labour Law](#)

12 Jul 2021

A large part of South Africa's workforce has seen the effect of the recently updated national minimum wage. The update came as per the national legislation requiring the Minister of Labour to review the national minimum wage within two years of its enactment. As such, the recent update raised the question whether employers can in any way be exempt from paying this minimum wage.

## The wage rate

The [National Minimum Wage Act 9 of 2018](#) (hereinafter referred to as 'the Act') was needed to address the vast disparities in income within the country. As a result, a national minimum wage was enforceable from the time it was assented to. Schedule 1 of the Act as read with Section 6(6) of the Act stipulated the following minimum pay per hour for workers:

- The national minimum wage is R20 for each ordinary hour worked;
- Farm workers are entitled to a minimum wage of R18 per hour;
- Domestic workers are entitled to a minimum wage of R15 per hour; and
- Workers employed on an expanded public works programme are entitled to a minimum wage of R11 per hour.

This position was then updated by the Minister of Employment and Labour effective from 1 March 2021 to the following:

- The national minimum wage is R21.69 for each ordinary hour worked;
- Farm workers are entitled to a minimum wage of R21.69 per hour;
- Domestic workers are entitled to a minimum wage of R19.09 per hour; and
- Workers employed on an expanded public works programme are entitled to a minimum wage of R19.09 per hour.

## Exemption application and process

If an employer cannot meet his/her employees' remuneration based on the above standard, the Act further makes provision for an exemption process that can be utilised.

As per Section 15 of the Act, read with the enacted Regulations, an employer or an employer's union, may apply for such exemption. However, such an application will not be successful unless the employer shows a good reason why the relief should be granted and that every employee or every employees' union was meaningfully consulted with.

The Regulations further provide that the application will not be granted if the employer passes the affordability elements relating to profitability, liquidity and

solvency. The calculations for these tests are further included as part of the schedules to the Act. The employer would also need to be in compliance with all statutory payments in terms of but not limited to any compensation fund, Bargaining Council agreement or Unemployment Insurance Fund.

Should the employer be successful, the exemption will be granted for a period of no longer than one year. Furthermore, the exemption will allow the employer to remunerate his/her workers at a rate less than the required amount, but not less than 90% of the national minimum wage.

## Conclusion

Once the application is granted, a notice confirming such will be published by the National Wage Exemption System. Employers are then legally obligated to display a copy of such exemption in the workplace where all those affected by the exemption can read it. Therefore, it is always advisable to seek out this notice before accepting that an employer has received confirmation of his/her exemption. Similarly, it would not be advisable to put up any such documentation in the workplace unless the employer has properly complied with the exemption process which has been properly granted.

Contact [SchoemanLaw Inc](#) for all your labour needs.

See also:

- [Basic Conditions of Employment Act 75 of 1997; National Minimum Wage Act 9 of 2018 & Regulations 3e](#)
- [What are employees' and employers' rights and obligations in terms of sick leave in South Africa?](#)
- [SAA wage dispute and strike](#)
- [Minimum wage and paternal leave addressed](#)

*(This article is provided for informational purposes only and not for the purpose of providing legal advice. For more information on the topic, please contact the author/s or the relevant provider.)*



BARGAINING COUNCIL

COLLECTIVE BARGAINING

COMPENSATION FUND

EMPLOYMENT

LABOUR PRACTICES

MINIMUM WAGE

NATIONAL MINIMUM WAGE ACT

REMUNERATION

UNEMPLOYMENT INSURANCE FUND (UIF)



### [Jared Poole](#)

Jared Poole obtained his LLB degree from the University of the Western Cape in 2017. While at high school Jared held various leadership positions including that of Deputy-Head Prefect. Externally,... [Read more about Jared Poole](#)

[Click here to send a legal query to Jared Poole](#)

Share



## Labour Law articles by **SchoemanLaw Inc**

---

To mediate or to litigate? That is the question!

---

Navigating the often-unavoidable impacts of your pregnancy on your employment

---

Recording conversations without consent

---

The fine line between negligence and poor performance

## Labour Law articles on GoLegal

---

Going to work during the pandemic – The fine line between when employees should and shouldn't be attending the workplace

---

I may not be (vacc)seeing you anytime soon, is it worth the shot?

---

Some challenges associated with business rescue proceedings

---

Grossly unreasonable and aberrant disciplinary hearing outcomes and sanctions need not stand

**PROVIDED BY:**

---



Tailored. Entrepreneurial. Solutions.

BY



**Jared Poole**

Jared Poole obtained his LLB degree from the University of the Western Cape in 2017. ...

SEND A LEGAL QUERY TO JARED POOLE

**EXPERTS IN LABOUR LAW**



**Adams & Adams**  
*7 Relevant articles*



**Eversheds Sutherland**  
*44 Relevant articles*



**Fluxmans Attorneys**  
*6 Relevant articles*

INSPIRING  
POSSIBILITIES  
TOGETHER



**Juta**

15 Relevant articles

**KISCH IP**

3 Relevant articles



**Legal&Tax**

12 Relevant articles



**LexisNexis**

**LexisNexis**

22 Relevant articles



**Sabinet**

19 Relevant articles



Tailored. Entrepreneurial. Solutions.

**SchoemanLaw Inc**

28 Relevant articles



## UPCOMING EVENTS

### What does it take to be a modern lawyer?

AUG 19 @ 8:30 AM - 9:30 am

### The ABCs of corporate governance – Unpacking essential tools

AUG 24 @ 2:00 PM - 3:00 pm

## **Unpacking SLA's – Service Level Agreements**

AUG 26 @ 2:00 PM - 3:00 pm

---

## **Insourcing versus outsourcing – The resources required**

SEP 22 @ 11:00 AM - 12:00 pm

---

## **Series: Three steps to becoming a better leader (Part 3)**

OCT 21 @ 2:00 PM

---

Want the latest legal news and views in your box?

Your email address

Subscribe



## ABOUT US

GoLegal is a leading industry news and information portal for the South African legal sector, catering to attorneys, corporate counsel, legal scholars, policy makers and other corporate and legal interest groups.

[READ MORE >](#)

## OUR SERVICES

Promote Legal Conferences, Events and Seminars

Advertise with GoLegal

Privacy Policy



**FOLLOW US**



**SIGN UP FOR OUR NEWSLETTER**

Want the latest legal news and views in your box?

**SUBSCRIBE**

---

2019 GOLEGAL ALL RIGHTS RESERVED | WEBSITE POWERED BY CLOUDFUSION