



planning, monitoring & evaluation

Department:
Planning, Monitoring and Evaluation
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)
FINAL IMPACT ASSESSMENT TEMPLATE (PHASE 2)

NATIONAL MINIMUM WAGE BILL

DEPARTMENT OF LABOUR

The Final Impact Assessment: Department of Labour. National Minimum Wage Bill.

The Final Impact Assessment provides a detailed assessment of the new Minimum Wage Bill. The Bill arises from a two year engagement process between government, organised business and organised labour in the National Economic Development and Labour Advisory Council (NEDLAC) to address the challenges of labour market stability and wage inequality as posed by the President in his State of the Nation Address in June 2014.

1. The problem Statement/ Theory of Change

1.1. Give summary of the proposal, identifying the problem to be addressed and the root (causes) of the problem that will be addressed by the new rule.

a) Summary of the proposal (Summary Background of the proposed policy/bill/regulations/ other):

Background

The South African labour market demonstrates a strong link between low wage levels, high unemployment, a large number of people living in poverty and the high level of inequality that characterises the country. Of a population of 55.9 million people, 29.7 million live below the poverty line, or 51 per cent of South African's live on less than R1036.07 per month in 2016.¹ A key reason for widespread poverty is lack of access to employment. Only 36 per cent of the poorest households have access to employment opportunities and those that do have jobs in many cases earn low wages that provide insufficient household income to support dependants. Over half of South Africa's workforce earn below R3700 per month.²

In addition to widespread poverty and low wages, South Africa is known to be "among the top three most unequal countries in the world. The World Bank estimates our Gini coefficient to be between 0.66 to 0.70, where the richest 10 per

¹ National Minimum Wage Panel Report. A National Minimum Wage for South Africa. Recommendations on Policy and Implementation. 2017, page 7. The NMW Panel Report uses the Upper Bound Poverty Line.

² Ibid.

cent of the population accounts for 58 per cent of the country's income, while the poorest 10 per cent accounts for 0.5 per cent of income.”³

These features of low levels of income, high unemployment and poverty and high levels of inequality are found in an economy experiencing very low growth, with a growth forecast for 2017 of less than 1 per cent. While income from wages is the main source of ensuring a sustainable livelihood for workers it is also a key factor in competitiveness and sustainability of enterprises in the private sector the sustainability of enterprises in the public sector and for raising state revenue.

Against this background, government, organised business, labour and the community constituencies of the National Economic Development and Labour Advisory Council (NEDLAC) resolved to engage on the modalities of introducing a national minimum wage in South Africa and to explore ways of reducing pay differentials while maximising job creation efforts. This resolution was captured in the Ekurhuleni Declaration of 4th November 2014. A Technical Task was established and met at NEDLAC during 2015 and 2016. In June 2016, the Deputy President, with the support of a Committee of Principals at NEDLAC, decided to establish an Advisory Panel to, inter alia, recommend a meaningful level for the first national minimum wage. The Advisory Panel tabled its report in November 2016 and in February 2017, an agreement was reached on the introduction of a national minimum wage of R20 per hour to be implemented not later than 1 May 2018.

The agreement between the social partners provided the basis for the drafting of the National Minimum Wage Bill, 2017 which is summarised below.

³ Ibid.

Summary of proposal

The **National Minimum wage Bill** deals with the following areas:

i. The National Minimum Wage from 1 May 2018

The agreed national minimum wage is R20 per hour that is to come into effect on or before 1 May 2018. The farming and domestic sectors are given a period of time to reach the level of the national minimum wage with the following minima applying from 1 May 2018:

- The minimum for farm workers will be 90 per cent of R20 per hour (R18 per hour);
- The minimum for domestic workers will be 80 per cent of R20 per hour (R16 per hour).

ii. Nature of a national minimum wage

The national minimum wage forms the minimum floor for wages. This will mean that:

- Every workers is entitled to at least the minimum wage;
- Every employer may not pay wages that are below the minimum wage;
- The national minimum wage cannot be varied by contract, collective agreement or law;
- The national minimum wage constitutes a term of an employee's contract except to the extent that the contract provides for a more favorable wage;
- It is an unfair labour practice for an employer to unilaterally alter hours of work or other conditions of employment in implementing the national minimum wage.

iii. Calculation of the national minimum wage

The national minimum wage is the amount payable for the ordinary hours of work. This means that an employee is entitled to receive the minimum wage for the number of hours that the worker works in a day.

The Bill makes provision for a guaranteed minimum number of hours, namely four hours which must be paid even if an employee should work less than four hours.

The minimum wage does not include the payment of allowances (such as transport, tool, food or accommodation allowances).

iv. Annual review of the national minimum wage

The national minimum wage must be reviewed annually by the National Minimum Wage Commission.

The Commission must review the existing national minimum wage, taking into account a number of factors that are identified in the Act, such as; employment, inflation, wage levels and collective bargaining outcomes, etc.

v. National Minimum Wage Commission

The Bill provides for the establishment, functions and composition of the Commission which will take over many of the functions of the repealed Employment Conditions Commission.

The primary function of the Commission is to review the national minimum wage and to make recommendations annually for its adjustment. It has additional functions such as investigating the impact of the national minimum wage on the economy, collective bargaining and income differentials.

The Commission is appointed by the Minister of Labour from members nominated by organized business, labour and the community constituencies at NEDLAC. The Minister appoints an independent chairperson and four independent experts after consultation with NEDLAC.

vi. General Provisions

The National Minimum Wage Bill provides for the Minister of Labour to grant exemptions from the national minimum wage. The exemptions process is to be dealt with by way of regulations.

b) Problem/s and root causes that the proposal is trying to address

Identified Problem	Root causes
Low levels of income.	Historical legacy of low pay for less skilled work in South Africa.
Exclusion of vulnerable workers from minimum wage regulation.	Sector based approach to minimum wage regulation not covering all employees and collective bargaining arrangements also not comprehensive in their coverage.
Fragmented and complex system of minimum wage regulation through Sectoral Determinations.	Sector based system of minimum wage regulation, some with a number of minimum wages for different categories of employee.
Low levels of compliance with minimum wages.	Lack of knowledge, lack of willingness and, in certain cases, an inability to pay prescribed minimum wages.

1.2. Describe the intended outcomes of the proposal

At a strategic level, the overall intended outcome of the proposal is to reduce poverty and improve income from employment. With the envisaged simpler national minimum wage it is also intended that compliance will be improved.

In addition, it is intended that collective bargaining will be strengthened, particularly in sectors where there are vulnerable workers, for example, in private security.

1.3. Describe the groups that will benefit from the proposal, and the groups that will face the cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R 7000 a month or less); for black people, youth or women; for small and emerging enterprise; and /or for rural development. Add more rows if required.

Groups that will benefit	How will they benefit?
Workers	The proposed national minimum wage is intended to have a positive effect on the earnings of all those who earn below R20 per hour. The estimated group of employee beneficiaries is in the region of 5 million employees.

Trade Unions	The positive effect of the national minimum wage for employees will be to the benefit of trade unions in that it is consistent with the aims of trade unions to improve the earnings of vulnerable workers.
Employers and employers' associations	Employers and employer associations will benefit from the likely increase in demand brought about through the national minimum wage.

Groups that will bear the cost or lose	How will they incur the costs or lose?
Employers and their associations	<p>Those employers who pay below the proposed national minimum wage of R20 per hour will face an increase in their payroll cost.</p> <p>Some small employers may also carry a cost of increasing wages.</p>
Employees	<p>Loss of employment. The impact of a NMW are difficult to predict and will most likely vary by sector and by firm (see NMW Panel Report, pages 66-68).</p> <p>Research on the impact of minimum wages in sectoral determinations in South Africa has found that adjustments have not had significantly negative disemployment effects, with the exception of agriculture.</p>

1.4. Describe the behaviour that must be changed, main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision making process systems; changes in procedures; educational work; sanctions; and or incentives. Also identify groups inside or outside government whose behaviour will have to change to implement the proposal. Add more rows if required.

Groups inside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
Department of Labour	Minimum wage regulation by the Employment Conditions Commission	Establishment of National Minimum Wage Commission

Groups outside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
Employers and Employer associations	Payment of wages below legislated minimum wage.	National Minimum Wage Bill and amendments to Basic Conditions of Employment Act that deal with enforcement.

1.5. Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose? And have these amendments been incorporated in your proposal?

Consultation took place during 2015-2016 under the auspices of NEDLAC and via a Committee of Principals chaired by the Deputy President. Government was represented in the Committee of Principals by the Ministers of Labour, Finance, Economic Development, Trade and Industry and Small Business. The NEDLAC consultations were facilitated by a Senior Commissioner of the CCMA who provided regular reports to the Committee of Principals on the work of the task team. These reports recorded areas of agreement and disagreement between the constituencies represented in the task team. In April 2016, the Task Team on Wage Inequality deadlocked over the proposed level at which that national minimum wage should be set. The Committee of Principals agreed to the establishment of an Advisory Panel which was tasked with interrogating the

research that had been carried out and to recommend a meaningful level or range for the first national minimum wage. The Advisory Panel was established by the Deputy President and submitted its report in August 2016. The process culminated in the adoption of a Declaration on Wage Inequality and Labour Market Stability (attached as **Annexure A**) and an Agreement on the Introduction of a National Minimum Wage in February 2017. Since the February agreement, the Department of Labour submitted a draft National Minimum Wage Bill and amendments to the Basic Conditions of Employment Act to NEDLAC for consideration. A task team was established and has deliberated all aspects of the NMW Bill.

A meeting of the Committee of Principals that took place on 12 September 2017 arrived at a final agreement on the National Minimum Wage Bill. The following summarises the agreement reached on final areas that were in dispute prior to the Committee of Principals meeting.

Table on consultations:

Affected Stakeholders	What do they see as <u>main benefits, costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these <u>amendments</u> been <u>incorporated</u> in your proposal?
1. Government Departments and Agencies (Name them)	The main benefit will be a positive impact on poverty and inequality. Secondary benefits could be improved compliance arising from a simpler wage regulation system. Costs will relate to implementation and are detailed below. The main risk is that of non-compliance.	Support.	As per final NMW Bill. DPW have indicated support for setting the EPWP's as a percentage of the NMW.	Final Bill makes provision for R11 per hour as the pay in the EPWP's.

<p>2. Business- Business Unity South Africa, Black Business Council.</p>	<p>Improving the wages of lowest paid workers the main benefit. Costs will accrue to employers paying below the NMW.</p>	<p>Support.</p>	<p>Minimum hours should remain at 4 hours. Threshold for application of minimum hours should be set at R40 per hour. Definition of employee should be retained.</p>	<p>Minimum hours will remain at 4 hours and will be reviewed in three years. Threshold to be set in range of R40 to R60. Worker used in place of employee.</p>
<p>3. Organised Labour- COSATU, NACTU, FEDUSA.</p>	<p>Improving wages, reducing income inequality and increasing standard of living.</p>	<p>Support. Comfortable with 5 hours as minimum hours of work. Want annual adjustment to NMW and medium-term target. Want EPWP covered by NMW via a tier if necessary.</p>	<p>5 hours as guaranteed minimum hours. Annual adjustment to NMW and establishment of medium-term target. EPWP to be covered by NMW that could be via a tiered arrangement.</p>	<p>Minimum hours set at 4 hours. Provision in bill for annual adjustment to retain value of the minimum wage. Reviews of the minimum wage will include the setting to medium-term targets. EPWP covered by national minimum wage at 55% tier and Minister of Public Works to consider an increase to R12 per hour for the EPWP's.</p>
<p>4. Civil Society- Community constituency as represented at NEDLAC.</p>	<p>Improving wages, reducing income inequality and increasing standard of living.</p>	<p>Support.</p>	<p>Same as Labour.</p>	<p>As above.</p>

1.6. Describe possible disputes arising out of the implementation of the proposal, and system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?

The NMW Bill makes provision for an exemption process, but disputes over implementation are to be dealt with by the CCMA in terms of amendments to the BCEA.

2. Impact Assessment

2.1. Describe the costs and benefits of implementing the proposal to the groups identified in point 1.5 above, using the following chart. Add more rows if required

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
Trade Unions	N/A	N/A	Benefits will accrue to union members who stand to increase their earnings.	
Employers and Employers' association	Employers paying below the minimum of R20 per hour will have an increase in payroll costs once the NMW is implemented.	The actual cost will be determined by the current level of earnings and the number of employees eligible for increases.	Some firms will face an increase in payroll costs. Benefits could accrue from productivity gains associated with increased earnings.	Additional costs could result from retrenchments that are as a result of the implementation of the NMW.
Government	R11.1m in 2018/19 for establishment of NMW Commission.	Inspectorate will be trained on NMW and will be required to enforce compliance.	Recurring costs will be associated with the establishment of a NMW Commission but process of regulating minimum wage should give rise to benefits associated with improved compliance.	
CCMA	Estimated at R50m for training activity, advocacy and increase in case load.	Estimated at R50m for training activity, advocacy and increase in case load.	Costs will be associated with training, advocacy and case load increase. Benefits will derive from enhanced capacity to deal with new areas of	Cost estimates for the CCMA are preliminary and are still to be finalised.

			dispute resolution and support.	
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2.2. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks. Seven new posts are envisaged to staff the Secretariat of the NMW Commission. Additional posts are likely to be transferred from the existing Employment Standards Directorate in the Department of Labour. The budget allocated in the Medium Term Expenditure Framework (MTEF) process is R10.3 million for the 2017/18 financial year and 11.1 million for the 2018/19 financial year.

2.3. Describe how the proposal minimises implementation and compliance costs:

The introduction of a National Minimum Wage Commission (NMWC) is proposed as a relatively small unit to be established as part of the budget of the Department of Labour. The NMWC is envisaged as being independent in its operations and in having control of its budget, but it is envisaged that it will operate from within the Department thus minimising costs of equipment, offices and related costs.

The cost of compliance will rest with employers whose employees are currently earning below R20 per hour. The real cost of adjusting employee payroll after the implementation of the NMW is very difficult to estimate in advance with any accuracy.

3. Managing Risk

3.1. Describe the main risks to the achievement of the desired ends of the policy/bill/regulations/other and/ or to the national priorities (aims) that could arise from adoption of the proposal. Also describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified Risk	Mitigation Measures
<p>Non-compliance with national minimum wage.</p> <p>Job losses associated with increases in hourly pay.</p> <p>Low levels of enforcement and compliance</p>	<p>Training and publicity campaigns.</p> <p>Effective exemption process that is accessible and quick.</p>

3.2. Describe the mechanisms included in your proposal for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

The National Minimum Wage Bill makes provision for a Secretariat whose functions include monitoring and evaluation of the impact of the national minimum wage on the economy. The NMW Commission is expected to meet on a regular basis to, inter alia, receive reports on the effects and the impact of a national minimum wage and to review it on an annual basis taking account of a number of factors and indicators. The Bill indicates that the Commission must consider the following:

- i. Inflation, the cost of living and the need to retain the value of the minimum wage;
- ii. Wage levels and collective bargaining outcomes;
- iii. The alleviation of poverty;
- iv. Wage differential and inequality;
- v. Gross domestic product;
- vi. Productivity;
- vii. Ability of employers to carry on their businesses successfully;
- viii. The operation of small, medium or micro-enterprises and new enterprises;

- ix. The likely impact of the recommended adjustment on employment or the creation of employment.

4. Summary

4.1. Summarise the impact of the proposal on the main national priorities

National Priority	Impact
1. Social Cohesion	Improved standard of living .
2. Security (Safety, Financial, Food, Energy and etc.)	Enhanced food security for those workers that benefit from the national minimum wage.
3. Economic Growth	Both positive and negative impact on GDP indicated by separate modelling exercises. The real impact will have to be determined after implementation.
4. Economic Inclusion (Job Creation and Equality)	Greater equality in earnings for lower income workers expected through the raising of the minimum wage.
5. Environmental Sustainability	N/A

4.2. Identify the social and economic groups that would **benefit most** and that would **bear the most cost**. Add more rows if required.

Main Beneficiaries	Main Cost bearers
Workers	Employers
Employers and their associations	
Government	Government

4.3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the policy/bill/regulations/other. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more bullets if required.

A well-publicised and well-coordinated implementation of the national minimum wage in 2018 should mitigate risks by creating advance awareness, giving certainty

and managing expectations. Such steps should also serve to maximise the benefit of the national minimum wage by ensuring maximum compliance by employers.

An effective, information technology enabled, exemption system is being planned which should also assist in mitigating risks for those who face significant increases in payroll cost and associated pressure on their business.

Training of inspectors and CCMA commissioners will also be important to ensure that enforcement and dispute resolution is optimised after implementation of the national minimum wage.

4.4. Please identify areas where additional research would improve understanding of the costs, benefits and/ or risks of the policy/bill/regulations/other:

Strategies used for implementation of a national minimum wage in other countries could inform the South African experience if these could be made available in the next few months.

For the purpose of building SEIAS body of knowledge please complete the following:

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