

Are you an employer? Here is how the new National Minimum Wage Bill affects you

The National Minimum Wage Bill (hereafter referred to as the Bill) was published in the Government Gazette on the 17th of November 2017 and is set to help reduce the inequality that still exists in the South African labour market.

Some believe that there are major gaps in the Bill. The Bill, for instance, has a new definition of the word "worker". It appears from the definition that it excludes independent contractors and could possibly also exclude casual workers.

Who is a worker?

The word "worker" now reads "employee as defined in section 1 of the Basic Conditions of Employment Act". The Basic Conditions of Employment Act ("BCEA") states that the definition of an employee "includes a worker as defined in the NMW Act".



This is creating a bizarre circular definition of a worker.

Even though the Bill was put into place to advance economic development and social justice, the Bill also seems to open the door for wage reduction in a number of sectors where wages were set by sectoral determinations. There are also a number of key factors missing from this Bill, some of which include a guarantee that it will increase with the rate of inflation.

The national minimum wage proposed is R20 for each ordinary hour worked and will constitute a term of the employee's contract except to the extent that the employee's contract or a collective agreement provides for a wage that is more favourable to the employee.

The only exceptions to the R20 minimum wage applies to farm workers who are entitled to R18 an hour, domestic workers who are entitled to R15 an hour and Expanded Public Works Programme workers, who are entitled to R11 an hour.

Employers are encouraged to bring their employees' wages in line with the national minimum wage to avoid being held liable for the payment of penalties or interest for not complying.

Furthermore, sectoral determinations were specifically put in place to set wages and special conditions of employment for unorganised sectors, including - but not limited to - retail, farms, domestic work, hospitality and security. A number of these as set by the sectoral determination are higher than the R20 per hour as set out in the National Minimum Wage Bill.

Agri Culture 58
February | Februarie 2018

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The question however remains what the effect on workers is. Does this mean that all the special conditions of employment in these sectoral determinations also fall away and where does it leave employees with existing employment contracts?

The National Minimum Wage Bill is said to take precedence over any contract of employment, collective agreements or law unless the current employment contract has more favourable terms.

The said Bill will come into effect on 1 May 2018.

Employers that are unsure how they will be impacted by the National Minimum Wage Bill and proposed amendments to the Basic Conditions of Employment Act and Labour Relations Act should consider enlisting the services of a legal adviser to gain a deeper understanding of what they need to put into place to accommodate a different regulatory landscape.

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It gives us great pleasure to introduce BVSA Legal Services to you.

This new addition to the BVSA Group was established due to the demand for high-quality and reliable legal advice and services within the BVSA Group and among its clients. BVSA Legal Services was established on January 1st, 2018 and consists of Marguerite Greeff, Jo-Anne Stephanus, Elizabeth Du Toit and Anke Senekal.

Meet the team

Marguerite Greeff heads BVSA Legal Services. She is a qualified lawyer, notary and conveyancer who managed her own firm, Greeff Attorneys, for the last 7 years. Marguerite obtained her legal degree at the University of Stellenbosch, after which she completed her clerkship at one of the major law firms in Cape Town. She is known as a specialist in commercial and contract law as well as property law and estate planning. In 2017, Marguerite was elected by the Legal Society of South Africa to join the Significant Leadership Program, a prestigious achievement for lawyers in South Africa. Marguerite's clients include large and smaller businesses, as well as national and international high net worth individuals.

Jo-Anne Stephanus started working at Greeff Attorneys in 2017 and is now also part of the BVSA Legal Services team. She obtained her LLB degree at UWC in 2014 and was a Golden Key Honour Society member as well as part of the Top Achievers Program. She proceeded to complete her legal clerkship at C & A Friedlander, whereafter she joined the South African Human Rights Commission as a Legal Consultant. She is a qualified lawyer with extensive experience and specialist knowledge in property law, commercial law, wills, trusts and human rights.

Elizabeth Du Toit is a familiar face among the BVSA family. She completed her legal degree at Stellenbosch University and was employed by BVSA Advisory Services for the last year. She has extensive knowledge in the fields of company law, trusts and wills. Elizabeth is currently completing her clerkship under Marguerite Greeff and adds a lot of value to the BVSA Legal Services team.

Anke Senekal recently obtained her LLB degree at Stellenbosch University. During her studies she participated in a Financial Literacy Project and received training in Presentation Skills. Anke gained practical experience from the Legal Aid Clinic, where she helped clients in matters ranging from divorces and family violence to labour law disputes and illegal evictions. Anke is currently working to complete her clerkship as candidate attorney. She assists the BVSA Legal Services team in all their activities.

BVSA Legal Services renders a comprehensive spectrum of legal services, including in the following areas:

- Company Law
- Commercial and Contract Law
- Property Law
- Labour Law
- Trusts, Wills and Antenuptial Contracts
- Estate Administration
- Compliance and Legal Audits

We strive to understand our clients' needs so that we can execute legal strategies that best benefit them today and in the future. Let us assist you in these complex and demanding matters, and let you have the benefit of our client-focused expertise in a field where it is so necessary. We are ready to assist you. Please contact us if you need more information.

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BVSA HUMAN RESOURCE SERVICES



During 2016, BVSA Accountants decided to establish a Central Human Resources Department. The task of this department involves the implementation of certain processes to make the administration around staff easy and more effective. By standardizing processes and documentation, uniformity within any company will be achieved.

It is our privilege to announce that from January 2018 these services will be available to the public. These services will involve the recruiting of potential staff, including:

- **Advertising of vacancies**
- **Selection of candidates**
- **Setup of interview**
- **Drafting of the appointment letters**
- **Revision of annual increase letters**
- **Preparation of staff manuals and disciplinary codes**
- **Implementation of evaluation systems**
- **Handling of payment statements**

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2018 Budget Highlights

INDIVIDUALS

Personal income tax rate and bracket structure

2018		2019	
Taxable Income (R)	Rates of Tax (R)	Taxable Income (R)	Rates of Tax (R)
R 0 – R 189 880	18% of each R 1	R 0 – R 195 850	18% of each R1
R 189 881 – R 296 540	R 34 178 + 26% of the amount above R 189 880	R 195 851 – R 305 850	R 35 253 + 26% of the amount above R 195 850
R 296 541 – R 410 460	R 61 910+ 31% of the amount above R 296 540	R 305 851 – R 423 300	R 63 853 + 31% of the amount above R 305 850
R 410 461 – R 555 600	R 97 225 + 36% of the amount above R 410 460	R 423 301 – R 555 600	R 100 236 + 36% of the amount above R 423 300
R 555 601 – R 708 310	R 149 475+ 39% of the amount above R 555 600	R 555 601 – R 708 310	R 147 891 + 39% of the amount above R 555 600
R 708 311 – R1 500 000	R 209 032 + 41% of the amount above R 708 310	R 708 311 – R1 500 000	R 207 448 + 41% of the amount above R 708 310
R 1 500 001 and above	R 533 625 + 45% of the amount above R 1 500 000	R 1 500 001 and above	R 532 041+ 45% of the amount above R 1 500 000

2018 Rebates

Primary rebate R13 635
 Secondary rebate R 7 479
 Tertiary R 2 493

2019 Rebates

Primary rebate R 14 067
 Secondary rebate R 7 713
 Tertiary R 2 574

Tax thresholds

Under 65 years R 75 750
 65 years and older R 117 300
 75 years and older R131 150

Tax thresholds

Under 65 years R 78 150
 65 years and over R 121 000
 75 years and older R 135 300

Interest exemption

Under 65 years R23 800
 65 years and older R34 500

Interest exemption

Under 65 years R 23 800
 65 years and older R 34 500

Travel allowances

No deduction may be claimed if there is not a logbook kept up to date. 80% of the taxpayer's travel allowance must be included in the employee's remuneration to calculate the monthly PAYE.

Value of vehicle R	Fixed cost (R p.a.)	Fuel (c/km)	Maintenance
0 – 85 000	28 352	95,7	34,4
85 001 – 170 000	50 631	106,8	43,1
170 001 – 255 000	72 983	116	47,5
255 001 – 340 000	92 683	124,8	51,9
340 001 – 425 000	112 443	133,5	60,9
425 001 – 510 000	133 147	153,2	71,6
501 001 – 595 000	153 850	158,4	88,9
More than 595 000	153 850	158,4	88,9
Alternative cost per km (subject to certain conditions)		2017 - 2018 355 c/km	2017 - 2018 361 c/km

Use of company car

The percentage included in an employee's taxable income remains at 3.5% of the determined value of the vehicle. Where the vehicle is subject to a maintenance plan, at the time the employer acquires the vehicle, the taxable value is 3.25% of the determined value.

80% of the fringe benefit must be included in the employee's remuneration for purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of motor vehicle for the tax year will be for business purposes.

On assessment the fringe benefit for the tax year is reduced by the ratio of distance travelled for business purposes substantiated by a logbook divided by the actual distance travelled during the tax year.

On assessment further relief is available for the cost of license, insurance, maintenance, and fuel for private travel if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a log book.

Retirement fund contributions

Amounts contributed to pension, provident and retirement annuity funds during a year of assessment is limited to 27.5% of the greater of remuneration for PAYE purposes or taxable income (both excluding retirement lump sums and severance benefits). The deduction is limited to a maximum of R350 000.

Medical expenses

In determining tax payable, individuals are allowed to deduct:

Monthly contributions to medical schemes (a tax rebate referred to as a medical scheme fees tax credit) up to R310 for the individual who paid the contributions and the first dependant on the medical scheme and R209 for each additional dependant; and in the case of:

- Taxpayers 65 and older, or if that person, his or her spouse or child is born with a disability, 33.3% of qualifying medical expenses paid and borne by the individual and an amount by which medical scheme contributions paid by the individual exceed 3 times the medical scheme fees tax credits for the tax year;
- Any other taxpayer, 25% of an amount equal to qualifying medical expenses paid and borne by the individual and an amount by which medical scheme contributions paid by the individual exceed 4 times the medical scheme fees tax credits for that tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).

Retirement lump sum benefits or severance benefits

2018	
0 – 500 000	0% of taxable income
500 001 – 700 000	18% of each R above R 500 000
700 001 – 1 050 000	36 000 + 27% of each R above R 700 000
1 050 001 and more	130 500 + 36% of each R above R 1 050 000

2019	
0 – 500 000	0% of taxable income
500 001 – 700 000	18% of each R above R 500 000
700 001 – 1 050 000	36 000 + 27% of each R above R 700 000
1 050 001 and more	130 500 + 36% of each R above R 1 050 000



COMPANIES

Company tax rates

	2017\2018	2018\2019
Normal income tax	28 %	28 %
Employment company	28 %	28 %
SA branches of foreign companies	28 %	28 %
Dividends tax	20 %	20 %

Small business corporations

The income tax rates are as follows	2017\2018	2018\2019
0 – R 75 750	0 %	
R 75 751 – R 365 000	7 %	
R 365 001 – R 550 000	21 %	
R 550 001 and more	28 %	

0 – R 78 150	0% of taxable income
R 78 151 – R365 000	7% of taxable income above R 78 150
R 365 001 – R 550 000	0 080 + 21% of taxable income above R 365 000
R 550 001 and more	58 930 + 28% of taxable income above R 550 000

Micro businesses

2018	
Turnover	Tax liability
0 – 335 000	0 %
335 001 – 500 000	1% of each R above R335 000
500 001 – 750 000	1 650 + 2% of each R above R 500 000
750 001 and above	6 650 + 3% of each R above R 750 000

2019	
Turnover	Tax liability
0 – 335 000	0 %
335 001 – 500 000	1% of each R above R335 000
500 001 – 750 000	1 650 + 2% of each R above R 500 000
750 001 – 1000 000	6 650 + 3% of each R above R 750 000

VAT

VAT is levied at the standard rate of 15% on the supply of goods and services by registered vendors.

The annual turnover notch for compulsory VAT registration remains on R1 million,

A vendor making taxable supplies of more than R50 000 but not more than R1 million per annum may apply for voluntary registration.

TAX ON DONATIONS

The annual donations tax exemption for natural persons is unchanged on R100 000 and the rate remains 20%. Where the donation amount exceeds R30 million, the rate will change to 25%

CAPITAL GAINS TAX

Maximum effective rate of tax:	
Individuals and special trusts	18 %
Companies	22 %
Other trusts	36 %

The exclusion threshold for capital gains and losses for individuals and special trusts remains at R 40 000.

The annual exclusion for individuals in the year of death remains at R300 000. The primary residence exclusion for individuals is R 2 million.

The capital gains exclusion on disposal of a small business when a person is at least 55 years old, will remain at R1 800 000 when the market value of the active business assets does not exceed R 10 000 000.

DIVIDENDS TAX

Dividends received by individuals from South African companies are taxed at a rate of 20% which is withheld by the entities paying the dividends to the individuals.





ESTATE RATES

Transfer duty rates changed for the 2018 tax year at the following rates: Estate duty is levied at a rate of 20% on the first R30 million and at a rate of 25% above R30 million on property of residents and South African property of non-residents. A basic deduction of R 3.5 million is allowed in the determination of an estate's liability for estate duty as well as deductions for liabilities, bequests to public benefit organizations and property accruing to surviving spouses.

SECURITIES TRANSFER TAX

Tax is imposed at a rate of 0.25 of a percent on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interest in close corporations.

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TRANSFER DUTY

Transfer duty rates changed for the 2018 tax year at the following rates:

Property value	Rate
0 – 900 000	0%
900 001 – 1 250 000	3% of each R above R 900 000
1 250 001 – 1 750 000	10 500 + 6% of each R above R1 250 000
1 750 001 – 2 250 000	40 500 + 8% of each R above R1 750 000
2 250 001 – 10 000 000	80 500 + 11% of each R above R2 250 000
10 000 001 and above	933 000 + 13% of each R above R10 000 000

