



01 March 2019

PUBLIC SUBMISSIONS TO THE NATIONAL MINIMUM WAGE AMENDMENT BILL

1. Introduction

The National Minimum Wage Bill was assented to by the President of the Republic of South Africa on 27 December 2018. It became effective on the 1st January 2019. Section 17(4) of the promulgated Act states:

"Section 4(6) takes retrospective effect from 1 May 2017."

Section 4(6) of the Act as it stands states:

"The payment of a national minimum wage cannot be waived and the national minimum wage takes precedence over any contrary provision in any contract, collective agreement, sectoral determination or law, except a law amending this Act."

Section 17(4) was supposed to refer to Section 4(8), which reads as follows:

"It is an unfair labour practice for an employer to unilaterally alter wages, hours of work or other conditions of employment in connection with the implementation of the national minimum wage and sections 191, 193, 194(4) and 195 of the Labour Relations Act apply, unless the context indicates otherwise."

The introduction of the National Minimum Wage Amendment Bill is therefore aimed at correcting a mistake in the above-mentioned cross reference. Processing of this Bill involved invitation of written public submissions by the Portfolio Committee on Labour. The submissions that were received are summarized below.

2. Summary of Submissions

2.1. Elcort Matlala

Elcort Matlala submitted that the bill must include tougher penalty for non-compliance to the national minimum wage by employers

2.2. Johan Koen, General Secretary of Independent Municipal and Allied Trade Unions (IMATU)



IMATU pointed out that the Department of Labour increased the rate for Expanded Public Works Programme employees from R11 per hour to R11.54 per hour with effect from 1 November 2018. IMATU proposed that schedule 1, section 2(c) should be amended to read as follows:

"workers employed on an expanded public works programme are entitled to a minimum wage of [R11] R11.54 per hour from a date fixed by the President by proclamation in the Gazette; and"

2.3. Black First Land First (BLF)

BLF proposes the NMW of R25 per hour.

2.4. Congress of South African Trade Unions (COSATU)

COSATU wants the Portfolio Committee to ensure the insertion of the clauses requested by the CCMA to make its judgement on the NMW binding and not appealable to the Labour Court as this has the effect of dragging on such matters to the unaffordable detriment of workers. The CCMA had raised these during the NCOP NMW Bill public hearings.

2.5. Commission for Gender Equality (CGE)

CGE recommends that the funding model of the Department of Social Development be included in the Amendment Bill and be aligned with the Bill to enable the offering of subsidies to care workers that are not below the NMW.

3. Conclusion

The above submissions shall be considered by the Committee when deliberating on the Bill.