

Statutory instrument 70 of 1996.

Labour Relations (Specification of Minimum Wages) Notice, 1996

S.Is 307A/2001, 335/2001, 160/2003; 140/2004, 41/2005, 98/2006, 47/2007, 146/2007.

THE Minister of Public Service, Labour and Social Welfare, in terms of section 20 of the Labour Act [Chapter 28:01], hereby makes the following notice:—

1. Title and date of commencement

- (1) This notice may be cited as the Labour Relations (Specification of Minimum Wages) Notice, 1996.
- (2) This notice shall come into operation on the 1st June, 1996.

2. Application

This notice shall apply to all employers and employees (other than independent contractors)— (a) to whom no National Employment Council agreement or employment regulations apply; and (b) of a class specified in Part II of the Schedule, notwithstanding any less favourable specification of minimum wages in any National Employment Council agreement or employment regulations.

[Section substituted by s.i. 307A of 2001.]

3. Effect of minimum wages

(1) Nothing in this notice shall be construed as permitting an employer to pay an employee a wage that is less than the wage to which that employee is entitled in terms of—

- (a) a contract or an agreement or arrangement of any kind whatsoever, express or implied;
- or
- (b) an agreement, determination or regulations made in terms of any enactment; whether entered into or made before, on or after the 1st June, 1996.

(2) This notice shall apply, notwithstanding any other law or agreement providing for a wage less than that prescribed by this notice.

4. Interpretation

In this notice—

“agrobased industry” means an industry in which persons are engaged in the processing of timber or an agricultural product, including fruit, meat, sugar, tea, coffee and other food crops or livestock products;

[Definition inserted by s.i.335 of 2001]

“casual employee” means an employee whose engagement is for a period of not more than six weeks in any three successive months;

“employment enactment” means any enactment, or agreement made under the provisions of an enactment, whereby the terms of service between employers and employees have been fixed.

5. Minimum wages

(1) Subject to this notice, every employer of an employee of a class specified in the Schedule shall pay that employee, with effect from the 1st June, 1996, wages not less than those specified therein.

(2) In determining an employee’s entitlement to a minimum wage in terms of this notice, no account shall be taken of any other remuneration not forming part of an employee’s fixed or ordinary wage.

(3) A casual employee shall be paid not less than twice the amount of the hourly, daily or weekly wage, calculated in accordance with section 9, by reference to the wage specified in the Schedule.

6. Deductions

No employer of an employee who is being paid the minimum wage in terms of this notice shall deduct or set off any amount from the wages of such employee, except—

(a) in the case of an employee to whom the provisions of any employment enactment apply, as an amount which may be lawfully deducted or set off in terms of that employment enactment; (b) in the case of any other employee—

- (i) where the employee is absent from work without the leave of his employer, a pro rata amount of his wage for the period of such absence; or
- (ii) contributions to a holiday fund, benevolent fund, provident fund or sick-benefit fund, medicalaid or insurance policies; or
- (iii) with the consent of the employee, any amount in respect of money owing for goods supplied or services rendered to the employee by the employer or for the repayment of money lent to the employee by the employer; or

- (iv) any amount which the employer is compelled by law or legal process to pay on behalf of the employee; or
- (v) any amount recovered for payments made in error or overpayment of wages.

7. *Withdrawal and reduction of benefits*

Except with the written consent of the Minister, no employer shall withdraw, reduce or alter any benefit granted to an employee immediately prior to the 1st June, 1996, if such withdrawal, reduction or alteration will reduce the total payment to the employee to a sum less than that specified in the Schedule.

8. *Prohibition of discrimination*

The minimum wages prescribed by this notice shall be paid without discrimination on the grounds of race, sex or age.

9. *Conversion of rates*

- (1) For the purposes of ascertaining the minimum wage to be paid to—
 - (a) a fortnightly paid employee, the minimum wage specified in the Schedule as appropriate to that employee shall be divided by two and one-sixth.
 - (b) a weekly paid employee, the minimum wage specified in the Schedule as appropriate to that employee shall be divided by four and one-third;
 - (c) a daily paid employee, the minimum wage specified in the Schedule as appropriate to that employee shall be divided by—
 - (i) twenty-two, in the case of employees who work a five-day week;
 - (ii) twenty-six, in the case of employees who work a six-day week;
 - (d) an hourly paid employee, the weekly wage calculated in terms of paragraph (b) shall be divided by the number of hours normally worked in a week.
- (2) An employee whose wages are paid in accordance with this section shall be deemed to be receiving the minimum monthly wage specified in the Schedule.

10. *Exemption from provisions of this notice*

- (1) An employer or employee may apply to the Minister for exemption from all or any of the provisions of this notice or for a variation of the Schedule in so far as this notice or the Schedule hereto affects him.
- (2) An application made under subsection (1) shall clearly show the wages paid to the employee by the employer concerned immediately prior to the 1st June, 1996, and on the date of the application, and shall be accompanied or supplemented by such other information relevant to the application as the Minister may require.

SCHEDULE

PART I

Per month
\$

For all employees whose remuneration is not fixed by or in terms of any agreement, determination or regulations made under the Act.

130 000,00

(2) The minimum wage referred to in Part I of the Schedule to the principal notice shall take effect from the 1st April, 2007.

(3) Where the wage paid to an employee referred to in Part I of the Schedule to the principal notice in respect of his or her employment as such from the 1st April, 2007, to the date of commencement of this notice was less than the wage prescribed for his or her grade in that Schedule, as substituted by subsection (1) of this section, the employer shall pay him or her the difference, not later than two months after the date of commencement of this notice.

[Schedule substituted by s.i. 146 of 2007]