

National minimum wage - no sympathy for non-compliance

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"To not pay the correct wage is a high-risk exercise."



This is according to Rob Cooper, Chairperson of the Payroll Authors Group of South Africa, a body that represents the payroll industry with statutory bodies.

"There is not a South African business or payroll which is unaffected by the national minimum wage which came into effect on 1 January 2019. If not applied, the National Minimum Wage Act provides stiff fines for non-compliance."

The current minimum wage rate of R20 per hour - R18 for farmworkers and R15 for domestic workers - was put into the public domain almost two years ago. There is provision for 'hardship' exemptions for employers if they can prove that they can't afford it. "However, the bottom line is that there will be no sympathy for non-compliance with the national minimum wage from the Commission for Conciliation, Mediation and Arbitration (CCMA)," says Cooper.

He says the national minimum wage has been extensively publicised and discussed, particularly within the trade unions.

"Their members are well aware of the national minimum wage introduction and will be at the CCMA in no time if they find that they are not being paid the correct wage. The fines can be retrospectively applied. An employer can thus be caught 12 months down the line with fines retrospective to the starting point of the non-compliance."

He says that payroll systems that are well-structured in their design should be able to apply the basics of the minimum wage rates without too many delays.

"However, there are a few challenges that must be specially catered for. For example, the national minimum wage applies to a new concept of 'workers' as opposed to 'employees' as was envisaged in the 2017 draft legislation.

"Up to now, employers and payroll systems have had to cater for two individual employment statuses - employees which are fairly straightforward, and independent contractors with plenty of grey areas and uncertainties across all the employment-related Acts. The new concept of workers falls somewhere between employees and independent contractors and it is going to be confusing, difficult to understand and problematic to apply."

Cooper says another important aspect is the correct understanding and application of the concept of 'wage'.

"Most large employers have a fairly good understanding of what wage is. However, there are many medium and small employers who believe that, for example, the value of the provision of housing and/or meals can be added to the value of

the actual wage. This incorrect thinking makes them believe that they are paying above the national minimum wage rate and they are therefore at risk.”

The Payroll Authors Group of South Africa will be hosting eight seminars on the new National Minimum Wage Act in Johannesburg, Pretoria, Durban, Cape Town and Port Elizabeth from 4 to 14 February.

At these seminars the National Minimum Wage Act requirements from both a labour law and a tax law perspective will be discussed.

Other issues to be discussed include the effect of knock on-payroll impact on packages, benefits and tax, why the law now makes it clear that employee salaries are not confidential, and who will have access to companies' payrolls for pay information.

Seminar presenters Rob Cooper and Andrew Levy are two of the most respected names in tax and labour law in South Africa.

Cooper is a founding member of the Payroll Authors Group of South Africa. His focus over the past 30 years has been on the diverse legislation that governs the employment and payroll industry.

Levy is a labour economist who understands the impact of the national minimum wage on labour laws as well as on the South African economy. He has overseas labour law experience, consults with the International Monetary Fund and practices and lectures extensively in South Africa on a wide-range of labour law matters.

Seminar delegates will be given free membership to the Payroll Authors Group of South Africa, entitling them to newsletters and newsflashes until December 2019. They will also receive a comprehensive take-home seminar workbook.

To book seminar attendance, go to <https://confco.eventsair.com/QuickEventWebsitePortal/pagsa-new-minimum-wage-seminar/event-info-site>.

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