



We develop the South African Agricultural Industry.
Ons ontwikkel die Suid-Afrikaanse Landbou Industrie.

Explanatory note on the NMW and NMW exemption process

January 2019

The NMW was implemented as from **1 January 2019**. The NMW is R20 per hour, however farmworkers (including domestic workers and security workers employed on farms and not in service of private security firms) are granted a special dispensation of 90% of the NMW given the vulnerabilities in the agricultural sector. This means that **farmworkers are paid R18 per hour**, which is an increase of 9.7% from the 2018 sectoral minimum wage of R16.25 per hour. Please note that the only allowable deductions are still those in terms of the sectoral determination. **Further, the sectoral determination increase date of 1 March falls away, there will not be any further increases in terms of the sectoral determination. All future increases and date of increases will be determined in terms of the NMW Act, by the NMW Commission.**

The NMW Act provides the following departures from the sectoral determination, **but does not repeal the sectoral determination**, which means all conditions of service in the sectoral determination remain in force:

1. A minimum work day is specified. Workers must be paid at for at least 4 hours of work, even if they did not work a full 4 hours.

2. Workers have recourse to the CCMA where the NMW Act is not complied with (see the amended CCMA rules attached).
3. In cases where producers cannot afford the NMW, a new and streamlined exemption process has been launched (see the regulations attached). This can be accessed at <https://nmw.labour.gov.za/>. It is very important to note that if an employer is trading at a loss, the exemption will automatically be granted. If an employer is not trading at a loss, the calculation on whether or not exemption is granted will be to determine the employer's EBDA (earnings before depreciation and dividends allowance). Secondly, the employers ROA (return on assets) will be calculated by dividing the EBDA by the total assets of the past two years. Thirdly, if that ROA is found to be less than 6%, then the increase or decrease of assets in the past two years will be calculated in terms of a percentage. If that is found to be negative, exemption will be granted. If that is found to be positive, but less than 50%, exemption will be granted.
4. Exemption will be granted to 90% of the farmworker minimum wage of R18 per hour, which will amount to R16.20 per hour.

Please feel free to direct any questions to jahni@agrisa.co.za.

Kind regards

Jahni de Villiers

Head: HR, Labour and Development

Agri SA