

NATIONAL MINIMUM WAGE ACT

ARRANGEMENT OF SECTIONS

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NATIONAL MINIMUM WAGE ACT

An Act to prescribe a national minimum wage for workers and for other matters connected therewith.

[1981 No.6.]

[3rd September, 1981]

[Commencement.]

1. Employer to pay minimum wage

(1) As from the commencement of this Act, it shall be the duty of every employer (except as provided for under this Act) to pay a wage not less than a national minimum wage of N5,500 per month to every worker under his establishment.

[2000 No. 1.]

(2) Any agreement for the payment of wages less than the national minimum wage as prescribed in subsection (1) of this section, shall be void and of no effect whatsoever.

2. Exemptions

(1) The provisions of subsection (1) of section 1 shall not apply to-

- (a) an establishment in which less than fifty workers are employed;
- (b) an establishment in which workers are employed on part-time basis;
- (c) an establishment at which workers are paid on commission or on piece-rate basis;
- (d) workers in seasonal employment such as agriculture;

(e) any person employed in a vessel or aircraft to which the laws regulating merchant shipping or civil aviation apply.

(2) The Minister may, by order published in the Federal *Gazette*, grant other exemptions as he deems necessary in the interest of the national economy, taking into consideration reports from wages boards or such other body as might make representation for exemption on this behalf.

3. Employer's obligations in respect of minimum wage

(1) An employer shall pay to the workers a wage not less than the national minimum wage clear of all deductions (except any deductions required by law or deductions in respect of contributions to provident or pension funds or schemes agreed to by the workers and approved by the Minister) and, if the employer fails to do so, he is guilty of an offence and liable on conviction to a fine not exceeding N 100 and in the case of continuing offence to a fine not exceeding N100 for each day during which the offence continues.

(2) On the conviction of an employer under this section of this Act for failing to pay to a worker wages not less than the national minimum wage, the court may make an order that the employer convicted shall pay, in addition to any fine, such sum as appears to the court to be due to the worker on account of wages, the wages being calculated on the basis of the national minimum wage:

Provided that the power to order payment on account of wages under subsection (2) of this section, shall not be in derogation of the right of the worker to recover wages due to him by any other proceedings in a court of competent jurisdiction.

4. Permit of exemption for workers affected by infirmity or physical injury

(1) If the Minister is satisfied that any worker employed or desiring to be employed in any occupation to which the national minimum wage is applicable is affected by any infirmity or physical injury which renders him incapable of earning the national minimum wage, the Minister may, if he thinks fit, grant to the employer (subject to such conditions, if any, as he may impose) a permit exempting the employer from the provisions of this Act relating to the payment of wages less than the national minimum wage in respect of that worker; and while the permit is in force and any conditions imposed thereon are complied with, the employer shall not be guilty of an offence if he pays to the worker a lesser wage than the national minimum wage.

(2) A permit granted under this section of this Act may be so granted as to have effect from the date on which the application therefor was made to the Minister, and may be suspended or revoked at any time by the Minister.

5. Employers to keep records

It shall be the duty of every employer of workers in respect of whom this Act applies to keep such records of wages or conditions of employment as are necessary to show that the provisions of this Act are being complied with in respect of workers in his employment and to retain the records for a period of three years after the period to which they refer, and if he fails to do so, he is guilty of an offence and liable on conviction to a fine not exceeding N100 and to a penalty not exceeding N100 for each day during which the offence continues.

6. Officers and their powers

(1) The Minister may authorise any officer in the civil service of the Federation to act for the purpose of this Act; and every authorised labour officer within the meaning of the Labour Act shall be deemed to have been so authorised.

[Cap. LI.]

(2) Every authorised officer shall be furnished with a certificate of his authority and when visiting an employer's premises for the purposes of this Act shall, if so required, produce the certificate to the employer or other person holding a responsible position of management at the said premises.

(3) An authorised officer may-

(a) require the production by an employer of wages sheets or other records of wages and records of conditions of employment and inspect and examine them and copy any part thereof;

(b) order any person or body of persons found to have contravened any of the provisions of this Act to take remedial action within a specified period of time; and

(c) subject generally to the powers of the Attorney-General of the Federation, institute proceedings for any offence under this Act and, if he so wishes, appear and have all the necessary powers for the conduct of the proceedings.

(4) An officer who is authorised in that behalf by general or special directions of the Minister may, if it appears to him that a sum is due from an employer to a worker to whom this Act applies or to a person who has been such a worker on account of the payment to him of wages less than the national minimum wage, may institute on behalf and in the name of that worker or person, civil proceedings for the recovery of that sum and in any such proceedings, the court may make an order for the payment of costs by the authorised officer as if he were a party to the proceedings.

(5) The power given by subsection (4) of this section for the recovery of a sum due from an employer to a worker or other person, shall not be in derogation of any right of that worker or other person himself to recover that sum by civil proceedings.

7. Offences by agents, etc.

(1) Where an offence for which an employer is by virtue of this Act liable to a penalty, has in fact been committed by some agent of the employer or by some other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer.

(2) Where an employer is charged with an offence under this Act, he shall be entitled upon complaint duly made by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person to whose act or default he alleges that the offence in question was due, brought before the court at the time appointed, for the hearing of the charge, and, if after the commission of the offence has been proved, the employer proves that the offence was due to the act or the default of that other person, that other person may be charged with the offence, or, if the employer further

proves that he has used all due diligence to secure that this Act is complied with, he shall be acquitted of the offence.

(3) Where a defendant seeks to avail himself of the provisions of subsection (2) of this section-

(a) the prosecution as well as the person whom the defendant charges with the offence shall have the right to cross-examine him if he gives evidence and any witness called by him in support of his plea, and to call rebutting evidence; and

(b) the court may make such order as it thinks fit for the payment of the costs by any party to the proceedings, other than the prosecution, to any other party thereto.

(4) Where it appears to an authorised officer that an offence has been committed in respect of which proceedings might be taken under this Act against an employer, and the officer is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the employer could establish a defence under subsection (2) of this section, the officer may cause proceedings to be taken against that other person, and in any such proceedings the defendant may be charged with the offence and on proof that the offence was due to his act or default, be convicted for the offence for which the employer might have been charged.

8. Offences and penalties

Any person who-

(a) refuses or neglects to furnish the means required by an authorised officer as being necessary for any entry in the exercise of his powers under this Act; or

(b) hinders any authorised officer in the exercise of his powers under this Act; or

(c) refuses or neglects to produce any document or to give any information which any authorised officer in the exercise of his powers under this Act requires him to produce or give; or

(d) makes, or causes to be made, or knowingly allows to be made, any wage sheet, record of wages or record of conditions of employment which is false in any material particular; or

(e) produces or causes to be produced, or knowingly allows to be produced, any such wages sheet or record to an authorised officer acting in the exercise of his powers under this Act, knowing the wage sheet or record to be false; or

(f) furnishes any information to any authorised officer acting in the exercise of his powers under this Act, knowing the information to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding N500 or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

9. Interpretation

In this Act, unless the context otherwise requires-

"authorised officer" means an officer authorised or deemed to have been authorised under section 6 of this Act;

"Minister" means the Minister charged with responsibility for labour matters;

"national minimum wage" means the national minimum wage prescribed by section I of this Act;

"part-time work" means work of a duration of less than forty hours per week;

"wage" means total emolument paid every month to a worker for performing services on the basis of a forty-hour week howsoever the emolument may be designated;

"worker" means any employee, that is to say, any member of the civil service of the Federation or of a State or local government or any individual (other than persons occupying executive, administrative, technical or professional position in any such civil service) who has entered into or works under a contract with an employer, whether the contract is for manual labour, clerical work or otherwise, expressed or implied, oral or in writing, and whether it is a contract personally to execute any work or labour.

10. Short title

This Act may be cited as the National Minimum Wage Act.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation