

NATIONAL MINIMUM WAGE ACT, 2019

EXPLANATORY MEMORANDUM

This Act repeals the National Minimum Wage Act Cap. N61, Laws of the Federation of Nigeria, 2004 and enact the National Minimum Wage Act, 2019 to prescribe a national minimum wage and provide a legal framework for seamless review of the national minimum wage.

NATIONAL MINIMUM WAGE ACT, 2019

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NATIONAL MINIMUM WAGE ACT, 2019

A Bill

For

An Act to repeal the National Minimum Wage Act, Cap. N61, Laws of the Federation of Nigeria, 2004 and enact the National Minimum Wage Act, 2019 to prescribe a national minimum wage for workers; and for related matters.

{ } Commencement.

ENACTED by the National Assembly of the Federal Republic of Nigeria -

1. This Act is to prescribe the national minimum wage and provide for a legal framework for a seamless review of the national minimum wage within the period specified under this Act. Objective of this Act.
2. This Act applies throughout the Federal Republic of Nigeria. Application.
3. (1) Every employer shall pay a national minimum wage of not less than ₦30,000.00 per month to every worker under his establishment, except as otherwise provided under this Act. Employer to pay minimum wage.
(2) The national minimum wage shall be the minimum total amount of money an employer of labour is required to pay the lowest paid worker or employee monthly in his establishment.
(3) Any agreement for the payment of wages less than the national minimum wage is void.
(4) The national minimum wage expires after five years, and it shall be reviewed in line with the provisions of this Act.
4. (1) Section 3 (1) does not apply to- Exemptions.
 - (a) an establishment in which workers are employed or paid on -
 - (i) part-time basis, and
 - (ii) commission or piece-rate;
 - (b) an establishment employing less than 25 persons;

(c) workers in seasonal employment like agriculture; and

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

(2) The Minister of Labour and Employment shall, through the National Labour Advisory Council and by order published in the Federal Government Gazette, grant other exemptions as he deems necessary in the interest of the national economy, taking into consideration reports from National Salaries, Incomes and Wages Commission or such other body that may make representation for exemption.

5. (1) There is established the Tripartite Committee on National Minimum Wage (in this Act referred to as "the Tripartite Committee") consisting of representatives of Government, organised labour and private sector, on equal representation.

Establishment of
Tripartite Committee on
National Minimum
Wage.

(2) The Secretariat of the Tripartite Committee shall be domiciled in the National Salaries, Income and Wages Commission.

6. (1) The Tripartite Committee as constituted shall be appointed by the President and shall consist of -

Composition of the
Tripartite Committee.

(a) a chairman;

(b) a secretary;

(c) a representative each of -

(i) the Secretary to the Government of the Federation,

(ii) Head of Civil Service of the Federation,

(iii) Minister of Labour and Employment,

(iv) Minister of Finance,

(v) Minister of Budget and National Planning,

- (vi) the Executive Chairman, National Salaries, Income and Wages Commission, and
- (d) a Governor from each of the six geo-political zones to be nominated by the Governors from that zone;
- (e) a representative each of the organised labour from -
 - (i) Nigeria Labour Congress,
 - (ii) Trade Union Congress, and
 - (iii) any labour centre that may be registered in accordance with the labour laws; and
- (f) a representative each from -
 - (i) Nigeria Employer's Consultative Association,
 - (ii) Manufacturers Association of Nigeria,
 - (iii) Nigeria Association of Chambers of Commerce, Industry, Mines and Agriculture,
 - (iv) Nigeria Association of Small and Medium Enterprises, and
 - (v) any such employers group that may be registered in accordance with the labour laws.

(2) The membership listed under subsection (1) may be expanded by the appointment of additional members, on the recommendation by the Minister of Labour and Employment, to the President.

7. The Tripartite Committee shall have all the powers to make recommendations on the national minimum wage, more especially to exercise the powers of review given under section 3 (4) of this Act.

Powers of Tripartite Committee.

8. The meeting of the Tripartite Committee shall be convened by the Chairman, as may be expedient but not later than six months to the expiration of the existing national minimum wage, to consider a new national minimum wage, the proceedings and other supplementary provisions relating to the Tripartite Committee shall be decided by its members.

Meetings of the Tripartite Committee.

9. (1) An employer shall pay to the workers a wage not less than the national minimum wage, subject to statutory deductions.

Employer's obligations in respect of minimum wage.

(2) Any employer who fails to comply with subsection (1), commits an offence and is

liable on conviction to pay -

(a) a fine not exceeding 5% of the offenders monthly wage;

(b) all outstanding arrears of the workers' wages; and

(c) an additional penalty of not less than the prevailing Central Bank of Nigeria lending rate on the wages owed, for each month of continuing violation, provided that the power to order payment on account of wages under subsection (2) shall not derogate from the right of the worker to recover wages due to him by any other proceeding in a court of competent jurisdiction.

10. (1) An employer shall 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 three years after the period to which they refer.

Employers to keep records.

(2) Any employer who fails to comply with subsection (1), commits an offence and is liable on conviction to -

(a) a fine not exceeding ₦75,000.00; and

(b) an additional penalty not exceeding ₦10,000.00 for each day the offence continues.

11. (1) The Minister of Labour and Employment 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 is deemed to have been authorised.

Officers and their powers.

Cap. L1, LFN, 2004.

(2) Every authorised officer shall be furnished with a letter of authority and identification when visiting an employer's premises for the purposes of this Act and shall, if so required, produce both documents 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 payroll, other records of wages and records of conditions

of employment, inspect and examine them and copy any part;

(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) make recommendation for the prosecution of any person who contravenes the provisions of this Act.

(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 a worker on account of the payment to him of wages less than the national minimum wage, institute, on behalf and in the name of that worker or person, civil proceedings for the recovery of that sum, and in any proceeding, 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 under subsection (4) for the recovery of a sum due from an employer to a worker or former worker shall not derogate from any right to recover that sum by civil proceedings.

12. (1) The Ministry of Labour and Employment and National Salaries, Incomes and Wages Commission shall collaborate to monitor the implementation of the national minimum wage in line with the provisions of the Labour Act and National Salaries, Incomes and Wages Commission Act.

Monitoring and compliance.

Cap. L1, LFN, 2004.

Cap. N72, LFN, 2004.

(2) Any report of non-compliance with the provisions of this Act discovered by the authorised officer upon routine inspection shall be forwarded to the Minister of Labour and Employment and copied to labour centres and employment associations.

(3) The Minister of Labour and Employment shall, upon receipt of such report, activate the machinery for enforcing compliance to redress the breach within 30 working days.

(4) Monitoring of compliance with this Act shall commence six months after the commencement of this Act.

13. The national minimum wage may be enforced by the aggrieved worker, trade unions and Minister of Labour and Employment as follows -

Enforcement.

- (a) a worker who is paid an amount less than the national minimum wage is contractually entitled to whichever is the higher amount of the difference between his pay and the amount of the national minimum wage that he should have been paid;
- (b) the worker has the right to take his case directly to the National Industrial Court, or may file a formal complaint with the Minister of Labour and Employment;
- (c) trade unions may demand for compliance with the provisions of this Act, on behalf of their members and shall not later than 30 days from the receipt of the workers complaint, file the claim to the National Industrial Court;
- (d) where an employer fails to pay the national minimum wage to a worker or a group of workers, an authorised officer shall serve a notice of enforcement requiring the employer to pay the arrears of the wage to the worker named on the notice within 30 days, but the employer is entitled to appeal the notice to the Minister of Labour and Employment who shall resolve the matter within 30 days of the receipt of the appeal;
- (e) the notice of enforcement shall state the -
 - (i) amount owed to the worker,
 - (ii) period to which the payment applies, and
 - (iii) time limit for the payment; and
- (f) where an employer served with an enforcement notice fails, in whole or in part, to comply with the notice, the matter shall be referred to the National Industrial Court.

14. (1) Where an offence under this Act is committed by an agent of the employer or some other person, that agent or other person is liable to be proceeded against for the offence in the same manner as if he were the employer.

Offences by an agent.

(2) An employer who is charged with an offence under this Act is entitled to prove that -

(a) the offence was due to the act or default of another person; or

(b) he has used all due diligence to ensure that this Act is complied with.

(3) Where a defendant seeks to avail himself the defense under subsection (2) -

(a) the prosecution and person whom the defendant charges with the offence shall have the right to -

(i) cross-examine the defendant if he gives evidence, and any witness called by him in support of his plea, and

(ii) call rebutting evidence; and

(b) the court may make such order as it deems fit for the payment of the costs by any party to the proceedings, other than the prosecution, or 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 authorised 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), the authorised officer may make recommendation for proceedings to be taken against that other person, and in 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.

15. A person commits an offence and is liable on conviction to a fine not exceeding ₦250,000.00 or imprisonment for a term not exceeding six months or both, where the person -

Other offences and penalties.

(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;

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

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

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

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

(f) furnishes any information to any authorised officer in the exercise of his powers under this Act, knowing the information to be false.

16. (1) The National Minimum Wage Act, Cap. N61, Laws of the Federation of Nigeria, 2004 is repealed. Repeal and savings provisions.

(2) Without prejudice to section 6 of the Interpretation Act and notwithstanding the repeal of the enactment specified under subsection (1) -

(a) proceedings may be taken on any offence committed under the repealed Act, in the same manner as if the offence has been committed under the corresponding provisions of this Act; and

(b) any proceeding or cause of action pending or existing immediately before the commencement of this Act, by or against any person or body arising from the repealed Act in respect of rights, interest, obligations or liabilities of that person or body may be continued or commenced, and any determination of a court, tribunal or other authority or person may be enforced to the same extent that any proceeding, cause of action or determination would have been continued, commenced or enforced if

this Act had not been made.

17. In this Act -

Interpretation.

"authorised officer" means an officer in the Public Service of the Federation authorised or deemed to have been authorised to act for the purpose of this Act;

"authorised labour officer" means any public officer serving in a Ministry or Department for which the Minister of Labour and Employment is responsible, and with the consent of the state authority, any officer in the public service of the state, for the purposes of this Act;

"employer" means any person who has entered into a contract of employment to employ any other person as a worker either for himself or for the service of any other person, and includes the agent, manager or factor of employer and the personal representative of a deceased employer;

"Minister of Labour and Employment" means the Minister responsible for labour matters;

"Minister of Finance" means the Minister responsible for finance;

"Minister of Budget and National Planning" means the Minister responsible for budget;

"national minimum wage" means the national minimum wage prescribed under section 3 (1) of this Act;

"part-time work" means work of a duration shorter than those for comparable full-time work in a sector or occupation;

"piece-rate" means any type of employment in which a worker is paid according to the quantity produced regardless of time;

"wage" means remuneration or earnings (however designated or calculated) capable of being expressed in terms of money fixed by mutual agreement or by law which is payable by virtue of a contract by an employer for work done or to be done for service rendered; and


"worker" means any person who has entered into or works under a contract with an employer whether contract is for manual labour, clerical work, is expressed or implied, oral or written, and whether it is a contract of service or a contract personally to execute

any work or labour, but excludes the exemptions contained in this Act.

18. This Act may be cited as the National Minimum Wage Act, 2019.

Citation.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.


MOHAMMED ATABA SANI-OMOLORI
CLERK TO THE NATIONAL ASSEMBLY

26th DAY OF MARCH, 2019

Schedule to the National Minimum Wage Bill, 2019

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
National Minimum Wage, Bill, 2019.	An Act to repeal the National Minimum Wage Act, Cap N61, Laws of the Federation of Nigeria, 2004 and enact the National Minimum Wage Act, 2019 to prescribe a national minimum wage for workers; and for related matters.	This Bill repeals the National Minimum Wage Act Cap. N61, Laws of the Federation of Nigeria, 2004 and enact the National Minimum Wage Act, 2019 to prescribe a national minimum wage and provide a legal framework for seamless review of the national minimum wage.	19 th March, 2019	29 th January, 2019

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT

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MOHAMMED ATABA SANI-OMOLORI

Clerk to the National Assembly

26th Day of March, 2019

Muhari
MUHAMMADU BUHARI, GCFR

President of the Federal Republic of Nigeria

18 Day of March, 2019

April