



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 15 February 2021

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## Government Notice

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### MINISTRY OF LABOUR, INDUSTRIAL RELATIONS AND EMPLOYMENT CREATION

No. 26

2021

#### NOTICE OF CONVENING MEMBERS OF WAGES COMMISSION AND TERMS OF REFERENCE OF INVESTIGATION AND INVITATION FOR WRITTEN REPRESENTATIONS ON TERMS AND CONDITIONS OF EMPLOYMENT: LABOUR ACT, 2007

In terms of section 111(3) of the Labour Act, 2007 (Act No. 11 of 2007), I give notice of the convening of the Wages Commission for purposes of investigating the terms and conditions of employment of employees in accordance with the Terms of Reference set out in the Schedule, and the members of the Commission are:

1. Dr. Marius Kudumo, chairperson;
2. Mr. Gideon Thomas, representing the interests of registered trade unions;
3. Ms. Edwina T. Hashikutuva, representing the interests of registered employers' organisations;
4. Dr. Fritz S. Nghiishililwa; and
5. Ms. Nokokure Kariko.

The Commission must complete the enquiry by 31 August 2021.

The Commission must submit its report on the enquiry to me in accordance with section 114 of the Labour Act 2007, no later than 30 September 2021.

I, therefore, invite interested persons to make written representations concerning the national minimum wage and related supplementary terms and conditions of employment, including the matters set forth in the Terms of Reference, not later than 30 June 2021. The written representations should be delivered to the Wages Commission Secretariat at the Ministry of Labour, Industrial Relations and Employment Creation, 32 Mercedes Street, Khomasdal. Attention: Ms Wilhelmine Shigwedha and/or Ms Fransina Nghitukwa.

**U. NUJOMA  
MINISTER OF LABOUR,  
INDUSTRIAL RELATIONS AND  
EMPLOYMENT CREATION**

Windhoek, 3 February 2021

### **SCHEDULE**

#### **TERMS OF REFERENCE FOR WAGES COMMISSION FOR A NATIONAL MINIMUM WAGE**

**The terms of reference of the Wages Commission for a national minimum wage are as follows:**

1. To investigate all relevant industries, report and make recommendations to the Minister on a proposed national minimum wage, which will apply to all employees, except to related categories of employees specifically exempted by the Minister in a Wage Order, and on related supplementary minimum conditions of employment.
2. For the purpose of the investigation:  
  
“employee” means any person engaged in an employment relationship who is entitled to receive wages for work performed; and  
  
“wage” means the amount of money payable to an employee on an hourly, daily, weekly, bi-weekly or monthly basis in respect of ordinary hours of work, and excludes premium payments for overtime, work on Sundays and public holidays, tips, bonuses, gratuities, housing, transport or other allowances, and in-kind payments.
3. Without derogating from the generality of the foregoing, the Commission should investigate, report and make recommendations on the following subjects:

#### **Minimum Wage**

1. A national minimum wage for all employees, in furtherance of the following goals:
  - (a) Improving the wages of the lowest-paid workers;
  - (b) Reducing income inequality;
  - (c) Alleviating poverty and improving individual and household income; and
  - (d) Achieving a decent standard of living for all.
2. What should be the period(s) of working time on which the minimum wage should be calculated, i.e., hourly, daily, weekly, bi-weekly and/or annually.

3. How will ordinary hours of work be calculated?
4. For the purpose of improving income:
  - (a) Should there be a premium minimum rate (e.g., a higher hourly minimum wage) for part-time employees?
  - (b) Should employees be guaranteed a minimum number of hours of pay per day? and
  - (c) Should there be a threshold number of hours or days above which an employee shall be entitled to a full-time daily, weekly or monthly wage?

#### **Other Conditions**

- (a) Should employers be required to provide a written contract of employment to every employee? and
- (b) Are there other minimum conditions related to the minimum wage that the Minister should consider?

#### **Implementation of the Minimum Wage**

- (a) How much advance notice should be given of the date of implementation of the national minimum wage?
- (b) Are there any categories of employers or employees where the implementation should be phased in?
- (c) Are there any categories of employees that should be exempted from the right to the national minimum wage or should be entitled to less than 100% of the national minimum wage?
- (d) Should there be a minimum wage or stipend for persons in apprenticeships or learnerships?
- (e) Should the minimum wage apply to public works programmes?

#### **Review and Adjustment of the National Minimum Wage**

- (a) At what interval should a periodic review of the national minimum wage and conditions be conducted and adjustments to the minimum wage be made, in order to prevent the erosion of the minimum wage or to increase it? and
- (b) Should provision be made for automatic annual cost of living increases or other automatic adjustments of minimum wages and conditions?

#### **Enforcement of the National Minimum Wage**

What would be the most effective measures to enforce the national minimum wage?

#### **Other Recommendations**

The Commission may make any other recommendations in respect of the national minimum wage that it considers to be appropriate.

4. In conducting its investigation, the Commission must consider:
- (a) the aims of Article 95 of the Namibian Constitution, Promotion of the Welfare of the People, as it pertains to labour matters, including Sub-Article (i) “ensurance that workers are paid a living wage adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities.”;
  - (b) the following International Labour Organisation Conventions: the Minimum Wage-Fixing Machinery Convention No. 26 of 1928 and Minimum Wage Fixing Convention No. 131 of 1970 and Minimum Wage-Fixing Machinery Recommendation No. 30 of 1928 and Minimum Wage Fixing Recommendation No. 135 of 1970 respectively;
  - (c) the needs of workers and their families;
  - (d) the cost of living in Namibia or in any part of it;
  - (e) the minimum subsistence level in any area;
  - (f) the value of board, lodging to other benefit provided by any employers or categories;
  - (g) the potential impacts of the national minimum wage on the individual income of women and men and on household income; and
  - (h) the ability of employers to carry on their businesses if they are required to pay the recommended national minimum wage.
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