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THE NATIONAL MINIMUM WAGE (AMENDMENT) ACT, 2024: *Overview, Applicability and Exemptions*

THE NATIONAL MINIMUM WAGE (AMENDMENT) ACT, 2024: OVERVIEW, APPLICABILITY AND EXEMPTIONS

INTRODUCTION

On 31st May, 2024 the Nigerian Labour Congress (NLC) and Trade Union Congress (TUC) called for an indefinite general strike demanding the country's monthly minimum wage to be increased from ₦30,000 (Thirty Thousand Naira) to ₦494,000 (Four Hundred and Ninety-Four Thousand Naira). They argued that the existing wage was inadequate and did not reflect the economic realities of the time, and an increase to the suggested amounts would address the economic and social challenges faced by Nigerian workers due to inflation and the rising cost of living.

The President of the Federal Republic of Nigeria, Bola Ahmed Tinubu, on the 29th day of July 2024, signed the National Minimum Wage Amendment Bill, 2024 into law in response to the agitations of the NLC and TLC. This amendment modifies the previous National Minimum Wage Act, No. 8 of 2019, introducing changes; the most significant being a rise in the minimum wage from ₦30,000 (Thirty Thousand Naira) to ₦70,000 (Seventy Thousand Naira).

This paper shall give an historical context of minimum wage in Nigeria vis-à-vis the extant law, an overview and its applicability and exemptions thereof.

HISTORICAL BACKGROUND OF MINIMUM WAGE LAWS IN NIGERIA

The history of the minimum wage in Nigeria reflects the country's seemingly never-ending struggle to balance workers' rights with economic realities. While the minimum wage has been periodically reviewed to reflect changing economic conditions, challenges related to compliance and inflation continue to affect its effectiveness in improving the standard of living for Nigerian workers.

The first official minimum wage in Nigeria was introduced in 1981 under President Shehu Shagari's administration. The minimum wage was set at ₦125 per month, following significant labor agitations led by the Nigerian Labour Congress (NLC). This was a significant development as it aimed to improve the living standards of workers across the country.

In 1989, the military government of General Ibrahim Babangida reviewed the minimum wage, increasing it to ₦250 per month. This increase was in response to rising inflation and the declining purchasing power of workers.

After the return to civilian rule in 1999, President Olusegun Obasanjo's administration further reviewed the minimum wage in 2000, setting it at ₦5,500 for state and local government workers and ₦7,500 for federal government workers. This significant increase reflected the need to address the economic challenges and the cost of living at the time.

In 2011, President Goodluck Jonathan's administration enacted the National Minimum Wage Act, which increased the minimum wage to ₦18,000 per month. This adjustment was the result of prolonged negotiations between the government, labor unions, and employers, aiming to alleviate the economic pressures on Nigerian workers.

Before the 2024 review, the most recent review of the minimum wage in Nigeria occurred in 2019 under President Muhammadu Buhari's administration. The National Minimum Wage Act 2019 raised the minimum wage from ₦18,000 to ₦30,000 per month. This change was driven by inflation, the rising cost of living, and the persistent demands of labor unions for better wages.

HIGHLIGHTS OF THE NATIONAL MINIMUM WAGE (AMENDMENT) ACT, 2024

The most significant change in the **National Minimum Wage (Amendment) Act, 2024** is the increase in the minimum wage from ₦30,000 (Thirty Thousand Naira) as outlined in **Section 3(1)** of the now repealed 2019 Act to ₦70,000 (Seventy Thousand Naira).

Another significant amendment is the time frame for the expiration and review of the minimum wage from 5 (five) years to 3 (three) years.¹ This reduction has been vastly welcomed as it is said to increase the responsiveness to economic changes.

APPLICABILITY OF AND EXEMPTION TO THE NEW NATIONAL MINIMUM WAGE

Applicability:

Section 2(1) of the 2024 Act, states that the new minimum living wage shall apply across all the states of the federation, and private establishments are bound by the same Act.

This general applicability posits strict compliance across all the states of the Federation of Nigeria. However, the enforcement of this strict compliance begs the question.

Exemption:

In order not to prejudice some establishments or employers, the Act made a special provision that entrenches circumstances upon which the Act will not be applicable. Consequently, under **Section 4(1)** of the Act, it exempted the following categories of employers and workers, to wit:

- a) An establishment that pays their workers on a part-time basis or commission
- b) An establishment with less than 25 employees

¹ Section 3(4) National Minimum Wage (Amendment) Act, 2024

- c) Seasonal workers whose nature of work comes in a particular season, eg; a worker in an establishment that harvests agricultural produces
- d) Vessel or Aircraft employer whom merchant shipping or civil aviation apply to

Further, **Section 4(4)** empowers the Minister of Labour (acting through the national labour advisory council), to grant exemption to other establishments published through the order of the Federal Government gazette.

PUBLIC PERCEPTION ON THE APPLICABILITY OF A UNIFORM MINIMUM WAGE ACROSS THE NATION

Unsurprisingly, there have been divergent views on the 2024 Minimum Wage Act, particularly, on the possibility of having and implementing a uniform minimum wage across the country taking into account the disparity in state development and that more developed states may have stronger economies capable of supporting higher wages, while less developed states might struggle to comply with the same standards, potentially leading to job losses or business closures.

In separate interviews with “THIS DAY”² many prominent legal practitioners aired their views on the sustainability of the new Act and challenges that may arise in its applicability.

For example, the learned silk, Mr. Femi Falana, SAN, insisted that pursuant to **Section 4 of the 1999 Constitution**, minimum wage is under the Exclusive List and the National Assembly has the power to “prescribe a national minimum wage for the Federation or any part thereof”. This argument was canvassed in support of his position that noncompliance is illegality. He further stated that increased federal

² This Day, “Senior Lawyers Differ on Uniform National Minimum Wage, Say Nigeria Running a Federation” <https://www.thisdaylive.com> accessed 28th August, 2024.

allocations have also made it even more possible to keep to the new minimum wage requirements.

Also, Abiodun Olatunji, SAN, on his part argued that State Governors were not exempt from the negotiations, as such, they had ample opportunity to have canvassed the case of their state if dissenting. He also stated that notwithstanding, the prescribed amount, states with better means were at liberty to pay above the Minimum Wage.

Prof. Mike Ozekhome, SAN, proffered a somewhat different opinion on the topic. He argued the federal structure of Nigeria ought to have been taken into account by the National Assembly by making the minimum wage Act applicable to federal workers, while states made laws applicable to their respective state workers. He stated that until there was an amendment of the 2024 Act, National Assembly would continue to legislate on the National Minimum Wage for the country and other parts thereof, which includes the states.

Dr. Joseph Nwobike SAN and Mallam Ahmed Raji SAN in their contributions to the conversation had similar opinions when they stated that States are independent legal entities that ought to have negotiated for itself. A Federal system of government promotes healthy competition among states and minimum wage would have been one of such areas of competition.

CONCLUSION

Nigeria's new minimum wage law represents a significant effort to enhance the welfare of its workforce and promote economic equity. While the move is poised to bring substantial benefits to workers, it also presents challenges that require careful management and strategic planning. By addressing these challenges through robust enforcement, support for businesses, and ongoing economic assessment,

Nigeria can harness the full potential of its minimum wage policy to drive sustainable growth and social justice.

As the country navigates this transformative period, the collaborative efforts of the government, employers, and workers will be essential in ensuring that the minimum wage law fulfills its promise of a fair and prosperous future for all Nigerians.



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