

ISSUE

FEBRUARY 2024



**National Minimum Wage for each ordinary hour worked will increase to R27.58 with effect from 01 March 2024.**

## WHAT PAYMENTS SHOULD BE INCLUDED IN CALCULATING THE MINIMUM WAGE

---

### Legal development – Labour Appeal Court

I wish to bring to your attention an essential legal development concerning the interpretation of the National Minimum Wages Act 9 of 2018.

In a recent case, *Quantum Foods (Pty) Ltd v Commissioner H Jacobs N. O. and Others*, **the Labour Appeal Court** provided clarity on whether employers can include bonuses and provident fund contributions in the calculation of employees' salaries to fulfil the requirements of the Act.

To comply with the Act, Quantum Foods restructured its employees' payslips by incorporating contractual bonuses and provident fund contributions. However, this action was met with disagreement from the union, which believed these payments should be excluded from the calculation of the minimum wage.

After a thorough arbitration process, the Labour Appeal Court ruled in favor of including both contractual bonuses and provident fund contributions in the calculation of employees' salaries. The court emphasized that only gratuitous bonuses are excluded from the calculation of the normal hourly rate specified by the Act. As Quantum Foods provided contractual bonuses, they were deemed integral to the calculation.

Regarding provident fund contributions, the court clarified that payments made on behalf of employees fall within the definition of "payable" under the Act. Since these contributions do not fall under any exclusions listed in section 5 of the Act, they must be considered when determining employees' hourly rates.

## In conclusion

Employers can include contractual bonuses in the calculation of employees' salaries to meet the requirements of the National Minimum Wages Act.

Contributions made by employers to provident funds on behalf of employees should also be factored into the calculation of wages, as they are considered "payable" under the Act.

This legal precedent serves as a vital guide for employers striving to ensure compliance with the National Minimum Wages Act while fairly compensating their employees.

As always, we remain committed to keeping you informed about significant legal developments that may impact your business operations.



## CONTACT DETAILS

Address: 7 Olivier Str, Noordheuwel, Krugersdorp, 1739

Contact no: 082 824 6573

E-mail: [judy@ward-es.co.za](mailto:judy@ward-es.co.za)

Website: [www.ward-es.co.za](http://www.ward-es.co.za)

