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TO ALL MEMBERS OF SASA

STATUS UPDATE: 2018 WAGE NEGOTIATIONS AND THE NATIONAL MINIMUM WAGE

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It has been widely publicised that it is the Government's intention to bring the National Minimum Wage Bill, 2017, into effect on 1 May 2018. The Bill has already been accepted by Cabinet, introduced into the National Assembly and published. Given the current political climate it appears likely that the Bill will be brought into effect on 1 May 2018.

The basic effect of the Bill is that with effect from its commencement, the National Minimum Wage is R20.00 for each ordinary hour worked. There are reduced wages for Farm workers, Domestic workers and Extended Public Works workers. The new minimum wage is payable over and above and independently from other forms of remuneration or benefits.

The intention is for the National Minimum Wage Bill to be promulgated simultaneously with the Basic Conditions of Employment Amendment Bill, 2017. Amongst various other things, the intention behind the Basic Conditions of Employment Act Amendment Bill is to repeal the provisions of the Basic Conditions of Employment Act relating to the making of Sectoral Determinations. In consequence, after the amendment there will no longer be a provision enabling the Minister of Labour to publish Sectoral Determinations. The Basic Conditions of Employment Act Amendment Bill, however, embodies transitional provisions including:

- That any Sectoral Determination in effect at the commencement of the National Minimum Wage Act, 2017, remains in force except to the extent that it prescribes a wage that is less than the national minimum wage.

In 2008 Organised Employers and Labour concluded the Negotiation Framework Agreement for the National Bargaining Forum for the Private Security Sector. The agreement was signed by 6 Employers Organisations and 17 Trade Unions. The agreement set out the rules of engagement for Centralised Bargaining in the Private Security Sector. In the preamble of the agreement it is stated that:

"terms and conditions of employment within the Private Security Sector have traditionally been determined by Sector Determinations published under the Basic Conditions of Employment Act. Notwithstanding the above, organised labour and organised employers, including the parties to this agreement have traditionally negotiated terms and conditions within the Private Security Sector at national level amongst each other so that any agreements reached between them would reflect a broadly held consensus and thus could be adopted by the Minister of Labour as the basis of future Sectoral Determinations."

Since 2008, collective bargaining took place in the sector within the National Bargaining Forum for the Private Security Sector in line with the Framework Agreement. The agreements reached at this Forum have, (almost word for word) been accepted by the Minister of Labour and published in the form of Sectoral Determination 6. The practice of the industry level agreements becoming Sectoral Determinations in fact predates the 2008 Framework Agreement.



In terms of the Framework Agreement, a time table is set which must be observed in respect of any round of negotiations conducted in terms of the agreement. The timetable requires amongst others that proposals are to be submitted at least 12 months prior to the end of the term of applicability of wages, salaries and conditions of employment as set out in the Sectoral Determination for the Private Security Sector. The first meeting of the National Bargaining Forum must take place by no later than thirty days from the date on which such proposals have been made.

In line with the Framework Agreement, the parties commenced with negotiations late last year. The Negotiations are set to continue later this month.

It is important to note that to date the National Minimum Wage Act has not become law. This leaves the Private Security Sector in a precarious position because if the National Minimum Wage Act and its associated legislative Amendments come into effect, any agreement reached at the National Bargaining Forum will not be implementable.

The only practical way the industry level agreements can come into effect should the National Minimum Wage Act and associated legislative amendments become law, is by way of an agreement reached within a Bargaining Council.

During the early part of last year, the parties to the National Bargaining Forum (Organised Employers and/Organised Labour) concluded the constitution of an intended Bargaining Council for the Private Security Sector. The application was handed into the Department of Labour but to date the registration of the Bargaining Council has not taken place. We await feedback from the Department of Labour in respect of the application.

It is envisaged by the parties that any agreement reached under the auspices of the National Bargaining Forum currently being negotiated will become an agreement of the Bargaining Council, should the Bargaining Council be registered subsequent to the conclusion of an agreement in the National Bargaining Forum. Should the Bargaining Council be registered before the conclusion of an agreement in the National Bargaining Forum it is envisaged that the negotiations will continue but under the auspices of the Bargaining Council.

As part of the demands put forward by Employers at the outset of the negotiations currently taking place in terms of the National Bargaining Forum, the Employers demanded that the impact of the National Minimum Wage Act must be incorporated into the basket of the negotiations and that it will be phased in over the period of the agreement.

This demand was intended to smooth the impact of the National Minimum Wage Act and to introduce it over time to minimise the impact.

The National Minimum Wage Act however does not allow for the implementation of such an agreement either in terms of a Sectoral Determination or if it is concluded in a Bargaining Council.

The National Minimum Wage Act and the Basic Conditions of Employment Act Amendment Bill includes an exemption process. Section 15 of the National Minimum Wage Bill stipulates that an Employer or Employers organisation may apply to the Minister of Labour for exemption for a period of no longer than one year. Such exemption application must be made "in the prescribed form or manner". We are not yet aware that any draft regulations have been promulgated for comment.



The Private Security Sector, in the absence of an exemption being granted will be impacted should the National Minimum Wage Bill come into effect, as follows:

Security Officers Affected	Minimum as per Sectorial Determination 6. – 1 September 2017	National Minimum wages (R 20.00 per hour)	Percentage Increase
Area 1 Grade C, D, & E	R 4 102.00 per Month	R 4 160.00 per Month	1.41%
Area 3 Grade B	R 3 934.00 per Month	R 4 160.00 per Month	5.74%
Area 3 Grade C, D, & E	R 3 414.00 per Month	R 4 160.00 per Month	21.85%

Security Officers Affected	Minimum wages as from 1 September 2017 as per Sectorial Determination 6		National Minimum wages		Percentage Increase
	Monthly	Hourly equivalent	Monthly	Hourly equivalent	
Area 1 Grade C, D, & E	R 4102.00	R 19.72	R 4 160.00	R 20.00	1.41%
Area 3 Grade B	R 3 934.00	R 18.91	R 4 160.00	R 20.00	5.74%
Area 3 Grade C, D, & E	R 3 414.00	R 16.41	R 4 160.00	R 20.00	21.85%

*The above increase will affect associated employment costs such as overtime, provident fund contributions etc.

As such it is critical at this stage to inform the clients of Private Security Service Providers that it is most likely that the statutory/direct costs associated with the provision of a Security Officer will increase as described in the table above from 1 May 2018.

The Employers Organisations that is party to the National Bargaining Forum and if registered, the Bargaining Council will make its best endeavours to minimise the impact on the clients/consumers of private security services, which may include an exemption application in terms of the National Minimum Wage Bill.

The Private Security Sector is cognisant of the impact of escalating costs and its impact on the economy and clients / consumers of Private Security Services but at the same time all efforts are being made to professionalise the industry and to remove the scourge on unethical and non-compliant security companies that continue to tarnish the image of the sector through non-compliant practices and the abuse of Security Officers.

We encourage the clients/consumers of Private Security Services to assist the industry in achieving the objectives of professionalising the sector as well as achieving the objectives of the National Minimum Wage Bill.

We will continue to keep our members and clients informed of developments regarding both the negotiation process and the implications of the new and amended labour legislation as and when required.

Please do not hesitate to contact our office for any additional information you may require.

Very best regards,

Yours in Security

SECURITY ASSOCIATION OF SOUTH AFRICA



COSTA DIAVASTOS
NATIONAL PRESIDENT



CHRIS LAUBSCHER
NATIONAL SECRETARY