

An Overview of Minimum Wage Regulation in Nigeria

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ABSTRACT

Minimum wage regulation is a tool for reducing pay inequality and poverty in a society. Without such a policy in place, many would be earning well below what they can survive on.

The National Minimum Wage Act 2019 was enacted by the National Assembly to prescribe a minimum wage applicable to certain classes of workers across all sectors of the Nigerian economy and to provide a framework for the review of minimum wage in Nigeria. The Act, though once a welcome development, is no longer suitable to regulate minimum wage in light of recent developments. There have been calls for the upward review of the national minimum wage from the current N30,000. This article seeks to demonstrate that the minimum wage law is in dire need of reform as certain provisions are inhibiting its effectiveness. The article goes further to make recommendations for the amendment of problematic portions of the Act.

Keywords: Minimum wage, Employers, Workers, Compliance, Review

INTRODUCTION

According to the International Labour Organisation (ILO)[\[1\]](#), minimum wage is “the minimum amount of remuneration that an employer is required to pay wage earners for work performed during a given period, which cannot be reduced by collective agreement or an individual contract.”[\[2\]](#)

In Nigeria, minimum wage is defined as the minimum total amount of money an employer of labour is required to pay the lowest paid worker or employee monthly in his establishment.[\[3\]](#) Prior to 2019, the minimum wage was N18,000 as laid down by the National Minimum Wage (Amendment) Act, 2011.

Currently, the Nigerian government regulates minimum wage through the National Minimum Wage Act, 2019 (hereinafter called the “Act”) which set minimum wage at N30,000 a month. This Act applies to the entire federation of Nigeria.[\[4\]](#) The national minimum wage expires after five years.[\[5\]](#)

Purpose of Minimum Wage Regulation

The purpose of minimum wage regulation is to set a wage floor that ensures that all employees receive a minimum level of compensation for work done by them. In other words, it protects workers against unduly low pay.

The government of every nation has a primary duty to ensure and enhance the economic well-being of all citizens. Through minimum wage regulation, the government prescribes the least possible wages that can be earned in a bid to overcome poverty and reduce the economic inequality between high wage earners and low wage earners.

Important Points to Note on Minimum Wage Regulation in Nigeria

1. Minimum wage laws usually do not cover all classes of workers. The law would specify its scope of average. In Nigeria, the Act covers workers engaged in manual labour or clerical work.[\[6\]](#) The Act does not apply to employees of establishments employed on a part-time, commission or piece-rate basis; establishments with less than 25 employees; workers in seasonal employment like agriculture; those employed in a vessel or aircraft who are covered by merchant shipping or civil aviation laws and any other class which the Minister of Labour and Employment may exempt from its application.[\[7\]](#)
2. “**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.”[\[8\]](#) It usually refers to pay covering short-term periods e.g. hourly, daily or weekly. However, in the Nigerian context, wage refers to monthly earnings.[\[9\]](#)
3. Minimum wage regulation could be within the scope of provincial/state/regional legislative powers or it could be a legislative power exclusively vested in the national/federal/central legislative body. By Item 34 of the Exclusive Legislative List, Part I, Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (hereinafter called the “Constitution”), legislation on labour and labour relations is within the exclusive preserve of the Nigerian National Assembly.
4. Minimum wage is expected to be a living wage. That is, sufficient for an individual to survive on and meet their basic needs. Section 16(2)(d) of the Constitution states that the government should provide a “**reasonable national minimum living wage**” for its citizens. This has not always been the reality. For instance, the current national minimum wage in Nigeria is a monthly meagre salary of N30,000.[\[10\]](#)

Obligations of Employers under the Act

Section 17 of the Act defines an “employer” as “any person who has entered 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.

The Act imposes two main obligations on employers.

1. **Payment of Minimum Wage:** Section 9 of the Act places an obligation on employers in establishments covered by the Act, to pay the workers at least N30,000 monthly, subject to statutory deductions. Failure to comply with this provision is an offence punishable with a fine not more than 5% of the defaulter's monthly wage, payment of the outstanding monthly wages. For each month the violation continues, the employer is liable to pay an additional penalty of a rate not less than the prevailing CBN lending rate on the wages owed.
2. **Keeping Records of Wages and Conditions of Employment:** By section 10 of the Act, employers have a duty to keep these records to show that they have complied with the provisions of the Act for up to three years after the relevant period. Where the employer does not do so, he is guilty of an offence for which he is liable on conviction to a fine not more than N75,000. For each day the violation continues, the employer will pay an additional N10,000.

Other offences that an employer may be guilty of are contained in section 15 of the Act.

1. Refusing or neglecting to allow the authorised officer entry to exercise his powers under the Act;
2. Hindering the authorised officer from exercising his powers;
3. Refusing or neglecting to give any document or information to the authorised officer as required by the Act;
4. Making, causing to be made or knowingly allowing to be made any record of wages or conditions of employment that is false;
5. Producing, causing to be produced or knowingly allowing to be produced any wage sheet or record, knowing it to be false; or
6. Giving information to an authorised officer, knowing it to be false.

A person who does any of the above acts is guilty of an offence and liable on conviction to imprisonment for a term not more than six months or a fine not more than N250,000.00, or both.[\[11\]](#)

An agent of the employer may be guilty of an offence under section 14 of the Act in the same way that an employer may be guilty of an offence under the Act. Where an action is brought against the employer, he may raise a defence by proving that the offence was due to the act or default of another person, or that he has exercised due diligence to ensure that the Act is complied with.[\[12\]](#) If the authorised officer is satisfied that the offence was due to the act or default of another person and that the employer has established his defence, he may recommend that an action be brought against that other person. Where it is proved in such action that the offence was due to that person's act or default, he shall be convicted for the offence.[\[13\]](#)

Regulatory Framework for Minimum Wage in Nigeria

1. **Minister of Labour and Employment:** By section 11 of the Act, the Minister has the power to authorise an officer in the Federal Civil Service to require an employer to produce records of payrolls and conditions of employment, inspect and examine such records, order defaulters to take remedial actions within a specified timeframe and make recommendations for the prosecution of defaulters. The officer may additionally institute civil proceedings on behalf of the affected employee(s) to recover any money the employer owes him. Where the authorised officer discovers non-compliance by an employer upon routine inspection, he must give report to the Minister. Upon receipt of the report, the Minister shall activate the machinery for enforcing compliance to redress the breach within 30 working days.[\[14\]](#)
2. **National Salaries, Income and Wages Commission:** Under section 12 of the Act, the Ministry of Labour and Employment is required to collaborate with the Commission to monitor the implementation of the minimum wage in accordance with the Labour Act Cap L1, LFN 2004 and the National Salaries, Income and Wages Commission Act Cap N72, LFN 2004.
3. **Tripartite Committee on Minimum Wage:** This Committee is established by section 5 of the Act. It consists of a chairman; secretary; representatives of the Government (i.e. representatives of the Head of Civil Service of the Federation, Minister of Finance, Minister of Labour and Employment, Minister of Budget and National Planning, etc.); organised labour (Nigeria Labour Congress, Trade Union Congress, etc.), and employers' associations (Nigeria Employers' Consultative Association, Manufacturers Association of Nigeria, etc.).[\[15\]](#) The Committee is empowered to make recommendations for the review of the minimum wage every five years.[\[16\]](#) The Committee is to be inaugurated not less than six months from the expiration of the current minimum wage, to commence the review.[\[17\]](#)
4. **National Industrial Court:** The National Industrial Court of Nigeria (NICN) is the court conferred with exclusive jurisdiction to entertain matters bordering on labour and industrial relations, and particularly the welfare and conditions of employment of workers in Nigeria, of which wages is a significant part.[\[18\]](#) All civil actions relating to the non-payment of wages are brought to the NICN as the court of first instance.

Machinery for Enforcing Compliance with the Act

The worker who is paid a salary below minimum wage is not left without remedy. By section 13(a) of the Act, such worker is entitled to the difference between his actual pay and the national minimum wage. Section 13 of the Act empowers the aggrieved worker, trade unions and the Minister to take certain measures to ensure the employer complies with the Act.

1. **Worker:** The worker may institute a civil action in the NICN to recover monies due and owing to him or file a formal complaint with the Minister.[\[19\]](#)
2. **Trade Union:** The trade union has the right to demand that an employer comply with the Act. They can file a claim to the NICN on behalf of their members, demanding that an employer comply with the Act, not more than 30 days after receiving a complaint from the workers.[\[20\]](#)
3. **The Minister:** An authorised officer may serve a notice of enforcement on a defaulting employer directing such person to pay the arrears of wages to the worker whose name is contained in the notice within 30 days. The employer has a right to appeal the notice to the Minister. The Minister is required to resolve the matter within 30

days of receiving the appeal.[\[21\]](#) Section 13(e) sets out the content of the notice of enforcement to include the amount owed to the worker, the relevant period for the payment and the time limit for the payment. If the defaulting employer fails to comply with the notice, the Minister may refer the matter to the National Industrial Court.

Hindrances to the Effectiveness of the National Minimum Wage Act 2019

1. **Standard does not reflect real cost of living:** The minimum wage is insufficient to provide workers with the basic necessities (food, shelter and clothing) they require for a healthy lifestyle.[\[22\]](#) The problem is partly due to the exclusive jurisdiction exercised by the federal government to determine the minimum wage applicable to the entire federation. Research has revealed that over the years, minimum wage has increased more slowly than the real cost of living.[\[23\]](#)
2. **Review of Minimum Wage every 5 years:** Flowing from the above point, a five year minimum wage review would not be the best for Nigerian as significant changes occurs in the cost of living within short periods of time.[\[24\]](#)
3. **Problem of Non-Compliance:** The effectiveness of minimum wage regulation depends on many factors including compliance by employers. Employers in both the private and public sectors have failed to uphold the standard set by the Act. In the private sector, wages are determined by the forces of demand and supply. The high labour supply and unemployment rate results in individuals accepting to work in exchange of low wages. The problem is even more prominent in civil service establishments across the states in Nigeria, some of which still pay the former minimum wage of N18,000. This problem should not even exist in the public sector as wages are additionally determined by level grades. This does not speak well of the government's willingness to comply with its own rules.
4. **Lack of proper enforcement:** Enforcement of minimum wage is difficult because Nigeria has a large informal sector. Without proactive implementation and enforcement in the face of escalating living expenses in Nigeria, minimum wage regulation cannot be an effective tool. Due to the public sector's failure to comply with the national minimum wage, it will be extremely difficult to implement and enforce it in the private sector. This situation leaves the workers helpless and with little resources to enforce their rights.
5. **Non-stipulation of hours that constitute full-time work:** The Act does not prescribe the number of hours that amounts to a full-time work for a month. Employers tend to exploit this lacuna, demanding extra hours of work without extra compensation. The Labour Act, Cap L1, LFN 2004 is also silent on this, leaving the hours of work to be determined by mutual agreement, collective bargaining or an industrial wages board "section 13(1) . Employees earning so little will have little or no time to run a side business that could earn them some more money. Having to work overtime to earn the legal minimum is a form of non-compliance.

Recommendations for Reform

Higher Minimum Wage

The standard of living in Nigeria is quite low. To make the standard of living in Nigeria comparable to that of developed countries, there is a need to increase the minimum wage. As workers earn more, they would be able to afford a higher standard of living and be better equipped to handle periodic increase in the cost of living. There would equally be increased productivity as workers would be more motivated. A higher minimum wage may have the short-term effect of increasing operating costs and in turn, the prices of goods and services (inflation). There would be loss of jobs and underemployment.[\[25\]](#) However, this would even out in the long-run with expected economic growth. In 2023, organised labour proposed a minimum wage of N200,000 following the removal of fuel subsidy.[\[26\]](#)

In accordance with the provision of the Act for review of minimum wage every five years, the national minimum wage is set to be reviewed this year. On the 63rd anniversary of Nigeria's independence, the President announced that temporary measures would be taken to increase the wages of low-level federal workers by N25,000 for the next six months, pending the time that the National Assembly may enact an amendment increasing the national minimum wage. This was a provisional measure taken to avert the threatened strike action by organised labour.[\[27\]](#)

Biennial Review of Minimum Wage

The Act prescribes a review of the national minimum wage every 5 years. This is not ideal. The periodic review should be biennial on a specified date, e.g. January 1. This would force the government to be more proactive and avoid using delay tactics as they have a shorter time-frame to consider. Additionally, the citizens suffering under harsh economic conditions would not be prolonged.

In 2023, the National Assembly expressed their intention to fast-track the passing of the amendment Act. However, as at the last week of January 2024, just three months to the expiration of the current minimum wage, the government is still yet to set the ball rolling by inaugurating the Tripartite Committee on Minimum Wage even though the Trade Union Congress and Nigeria Labour Congress have submitted the names of their representatives.[\[28\]](#)

Stipulation of Working Hours

There is a need for the law to clearly spell out the number of hours of work that will make up a month's worth of full-time work. This will promote respect for a worker's time and ensure maximum productivity. This would also mean that employers would have to set up a system of overtime pay for extra hours worked by their employees, thereby promoting fair compensation. This practice obtains in the USA where non-exempt employees working in excess of 40

hours per workweek are entitled to overtime pay.[29]

Minimum Wage Regulation should be on the Concurrent Legislative List

The cost and standard of living varies from one state to another. This is why the regulation of minimum wage should not be within the exclusive jurisdiction of the federal government. The Constitution should be amended to move Item 34 of the Exclusive Legislative List to the Concurrent Legislative List, thereby giving states the power prescribe the minimum wage applicable to their territory in line with their local peculiarities.[30] This is what obtains in the USA which operates a true federalism. However, implementation of this suggestion will require a structure built on fiscal federalism where states control their own revenue and expenditure. Unfortunately, Nigeria does not practice fiscal federalism.

Additional Enforcement Mechanisms

In addition to enforcement mechanisms provided under the Act, where it is shown that an employer has violated the provisions of the Act, the names of such employers and companies should be published in nationwide newspapers and a periodic journal for that purpose. However, reasonable notice should be given to such employer that such action would be taken if violation continues. This “naming and shaming” strategy has been employed in Indonesia and Brazil. Employers would have to pay all necessary fines and wages in order to have their names removed from the list. The risk of loss of reputation should be the force that will promote compliance. Those on the list should not be given credit facilities as well.

Enlightenment of the Public

There is a need to educate employers and workers covered by the Act on their rights and obligations under the minimum wage provisions. Many workers, especially in the rural areas, are ignorant of the enforcement mechanisms.

Commitment to Observe International Labour Standards

Nigeria should ratify and domesticate international conventions and treaties bordering on wage regulation. This would signify the government’s willingness to promote fair labour standards. This would attract immigrants and curb the “japa” brain-drain problem.

CONCLUSION

This article gave a cursory look at minimum wage regulation in Nigeria. It highlighted the shortfalls in the legal and regulatory framework for minimum wage and made recommendations for the amendment of problematic portions of the Act which are incompatible with the economic growth and development of Nigeria. The writers believe that these recommendations, if implemented, will benefit workers and promote a pleasant working relationship between employers and workers in Nigeria.

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[4] ibid, section 2

[5] ibid, section 3(4)

[6] ibid, section 17

[7] ibid, section 4

[8] National Minimum Wage Act 2019, section 17

[9] ibid, section 3(2)

[10] ibid, section 3(1)

[11] National Minimum Wage Act 2019, section 15

[12] ibid, section 14(2)

[13] ibid, section 14(4)

[14] National Minimum Wage Act 2019, section 12(2) & (3)

[15] ibid, section 6

[16]Â ibid, section 7

[17]Â ibid, section 8

[18]Â Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 254C (1); National Industrial Court Act, 2006, section 7(1)

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