



MINIMUM WAGE & DEDUCTIONS

Sectoral Determination 13, Farmworker Sector

This letter deals with the Sectoral Determination for farmworkers and more specifically, the minimum wage requirements and maximum deductions permitted.

- 1. Definitions*
- 2. Minimum wage*
- 3. Calculation of wage / salary*
- 4. Maximum deductions permitted*

1. DEFINITIONS

The Sectoral Determination is set by the Minister of Labour in terms of section 52 of the Basic Conditions of Employment Act. These are the minimum basic conditions of employment for a specific sector and, in this instance, the agricultural sector.

A farmworker is any person who is employed for, and where such employment relates entirely or partially to agricultural activities. It also includes domestic workers and security guards who work in a house on a farm, or on the farm premises. It excludes any person covered by another sectoral determination irrespective of whether such person works on a farm (e.g. employees involved in a restaurant or guest complex situated on a farm, and security guards provided by a security firm).

Where a person performs an agriculture-related service for any other person, and until the contrary can be proven, it shall be assumed that, in the event of one (1) of the following scenarios, such person is a farmworker in the service of that other person:

- The employee works under the direct supervision and instruction of the other person (farming operation);
- The employee's working hours are determined and monitored by the other person (farming operation);
- The employee forms part of the other person's personnel structure;
- The employee has worked an average of at least 40 hours per month over a period of three months for the other person (farming operation);
- The employee is economically dependent on the other person (farming operation);
- Equipment and implements that the employee uses to perform his/her task are provided by the other person (farming operation); and
- The employee works only for one person (farming operation).

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Agricultural activities for the purpose of this sectoral determination include the following:

- Mixed farming
- Aquaculture
- Horticulture
- Animal production
- Field crops
(excluding forestry activities).

2. MINIMUM WAGE

The National Minimum Wage Act 9 of 2018 states that no person in South Africa may earn less than the prescribed national minimum wage irrespective of whether such person is remunerated per task or per commission structure.

The national minimum wage is reviewed annually.

With effect from 1 March 2022, the national minimum wage, which is also applicable to agriculture, shall be **R23,19** per hour.

FREQUENCY	AMOUNT
Per hour	R 23,19
Per day (9 hours)	R 208,71
Per week (45 hours)	R 1 043,55
Per fortnight (90 hours)	R 2 087,10
Per month	R 4 518,57

NB: A farmworker between the ages of 15 and 18 must be paid at least the minimum wage (R 23,19) per hour and may not work in excess of 35 hours per week.

3. THE 4-HOUR RULE

In terms of section 9A of the Basic Conditions of Employment Act, as amended, an employee must be paid for at least 4 hours per day if he/she has reported for duty on the instructions of the employer but due to circumstances beyond the employee's control, was unable to work at least 4 hours on the particular day.

4. CALCULATION OF WAGE / RENUMERATION

In the case where the farm worker earns more than the minimum wage, and where the table in paragraph 2 cannot be used as guidance, the following is used to calculate the worker's wage/ remuneration:

– **Obtain the worker's hourly wage/ remuneration:**

Divide the weekly wage or remuneration by the ordinary number of hours worked in a week.



- **Obtain the worker's daily wage/ remuneration:**
Multiply the hourly wage or remuneration by the number of ordinary hours worked in a day; or
Divide the weekly wage or remuneration by the number of days worked in a week.
- **Obtain the worker's weekly wage/ remuneration:**
Multiply the hourly wage or remuneration by the number of ordinary hours worked in a day multiplied by the number of days worked in a week; or
Multiply the daily wage or remuneration by the number of days worked in a week; or
Divide the monthly wage or remuneration by 4.33.
- **Obtain the worker's monthly wage/ remuneration:**
Multiply the weekly wage or remuneration by 4.33.

If the employee is remunerated at an hourly tariff but is paid monthly:
multiply the hourly wage or remuneration by the number of normal hours worked during the particular month.

Examples of how the employee's remuneration can be described in his/her employment contract:

The EMPLOYEE's gross basic remuneration shall be R..... per hour worked (or if the amount is greater, at least the relevant minimum wage as prescribed by the National Minimum Wage Act) payable weekly per electronic transfer on the first Friday following the relevant payment period, which extends from a Thursday to the next Wednesday.

Or

The EMPLOYEE's gross basic remuneration shall be R..... per hour worked (or if the amount is greater, at least the relevant minimum wage as prescribed by the National Minimum Wage Act) payable monthly on the first calendar day following the payment period, which extends from the 29th to the 28th calendar day of the subsequent month.

Or

The EMPLOYEE's gross basic remuneration shall be R..... per week / calendar month worked (or if the amount is greater, at least the relevant minimum wage as prescribed by the National Minimum Wage Act) payable weekly / monthly on the last working day.
To calculate any pro-rata remuneration, it is agreed that the employee's hourly wage shall be R.....

NB: The above are merely examples and must be adjusted depending on the payment practices applied.



3. MAXIMUM DEDUCTIONS PERMITTED

Various deductions may be made from a farmworker's wage. Clause 8 of Sectoral Determination 13 states that the following deductions are permitted:

a) Food (rations)

If the farmworker regularly receives food free of charge from the employer (meat, vegetables, flour, milk, etc.), the employer may (only) deduct 10% of the employee's wage for this purpose, provide that–

- the food is provided on a regular basis; and
- the value of the food is not less than the amount deducted.

Such food excludes goods purchased from the farm store.

PLUS

b) Housing

If the employee lives on the farm, a further 10% (additional to the 10% for food) may be deducted from the employee's wage.

This deduction is not considered as rent but rather as an amount due to the employer for the housing provided to the employee.

Such deduction may only be made if–

- No deduction is made for water and/or electricity. (The worker may, however, purchase electricity via the pre-paid system, or in the case where actual electricity consumption per household is measured.)
- The house must have the following:
 - A strong and stable roof that does not leak;
 - Glass windows that can open;
 - Electricity (if the infrastructure of the farm allows for it);
 - Drinking water available inside or within 100 m from the residence;
 - A flush toilet or pit latrine inside or near the house; and
 - The house must be at least 30 m² in size.

Note that this deduction may only be made from the wage of one person living in the house, except in the case where more than one worker lives in a commune complex (kopong). In such a case, an amount may be deducted from each worker's wage, provided that–

- the deduction per worker does not exceed 10% of that worker's wage; and
- the total deduction per unit does not exceed 25% of the relevant minimum wage.



NB: No deduction may be made in respect of housing for an employee under the age of 18.

PLUS

c) Payments to a third party

Any amount payable on the instructions of the employee or in terms of a court order to a third party. **There is no limitation on the percentage of the employee's wage that may be deducted.**

PLUS

d) Personal loan

Where the employee has incurred a personal loan with the employer, **ONLY 10%** of the employee's gross remuneration may be deducted as instalment in repayment of the loan. This does **NOT** mean that the employer may only deduct 10% for food purchased from the farm store. This clause is applicable to money advanced for personal use by the employee (e.g. to purchase furniture or to cover funeral costs, etc.).

PLUS

e) Payment for damages

If the employee is guilty of malicious damage to the employer's property and/or for damages suffered by the employer due to the employee's negligence, the employer may recover such replacement or repair costs from the employee's wage. Such amounts may be recovered in instalments provided that the total deduction per instalment does not amount to more than 25% of the employee's wage.

PLUS

f) Farm store

The cost of all goods purchased by the employee from the farm store is fully recoverable in one amount from the employee's wage. It is important to keep record of the employee's purchases (item, amount and unit price). The employer may not compel the employee to purchase goods, whether from the employer as such or from another person.

SUMMARY

If the unlikely scenario were to occur where the employee receives free food and housing and has incurred a personal loan with the employer, and had also in the recent past been guilty of malicious damage to the employer's property, then the total deduction that may be made 'legally' from the employee's wage is 45% and NOT 25% (10% for housing, plus 10% for free food, plus 25% for damages).

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Added to this is a further 1% for UIF and any amount nominated by the employee or a court which is payable to a third party, and the cost of any goods purchased at the farm store. Thus the total deduction is more than 10% or 25%.

IMPORTANT

Before any deduction is made, the employee must agree to such deduction in writing.

It is recommended that the EMPLOYMENT CONTRACT make provision for possible scenarios and that the employee grant permission for such deductions. See the example below:

- The employer is entitled to make any deduction from an employee's wage / salary as permitted or required in terms of a law, collective agreement, court order or arbitration award.

The above includes, but is not limited to the following:

- The employee's contribution to the UIF, which amounts to 1% the employee's wage;
- Any premiums in respect of policies and insurance payable by the employee;
- Any food purchased by the employee from the farm store (this amount is fully recoverable weekly/monthly);
- Housing benefit equal to 10% of the employee's remuneration. This is not considered rent and is deductible in terms of the relevant Sectoral Determination if the employee makes use of the employer's housing.

NB: The Employer does NOT aim to deprive the worker of a living wage but merely stipulates the conditions for deductions should a certain scenario occur. For this reason, the above should NOT be used to deprive the employee of an income.