

UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG



NATIONAL
MINIMUM
WAGE
RESEARCH INITIATIVE



NATIONAL MINIMUM WAGE SYMPOSIUM

2nd and 3rd of February 2016, Wits Club, University of the Witwatersrand

ENSURING MAXIMUM PARTICIPATION:
EXCLUSIONS, EXEMPTIONS, AND INCENTIVES

Prepared by Elena Konopelko

Outline

1. Exemptions and Exclusions
 - Definitions
 - International approach to exclusions
 - International approach to exemptions
 - Key points
2. Incentives
 - Incentive types
 - Key points

Exclusions and Exemptions Defined

- Are a means of limiting the coverage of a NMW and of accommodating labour and business circumstances;
- According to the International Labour Organization (ILO):
 - NMW ideally should have a maximum possible coverage;
 - 61% of the NMW countries allow no exclusions;
 - Exclusions and exemptions should be kept to the minimum;
 - In cases of high productivity or wage differences, one can create sub-tiers of a NMW
- In South Africa, de facto 2.35 million workers are excluded from minimum wage determination (DPRU 2015)

International Approach to Exclusions

Sectors that are most commonly considered:

- Low wage sectors;
 - Youth, apprentices, workers with disabilities;
 - Public service and state security employees;
 - Businesses: family businesses and SMEs;
-
- Alternative to Exclusion – Tiered System.

Low-wage Sector Exclusions

Exclusion logic: extraordinary low wages; stay-in and living arrangements might complicate NMW calculations; difficulties in enforcement

- Is mainly comprised of domestic workers, agricultural workers, and participants of the public works programmes;
- Excluding low-wage sector completely (e.g. Thailand, Lebanon) is a bad policy;
- More countries include low-wage sectors at a lower-tier (e.g. Argentina, Uruguay, Burkina Faso, Chad) at 70-90% of a general NMW;
- Countries tend to phase-out low wage tiers:
 - Example: Chile has phased out domestic workers sub-tier over 4 years; Portugal phased out agricultural and domestic workers sub-tiers.

Youth and Workers with Disabilities

Exclusions

Exclusion logic: assumption that these workers have lower productivity; assumption that employers will be “lured” into hiring these workers due to lower wages

- Most commonly, youth is included at a lower tier: 60-90% of the general NMW (e.g. most OECD countries);
- Workers with disabilities are commonly either:
 - Excluded completely from NMW coverage (very rare case);
 - Included and receive a full NMW;
 - Included but form a sub-tier and receive a proportion of a general NMW;
 - Included but can receive a lower NMW pending employers application and inquiry into their productivity compared to their colleagues
- Excluding youth and/or workers with disabilities can amount to discrimination.

Workers in Learning Programmes Exclusions

Exclusion logic: assumption of lower productivity, on-the-job training

- Commonly are included at a lower tier with their proportion of NMW increasing from each year of employment;
- Example: Pakistan and El Salvador workers in vocational training receive 50% of the NMW in the first year, 75% in the second year and 100% in the third year.
- Some countries include learners at a full NMW (e.g. Malaysia)

Business Exclusions

Exclusion logic: some types of businesses employ families or volunteers, assumption that some businesses are “unable” to pay NMW

- Family businesses that employ family members can be excluded from paying NMW (e.g. Lebanon, UK, Korea, Spain)
- Some countries exclude small or medium sized enterprises, defined by:
 - Either the profit (e.g. USA);
 - Or by the number of employees (e.g. Nigeria);
 - Or by the combination of the two (e.g. Morocco)
- Excluding small or medium sized enterprises is a very risky and questionable practice
 - Companies tend to violate legislation to continue being below the threshold;
 - Companies are incentivized to be small and hence grow reluctantly, do not reach economies of scale, and remain less competitive

International Approach to Exemptions

- An opportunity for business to apply for an exemption from paying a national minimum wage:
 - e.g. Luxembourg, Netherlands, Portugal
- To ensure maximum coverage exemptions need to be minimized;
- To be a successful tool the following has to be defined:
 - the criteria for exemptions;
 - minimum levels of pay even if a company is excluded;
 - the period for which the exemption applies;
 - the process for application and decision including the format of representation (written or in person) and the format of the response;
 - the body responsible

Key Points

1. Minimum wage should have the maximum coverage
2. There is no ground for blanket exclusion of low-wage sectors, youth, workers with disabilities, learners and apprentices or public service sector;
3. Providing sub-minimum wages for young workers or workers with disabilities runs contrary to the principle of equal pay for equal work;
4. Business specific exemptions, applied on a case-by-case basis, with clearly defined rules, allow governments to be responsive to the circumstances of individual businesses.

INCENTIVES

5 types to be discussed

1. Public Awareness Campaigns

- Means generating a positive public discourse;
- Explains the necessity and the benefits of a NMW;
- Example: UK “faming, naming, and shaming” list of companies

- Why can it work?
 - Some companies have high reputational costs;
 - Public awareness allows workers to know their rights and to promote them at their working places.

2. Certificates of Compliance

- Certificates issued upon business application and subsequent passed labour inspection;
- Can be tied to benefits such as: participation in public tenders, forgone inspection for several years, participation in government incentive schemes etc.
- Why can it work?
 - It provides tangible incentives to the business to comply;
 - A South African certificate of compliance scheme is already run in clothing and textile industries and is successful

3. Public Procurement

- Tying participation in public tenders with obligatory minimum wage compliance from both contractors and sub-contractors;
- Is used in Germany, UK, France, Netherlands, etc.

- Why can it work?
 - Provides access to public tenders, i.e. has tangible benefits to business;
 - Triggers “compliance multiplier”;
 - Can reach both small and medium enterprises as well as the big companies

4. Tax Incentives

- Providing tax support to businesses
- Various tax incentives used:
 - Thailand: blanket tax cuts during the NMW introduction;
 - Brazil: “Simples” programme that reduces tax payments for SMEs in return for company formalizations and NMW compliance.
- Why can it work?
 - Provides a tax relief and tangible incentives;
 - Answers business complaints of “unaffordability” of NMW;
 - May put a strain on the fiscus however;
 - May backfire and be a subsidy to capital

5. Government Financial Assistance

- Stands for tying government grants, loans and subsidies to NMW compliance;

Examples:

- Brazilian Development Bank offers subsidized loans to NMW compliant companies;
 - Brazil blacklists and denies any access to finance to an employer has a proven record of non-compliance with NMW;
 - Virginia state (USA) offers educational grants and loans conditional on paying a certain percentage above a state NMW
-
- Why can it work?
 - Gives access to financial mechanisms and not only promotes compliance but improves business conditions;
 - Can be tied to government-run incentive programmes

Key Points

- Incentives can be a useful tool in ensuring maximum NMW coverage;
- To be successful incentives need to be coupled with strong monitoring and enforcement;
- Public procurement should include NMW compliance;
- Access to preferential credit or any government-run incentives should include NMW compliance;
- The Certificate of Compliance programme in the clothing and textiles sector offers an example which could be scaled up;
- Public procurement policies should include NMW compliance, as should access to government grants and subsidies;
- Tax incentives should be approached with caution.

How to Ensure Maximum Participation?

1. Include every worker;
2. Provide tier system if necessary;
3. Limit exemptions;
4. Provide incentives to business;
5. Ensure enforcement and compliance.

THANK YOU

UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG



NATIONAL
MINIMUM
WAGE
RESEARCH INITIATIVE



NATIONAL MINIMUM WAGE SYMPOSIUM

2nd and 3rd of February 2016, Wits Club, University of the Witwatersrand