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This Policy Brief focuses on whether workers enrolled in learning programmes should be covered by the proposed national minimum wage (NMW) and, if so, how. It follows from Policy Brief 3 which discusses the implications of exclusions and exemptions to a national minimum wage in the South African labour market (Konopelko 2016). Given that the objective of a national minimum wage is to provide a wage floor for the working poor, the International Labour Organisation (ILO) recommends that exclusions and exemptions be limited. The absence of exclusions and exemptions also strengthens compliance by ensuring that the national minimum wage is both easy to comprehend by workers and employers, and straightforward to enforce (ILO 2014). This Policy Brief outlines the current wage-setting approach for workers enrolled in learning programmes in South Africa; provides an overview of international approaches; and discusses the implications for their incorporation within the framework of the national minimum wage in South Africa.

#### Key Questions:

- What is the current approach to minimum wage coverage for workers enrolled in learning programmes in South Africa? (p.2)
- What are the advantages and drawbacks of different international approaches to national minimum wage coverage, specifically: the exclusion of learners; the inclusion of learners in the national minimum wage; and the inclusion of learners at a lower minimum wage? (p.3)
- What are the implications, given the South African context, for the incorporation of workers enrolled in learning programmes under the national minimum wage? (p.6)

#### Summary of Findings:

- The ILO emphasises the importance of keeping exclusions and exemptions to a minimum. The ILO recommends that in order to uphold the principle of equal pay for work of equal value, differentiated wages should only be considered for learners that receive structured training during working hours. In South Africa, these are limited to formal learnerships and apprenticeships.
- There are three international approaches to national minimum wage coverage for workers enrolled in learning programmes: exclusion from the national minimum wage, full inclusion in the national minimum wage, and inclusion at a lower minimum wage. Given that learners and apprentices are currently covered by bargaining council agreements and sectoral determinations in South Africa, excluding them from a national minimum wage would undercut current protections and undermine the established principle that workers enrolled in learning programmes must be guaranteed a minimum income. While their inclusion at a lower minimum wage is in line with current practice in South Africa, it undermines the purpose of a national minimum wage; opens the programme to abuse; and undermines the principle of equal pay for work of equal value.
- Given that South Africa already offers an array of incentives to employers to establish learning programmes, such as grants administered by SETA and tax incentives by SARS, the inclusion of workers enrolled in learning programmes in the national minimum wage should be considered. These existing incentives already defray costs related to lower productivity output and training. Furthermore, international evidence shows that learnerships and apprenticeships provide a high return on investment for employers.

#### About the NMW-RI

The National Minimum Wage Research Initiative is an independent academic research initiative run by CSID in the School of Economic and Business Sciences (SEBS) at the University of the Witwatersrand. It is undertaken in the context of a national dialogue on wage inequality and the potential institution of a national minimum wage (NMW) in South Africa.

The views presented are the views of the National Minimum Wage Research Initiative.

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# THE CURRENT MINIMUM WAGE-SETTING MECHANISM FOR WORKERS ENROLLED IN LEARNING PROGRAMMES IN SOUTH AFRICA

The ILO Expert Committee on wages recommends that in order to uphold the principle of equal pay for work of equal value, differentiated wages should only be paid to learners that receive structured training during working hours. The Skills Development Act of 1998 (SDA) establishes the framework for the design, funding and implementation of learning programmes, which include learnerships, apprenticeships and structured skills-development programmes. In contrast, internships and others forms of on-the-job training are not regulated by the SDA. In fact, there is no legal framework for the regulation of internships in South Africa. Given that internships are not registered with an external body or formally assessed by an accredited institution; that interns do not receive a formal qualification upon completion of the internship; and that they generally hold the qualifications required but lack the necessary work experience, the case for excluding interns or covering interns at a lower minimum wage is very weak and will not be considered here. Therefore, this brief only addresses learnerships and apprenticeships.

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## LEARNERSHIPS

A learnership is a registered learning programme that includes both a theoretical component and practical work experience over a period of at least twelve months, and leads to a qualification recognised by the South African

Qualifications Authority (SAQA). It therefore does not include traineeships, internships or other informal forms of training. Learnership agreements are established between the learner, the employer and a skills development provider that has been accredited by the Quality Council for Trades and Occupations (QCTO). Learnerships must be registered with the relevant Sector Education and Training Authority (SETA) under the terms of the SDA.

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Employers who register formal learnership agreements with a SETA qualify for a SETA learnership grant and a tax incentive from the South African Revenue Service (SARS). Learnership grants vary depending on whether the learner is an existing employee, on whether the learner has a disability, and on the level of training required for the position. Learners registered in a SETA learnership programme are guaranteed an allowance. Sectoral Determination 5 establishes the minimum allowance on the basis of a 45-hour workweek, a nine-hour workday and a four and a third-week month. The allowance is set as a percentage of the qualified wage, or the wage that the employer would pay the learner on obtaining the qualification. As Table 1 illustrates, allowances increase progressively based on the number of credits completed under the National Qualifications Framework (NQF), which is approved by the Minister of Higher Education and Training.

**Table 1: Monthly Learnership Allowance by Credits Completed and NQF Level, 2015 (Rands)**

| Credits | NQF 1-2 | NQF 3  | NQF 4  | NQF 5-8 |
|---------|---------|--------|--------|---------|
| 0-120   | R1 139  | R1 139 | R1 139 | R1 139  |
| 121-240 | R2 278  | R2 145 | R2 278 | R2 467  |
| 241-360 |         | R3 512 | R3 512 | R3 692  |
| 361-480 |         |        | R5 126 | R5 202  |
| 481-600 |         |        |        | R6 440  |

Source: Sectoral Determination 5, the monthly rate was derived from the weekly rate multiplied by 4.3.

## APPRENTICESHIPS



The SDA defines an apprenticeship as a type of learnership in a listed trade. While learnerships were initially conceived to encompass apprenticeships, in reality apprenticeships continue to be governed under the Manpower Training Act of 1981. The Minister has the mandate

to define the listed trades, the qualifications required, the rates according to which apprentices shall be remunerated, the ordinary hours of work and the length of apprenticeship programmes. Apprentices are assessed based on the Competency Based Modular Training (CBMT) system. Upon completing the CBMT modules, which depending on the trade takes between three and five years, apprentices take a trade test administered by the Institute for the Development of Learnerships and Learnership Assessment (INDLELA). If they pass the trade test, they become nationally recognised artisans. Apprentices' wages are set through collective bargaining and therefore vary depending on the sector, region and their progression in the training programme. Most wage rates for apprentices in listed trades are set as a percentage of the minimum wage for the sector or occupation, and increase progressively.

## INTERNATIONAL APPROACHES TO MINIMUM WAGE-SETTING FOR WORKERS ENROLLED IN LEARNING PROGRAMMES

The ILO Decent Work and Youth Report 2013 identifies structured-learning programmes as one of the rights of youth, that can ease the transition from school to work by providing young or inexperienced workers with the marketable skills necessary to compete in the labour market. According to the ILO, an apprenticeship is a formal, structured training arrangement for young people, governed by a contract that clearly stipulates the conditions of employment, and results in a recognised qualification. Recommendation 117 on Vocational Training (ILO 1962) further stipulates that the training must align with established industry standards, and that these must be subject to external regulation.

*“Apprenticeships and learnerships are also advantageous for employers because they guarantee that workers have the required skills for the job (Steedman 2014).”*

For young people and people with limited work experience, quality apprenticeship training can provide an important bridge between education and a first job. Countries with a high proportion of apprenticeship programmes, such as

Germany and Turkey, tend to have lower youth unemployment rates than countries without (Steedman 2014).

For South Africa, where more than 50% of young people are unemployed, structured learning programmes are one mechanism to combat structural unemployment. Apprenticeships and learnerships are also advantageous for employers because they guarantee that workers have the required skills for the job (Steedman 2014).

While there is no one approach to minimum wage-setting for workers enrolled in learning programmes, the ILO Expert Committee on Wages argues that:

Persons covered by apprenticeship or traineeship contracts should only be paid at a differentiated rate where they receive actual training during working hours at the workplace. In general, the quantity and quality of the work performed should be the decisive factors in determining the wage paid. (ILO 2014, p. 94).

This section will examine the international approaches to minimum wage coverage for workers enrolled in structured learning programmes. It will focus on three approaches: the outright exclusion of workers in learning programmes from the national minimum wage, their inclusion in the national minimum wage, and their inclusion at a lower minimum wage.

### THE EXCLUSION OF WORKERS ENROLLED IN LEARNING PROGRAMMES

In some countries such as Chile, apprentices and trainees are entirely excluded from the national minimum wage. The rationale for this is that they are learners rather than employees, and that exclusion from the national minimum wage is a key incentive for employers to set up apprenticeship and trainee programmes. However, there are many disadvantages to this approach. First, it means that workers are not assured a wage sufficient to meet their needs and those of their families, thereby undermining the objective of the national minimum wage. While this approach assumes that learners and apprentices are not workers, they often perform similar work, and it can be difficult to differentiate between on- and off-the-job instruction, with workers often rotating between the two throughout the day. Their exclusion from the national minimum wage undermines the principle of “equal pay for equal work” enshrined in international labour standards and national legislation. Furthermore, the exclusions of learners and apprentices from national minimum wage coverage can result in the replacement of qualified worker positions with apprenticeship positions, as employers find new ways to reduce labour costs or circumvent higher statutory minimum wages.

This not only undermines qualified, experienced workers but also the future career prospects of learners and apprentices.

*“Apprentices and trainees” exclusion from the national minimum wage undermines the principle of equal pay for equal work enshrined in international labour standards and national legislation.”*

Finally, the potential of learnerships and apprenticeships to stimulate employment is constrained by other labour market factors. In South Africa, evidence from the Employment Tax Incentive Act for instance suggests that tax incentives for employers to hire young people have not created significant employment opportunities (Finn 2015).

#### **THE INCLUSION OF WORKERS IN LEARNING PROGRAMMES IN THE NATIONAL MINIMUM WAGE**

Many countries, such as Uruguay, include apprentices and learners in the same national minimum wage as qualified workers. There are numerous advantages to this approach. First, it guarantees apprentices and their dependants a minimum level of well-being. A recent study by Finn (2015) found that in South Africa a worker needs monthly wage earnings of R4 125, in addition to government grants, to bring them and their dependents above the poverty line. The inclusion of learners and apprentices at national minimum wage levels would contribute to a reduction in working poverty and inequality. Furthermore, it would remove the incentive to replace positions for qualified workers with learnerships or apprenticeships. Finally, the inclusion of learners and apprentices in the national minimum wage reduces the downward pressure on wages. Given concerns over wage inequality in South Africa, a single national minimum wage for apprentices and trainees could contribute to reducing the wage gap and reforming the wage structure.

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However, some argue that the inclusion of learners and apprentices in the national minimum wage may reduce the incentives for employers to establish learning programmes.

The argument against a single national minimum wage is that it would not compensate employers for the costs of training learners and apprentices and for their lower productivity, as a result of apprentice's or learner's limited skills and limited time. It should be noted, however, that a lower minimum wage is just one incentive option. In South Africa, tax incentives administered through SARS and government subsidies administered through SETA already compensate employers for the costs of training workers. In addition, international evidence suggests that apprenticeships and traineeships provide a high return on investment for employers (Steedman 2014).

#### **THE INCLUSION OF WORKERS IN LEARNING PROGRAMMES AT A LOWER MINIMUM WAGE**



Many countries have opted to include learners and apprentices at a minimum wage lower than the national minimum wage for other workers. In these cases wages are generally calculated as a percentage of the national minimum wage, and increased progressively as workers earn more qualifications or gain additional work experience. As Table 3 illustrates, approaches vary in terms of percentage of the national minimum wage applied, the acceptable time periods, and wage progression.

*“In countries like the Philippines where a time limit is not stipulated, the payment of a lower minimum wage is problematic because it does not account for growing worker productivity with increased qualifications and work experience.”*

Some countries, such as Bulgaria, Ecuador, and the Philippines, establish a single lower minimum wage for workers in learning programmes. In a country like Bulgaria where the payment of the lower minimum wage is limited to six months, it may be appropriate. However, in countries like the Philippines where a time limit is not stipulated, the payment of a lower minimum wage is problematic because it does not account for growing worker productivity with increased qualifications and work experience. In addition, a single lower minimum wage for workers in learning programmes has many of the same drawbacks as the exclusion approach. The ILO Expert Committee on wages emphasises the importance of clearly defining and monitoring the parameters of apprenticeships, establishing objective criteria for lower minimum wages, and respecting the principle of equal remuneration for equal value, so as to ensure that apprenticeships are not used as a way for employers to circumvent paying the minimum wage (ILO 2014).

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This is the case in Spain, Ireland, France, Portugal, and El Salvador, among others (ILO 2015). In addition, Portugal stipulates that an employer must prove that the work performed by apprentices and trainees is not the same as the work performed by workers who earn a full wage. Furthermore, apprenticeships are limited to six months rather than a year for workers who already have a relevant qualification from a technical school. In Argentina, workers who have previously had an employment relationship with the same employer cannot be hired as an apprentice. If an employer fails to respect the legal requirements under an apprenticeship contract, the contract becomes a fully-paid position.

To safeguard fully-paid positions, the legislation limits the ratio of apprentices to permanent contracts.

Some countries, such as the United Kingdom, differentiate between minimum wage levels on the basis of an apprentice's age. The justification is that younger apprentices are less productive, have fewer skills and require more on-the-job training than their adult counterparts. In addition, there is a prevailing belief that lower wages for young people will make them more competitive in the labour market. However, as Policy Brief 3 (Konopelko 2016) discusses, this is largely unsubstantiated.

**Table 2: Approaches to Sub-Minimum Wages for Apprentices and Trainees**

| Country         | Limit of Sub-minimum Wage Period                                | Percentage of the National Minimum Wage   |
|-----------------|---|---|
| Bulgaria        | 6 months  | 90%   |
| Ecuador         | n/a   | 80%   |
| El Salvador     | 3 years   | 50% in the first year;<br>75% in the second year;<br>100% from the third year             |
| Korea, Republic | 3 months  | 90%   |
| Pakistan        | 3 years   | 50% in the first year;<br>100% after three years  |
| Philippines     | n/a   | 75%   |
| Paraguay        | n/a   | 60%   |
| Portugal        | 12 months/<br>6 months if a trainee has a related qualification | 80%   |
| US              | n/a   | 95% for apprentices<br>75% for student-learners   |
| France          | 3 years   | 25% in the first year for 16-17 year olds;<br>78% in the third year for over 21 year olds |
| Ireland         | 3 years   | 75% in the first year;<br>80% in the second year;<br>90% from the third year              |
| Spain           | 2 years   | 60% in the first year;<br>75% in the second year  |
| Turkey          | n/a   | 70%   |
| Vietnam         | Probation   | 70%   |

Source: Travail database (ILO 2015)

## CONCLUSION: IMPLICATIONS FOR NATIONAL MINIMUM WAGE COVERAGE OF WORKERS ENROLLED IN LEARNING PROGRAMMES IN SOUTH AFRICA



The ILO emphasises the need for legislation that clearly defines the rights and obligations of workers enrolled in learning programmes. The section above discussed three international approaches to the national minimum wage for such

workers: exclusion from the national minimum wage, full inclusion in the national minimum wage, and inclusion at a lower minimum wage. Given that apprentices and learners are currently covered by minimum wages, either through collective bargaining agreements established by bargaining councils or sectoral determinations, published by the Minister of Labour upon recommendation of the Employment Conditions Commission (ECC), their outright exclusion from the national minimum wage would undercut current protections and established minimum wages in South Africa.

*“the objective of a national minimum wage is to provide a wage floor that guarantees a minimum level of well-being for the working poor. Excluding learners and apprentices from the national minimum wage entirely would undermine this objective”*

One possibility would be to include learners and apprentices at a lower minimum wage. This is in line with current practice in South Africa. The justification for this approach

is that it would incentivise employers to establish learning programmes by compensating them for the costs of training and offsetting losses due to lower productivity output. However, the objective of a national minimum wage is to provide a wage floor that guarantees a minimum level of wellbeing for the working poor. Excluding learners and apprentices from the national minimum wage entirely would undermine this objective. In addition, because of the difficulty in measuring gaps in productivity output, such an approach would open the programme up for abuse and undermine the principle of equal pay for work of equal value.

*“There are already other incentives for employers to establish learning programmes. These include subsidies, such as the grants administered by SETA, and tax incentives provided by SARS”*

There are already other incentives for employers to establish learning programmes. These include subsidies, such as the grants administered by SETA, and tax incentives provided by SARS. Furthermore, international evidence shows that learnerships and apprenticeships provide a high return on investment for employers, and therefore that state incentives are complimentary but not the only motivators. The role of the state is therefore to play a complementary role in providing incentives, but state incentives are not the only motivators for learning programmes. Given the programmes already in place in South Africa, a single national minimum wage for all workers should be considered. This would also simplify and improve compliance.

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