

NMW exemption process

The NMW increase was announced on 8 February 2021. Given the steep rise (16.2%) in farmworker wages, some employers might find themselves in a situation where they cannot afford the NMW. In such a case, a very particular process needs to be followed.

In cases where producers cannot afford the NMW, an exemption process was launched with the NMW in 2019. This can be accessed at <https://nmw.labour.gov.za/>. It is very important to note that if an employer is trading at a loss, the exemption will automatically be granted.

If an employer is not trading at a loss, the calculation on whether or not exemption is granted will be to determine the employer's EBDA (earnings before depreciation and dividends allowance). Secondly, the employer's ROA (return on assets) will be calculated by dividing the EBDA by the total assets of the past two years. Thirdly, if that ROA is found to be less than 6%, then the increase or decrease of assets in the past two years will be calculated in terms of a percentage. If that is found to be negative, exemption will be granted. If that is found to be positive, but less than 50%, exemption will be granted.

Lastly, it is very important to know that consulting with employees on the exemption application is a statutory requirement. Workers need to know that an exemption process will be undertaken, why it will be undertaken and what the outcome of an exemption process was.

The exemption process is the only recourse that employers have, should they be unable to afford the NMW increase. An exemption is valid for 12 months.