



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

TERMS OF REFERENCE TO TAKE FORWARD THE NEDLAC EKURHULENI DECLARATION

1. BACKGROUND

- 1.1. President Zuma, in his State of the Nation Address (SoNA) of 17 June 2014, announced that Deputy President Cyril Ramaphosa would convene a social partner dialogue, within the ambit of Nedlac, on wage inequality and labour relations. This process of dialogue would specifically investigate the possibility of a national minimum wage as one of the key mechanisms to reduce income inequality and deliberate on the state of the labour relations environment, and in particular address low wages, wage inequalities and violent as well as protracted strikes.
- 1.2. At the Nedlac Summit convened on 05 September 2014, the Deputy President announced that a Labour Relations Indaba would be convened on 04 November 2014 in order to commence with the process of engagement to principally address the untenable labour relations environment that gives rise to wage inequality and prolonged violent strikes; deliberate on measures to combat wage inequality, and examine the role of a national minimum wage in dealing with poverty and inequality, including the modalities of implementing a national minimum wage; consider measures to address the causes of violent and protracted strikes; and measures to promote inclusive negotiations and bargaining processes in an economy that is growing, creating jobs and generating the resources needed to meet the material needs of our people.

1.3. Arising from the Labour Relations Indaba:-

1.3.1. The Ekurhuleni Declaration was adopted. This Declaration comprises the principles that would guide an engagement process, under the auspices of Nedlac and the stewardship of the Deputy President, on two focal areas, namely:

- Promoting employment, labour market stability, including the right to strike, protracted strikes; violence, collective bargaining and the role of the State; employment, vulnerability and social protection;
- Towards addressing wage inequality – engaging on a national minimum wage.

1.3.2. A Committee of Principals was established, under the leadership of the Deputy President to guide the engagement process;

1.3.3. It was agreed that Technical Task Teams would be established to engage on the issues raised at the Labour Relations Indaba, as set-out in the Ekurhuleni Declaration. The Technical Task Teams would report to the Committee of Principals.

1.4. These terms of reference set out the objectives, structure of work, scope of work and process that will be followed.

2. STRUCTURE OF WORK

The structure of work is intended to provide an outline of how the process will proceed and, in particular, deal with the relationship between the Committee of Principals and the Technical Task Teams. The structure of work is furthermore intended to identify the way in which the objectives of the Labour Relations Indaba can be achieved.

2.1. COMMITTEE OF PRINCIPALS

It will be the role of the Committee of Principals to ensure that the Declaration of the Labour Relations Indaba is advanced with report-back on progress in reaching agreement on key issues being made by July 2015. To ensure that progress is made, the Committee of Principals will fulfil the following role:-

- 2.1.1. Ensure appropriate guidance to the process at all times and to ensure that the work of Technical Task Teams receive appropriate guidance when required in order to resolve complex issues and make progress in achieving common ground;
- 2.1.2. Engage with the intention of reaching a set of practical agreements on wage inequality, including the modalities to introduce a national minimum wage and the promotion of employment and labour market stability;
- 2.1.3. Provide mandates, as appropriate and as required by the Technical Task Teams so that the work of the Technical Task Teams can progress in a structured and systematic way;
- 2.1.4. Play a role in breaking deadlocks that may arise in the work of the Technical Task Teams;
- 2.1.5. Meet as required to receive reports on the progress of the work of the Technical Task Teams and to fulfil its role in the Labour Relations Indaba process;
- 2.1.6. Submit its final report to the appropriate Nedlac forum/fora as decided by the Committee of Principals.

2.2. TECHNICAL TASK TEAMS

- 2.2.1. The work will be divided between the two Technical Task Teams to address the two focal areas as set out in these terms of reference;

- 2.2.2. Each Technical Task Team will consist of six representatives from each constituency sufficiently capacitated and with a commitment to meet with the necessary regularity, and to report-back on progress in reaching agreement within agreed time-frames as stipulated in these terms of reference;
- 2.2.3. Each constituency will ensure the necessary coordination between their representatives on the two Technical Task Teams;
- 2.2.4. The two Technical Task Teams will meet on a rotational basis and ensure a consolidated report is regularly tabled to the Committee of Principals
- 2.2.5. An agreed schedule of dates will be developed in advance to ensure progress is made and that the objectives of the Declaration are achieved;
- 2.2.6. Where there are concerns that the work of the Technical Task Teams may be hampered for whatever reason, this should be brought to the attention of the Committee of Principals.

3. OBJECTIVES AND APPROACH

The objectives and approach of the structures are to:-

- 3.1. Reach agreements aimed at improving the state of the labour relations environment, and in particular:
 - i) address low wages and wage inequalities to contribute to a more equitable wage structure; and,
 - ii) address excessive conflict and protracted and violent strikes in our labour relations, and promote the better functioning of our labour market institutions, including collective bargaining;thereby contributing to a more equitable and stable labour relations environment
- 3.2. Reach an agreed outcome on all areas of work through constructive social dialogue that promotes the spirit of dialogue and optimising mutual interests, in a way which avoids entrenching unacceptable features of the current system:

- 3.3. Achieve an outcome that is beneficial to the country as a whole, and workable for all parties;
- 3.4. Use creative problem solving mechanisms when challenges arise;
- 3.5. Give consideration to conducting socio-economic impact assessments to understand the impact and maximise the positive effects of the proposed interventions;
- 3.6. Commit to abide by and implement the agreements reached.

4. SCOPE OF WORK

4.1. The scope of work of the Technical Task Teams is derived from the Ekurhuleni Declaration of the Labour Relations Indaba of 4 November 2014. The following two Technical Task Teams will be established:

- Labour Relations Technical Task Team
- Wage Inequality Technical Task Team.

4.2. The Technical Task Team on labour relations will engage on the following issues:

4.2.1. Promoting employment, labour market stability, including the right to strike, protracted strikes; violence, collective bargaining and the role of the State; employment and vulnerability. In engaging on these matters it will consider:

4.2.1.1. Measures to achieve inclusive, fair and just economic growth which contributes to greater equality and promotes more decent and productive jobs

4.2.1.2. Measures to proactively and constructively resolve a dispute prior to strike action and to explore all genuine options to resolve a dispute as speedily as possible, while recognising that the Constitutional right to strike is a legitimate exercise of power to pursue demands;

4.2.1.3. Measures to ensure that strike action is peaceful, free of intimidation and violence, including violence that may be associated with police action, and provocation while not undermining the ability of workers to embark on procedural strike action;

4.2.1.4. Measures to strengthen and promote collective bargaining throughout South Africa;

4.2.1.5. Options to address prolonged and violent strikes in a manner which upholds the Constitutional rights of all parties.

4.3. The Technical Task Team on Wage Inequality will focus on addressing wage inequality and engaging on a national minimum wage. Section 2.2 of the Declaration of the Labour Relations Indaba spells out some of the elements relating to the challenge of wage inequality in South Africa. In this context, the Technical Task Team will engage on the following issues:

4.3.1. The modalities of introducing a national minimum wage in South Africa, including consideration of:

- i). Relevant international experience in the introduction of a national minimum wage.
- ii). Maximising the beneficial impact of a national minimum wage in the context of poverty, inequality and unemployment and to understand the impact it may have in order to manage potential risks.
- iii). The existing legal and institutional arrangement for minimum wage setting (BCEA, bargaining councils, other bargaining fora); what new legislative, and other institutional arrangements would be required to introduce a national minimum wage; and what impact the introduction of a national minimum wage will have on existing sectoral determinations and collective wage agreements.

- iv). The architecture of a national minimum wage including possible exclusions, while recognising the need for a national minimum wage to be as comprehensive as possible.
 - v). Ensuring that the impact of introducing a national minimum wage is not undermined, or delayed unnecessarily and to consider whether any phase-in processes would be appropriate.
 - vi). The body that will be responsible for determining a national minimum wage.
 - vii). The mechanism for setting and determining increases to the national minimum wage.
 - viii). Enforcement of the national minimum wage and measures to ensure compliance and monitor the impact.
 - ix). Innovative measures to promote employer cooperation in the implementation of a national minimum wage.
- 4.3.2. Measures to reduce pay differentials, including between the highest and lowest paid, while maximising job creation efforts.
 - 4.3.3. Measures to achieve the elimination of poverty and inequality.
 - 4.3.4. Input into the Nedlac process to ensure the urgent finalisation of a policy on a comprehensive social security system.

5. LOGISTICS

- 5.1. The secretariat will provide the following support to the Technical Task Teams:
 - 5.1.1. Senior facilitation support to chair meetings and drive the process.
 - 5.1.2. Collation of a bibliography, and electronic database, of relevant research.

5.1.3. Facilitating research, legal advice and other technical support requirements as identified by the Technical Task Teams.

5.2. Meetings will take place at Nedlac House.

5.3. The Technical Task Teams may recommend interventions to the Committee of Principles such as seminars, public talks and international exchange programme/s that may be necessary to support the work of the Technical Task Teams.

6. PROCESS AND TIMEFRAME FOR ENGAGEMENT

6.1. The work of the Technical Task Teams should be guided by a work plan which should, inter alia, deal with the sequencing of the areas for discussion and a meeting schedule.

6.2. Detailed interim reports will be provided by the Technical Task Teams to the Committee of Principals for consideration at its meetings scheduled as follows:-

- 21 February 2015
- Further dates of its meetings to be confirmed by the Committee of Principles.

6.3. The Technical Task Teams will provide a comprehensive draft report to the Committee of Principals in July 2015. The draft report will identify areas of agreement and disagreement, as the case may be.

6.4. To this end, meetings of the two Technical Task Teams have been provisionally scheduled to take place as follows:-

March 2015	April 2015	May 2015	June 2015	July 2015
3 – Wage Inequality 17- Labour Relations 24 – Wage Inequality	14 –Labour Relations 15 – Wage Inequality 30 – Labour Relations	13 – Wage Inequality 14 –Labour Relations 21 - Wage Inequality	18 – Labour Relations 29 – Wage Inequality 30 – Labour Relations	21 – Wage Inequality 22 – Labour Relations 28 – Wage Inequality

6.5. Should the Technical Task Teams experience any unforeseen difficulty in performing their functions to the extent that this may have an impact on their ability to conclude their work, such difficulties may be escalated to the Committee of Principals.

6.6. The final report of the Committee of Principals will be presented to the Nedlac forum/fora as decided by the Committee of Principals.

7. COMMUNICATION

7.1. In order to keep the public informed of progress that is made and to facilitate a deeper understanding of the issues, a structured, coherent media reporting and communication plan will be managed under the auspices of the Committee of Principals.

7.2. The Committee of Principals may agree to allocate Constituency representatives, appointed by their constituencies, to participate in joint Nedlac communication activities.

7.3. The Technical Task Teams will each allocate a Constituency representative who will be responsible for signing off of any official Nedlac communication on the process. Such communication may then be distributed to the media and posted on the Nedlac website.

- 7.4. Constituencies are free to provide a Constituency comment on the process in the public sphere provided that they do not purport to speak on behalf of other Constituencies or Nedlac and that the comment does not undermine the process and genuine attempts to reach agreement.