



National Economic
Development and
Labour Council

**Presentation to the
Nedlac National Minimum Wage
Workshop**

20 June 2015

Contents

- **Background**
- Nedlac Engagement Process
- Wage structure in South Africa



Background

- President Zuma, in his State of the Nation Address of 17 June 2014, announced that:
 - Deputy President Cyril Ramaphosa would convene a social partner dialogue, under the ambit of Nedlac, on wage inequality and labour relations
 - The Nedlac engagement would specifically focus on:
 - the possibility of introducing a national minimum wage in order to reduce income inequality
 - the state of the labour relations environment
- At the Nedlac Summit of 5 September 2014, the Deputy President announced the convening of a Labour Relations Indaba to initiate the Nedlac engagement process



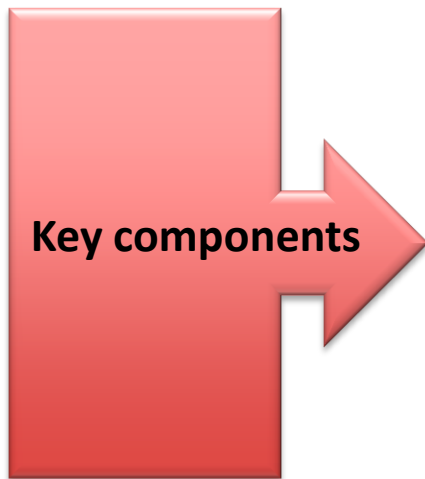
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Nedlac Engagement Process - Overview

Following the Summit, the Nedlac engagement process has comprised the following key components:



Convening of the Nedlac Labour Relations Indaba

Signing of the Nedlac Ekurhuleni Declaration

Establishment of the Committee of Principals

Convening of the technical task teams

Engagement by the technical task teams



Convening of the Nedlac Labour Relations Indaba

- The Indaba was convened on 4 November 2014
- It focused on two main themes:
 - Promoting employment and labour market stability
 - Addressing wage inequality
- The key outcomes of the Indaba were:
 - The signing of the Nedlac Ekurhuleni Declaration
 - Establishment of the Committee of Principals



Signing of the Nedlac Ekurhuleni Declaration

- The Nedlac Ekurhuleni Declaration was signed by the leadership of all four social partners
- Through the Declaration, social partners resolved to engage through Nedlac on the following issues towards addressing wage inequality:
 - engage on the modalities of introducing a national minimum wage in South Africa
 - explore ways of reducing pay differentials while maximising job creation efforts
 - explore ways to achieve the elimination of poverty and inequality



Convening of the Committee of Principals

- Through the Nedlac Ekurhuleni Declaration, social partners also agreed to the establishment of a Committee of Principals
- This Committee is chaired by the Deputy President, and comprises leaders of each of the social partners
- The Committee guides the Nedlac engagement process on wage inequality and labour relations
- The terms of reference of the technical task teams was approved by the Committee of Principals, at its meeting on 21 February 2015



Convening of the technical task teams

- Two technical task teams have been established to directly undertake engagements:
 - Wage Inequality Technical Task Team
 - Labour Relations Technical Task Team
- The task teams comprise representatives of each of the social partners
- The work of each of the task teams is guided by a detailed terms of reference
- The terms of reference of the Wage Inequality Technical Task Team requires it to engage on the following:



Technical Task Team Terms of Reference

- The modalities of introducing a national minimum wage in South Africa, including consideration of:
 - Relevant international experience in the introduction of a national minimum wage
 - 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
 - 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



Technical Task Team Terms of Reference

- 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
- 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
- The body that will be responsible for determining a national minimum wage
- The mechanism for setting and determining increases to the national minimum wage
- Enforcement of the national minimum wage and measures to ensure compliance and monitor the impact
- Innovative measures to promote employer cooperation in the implementation of a national minimum wage



Technical Task Team Terms of Reference

- Measures to reduce pay differentials, including between the highest and lowest paid, while maximising job creation efforts
- Measures to achieve the elimination of poverty and inequality
- Support the urgent finalisation of a policy on a comprehensive social security system



Engagement by the Wage Inequality Technical Task Team

- Nedlac has appointed Ronald Bernikow, a senior commissioner at the CCMA, to facilitate the engagements of both task teams
- The Wage Inequality Technical Task Team has thus far met on 4 occasions, and has also convened a workshop with the ILO
- This workshop focused on creating a common understanding on the national minimum wage, and experiences in this regard



Engagement by the Wage Inequality Technical Task Team

- The task team is currently focusing on:
 - Finalising the definition of the national minimum wage
 - Based on evidence, developing the social and economic determinants of the national minimum wage in line with combatting inequality; and promoting economic growth, poverty alleviation and employment objectives
 - Considering whether the national minimum wage, in its application, will provide for sector-specific or other exclusions, phase-ins, phase-outs or exemptions, and in which areas, depending on the level
 - Considering the appropriate legal and institutional arrangements, and the body and/or mechanism that would be responsible for determining and reviewing the national minimum wage, including the regularity of reviews, and the capacity and structure of the Employment Conditions Commission (ECC) to determine the national minimum wage
 - Determining how to optimise compliance and enforcement efforts



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Legislative framework

- The legislative framework for minimum wage regulation in South Africa is set by the Labour Relations Act (no 66 of 1995) and the Basic Conditions of Employment Act (no 75 of 1997)
- In addition to individual contracts, these Acts establish the basis for the country's dual wage-setting systems, namely;
 - collective bargaining through bargaining councils and collective agreement
 - sectoral determinations that are published by the Minister of Labour, that set minimum wages for a sector, and in some cases occupations, geographical areas and size of enterprise



Collective Bargaining Coverage

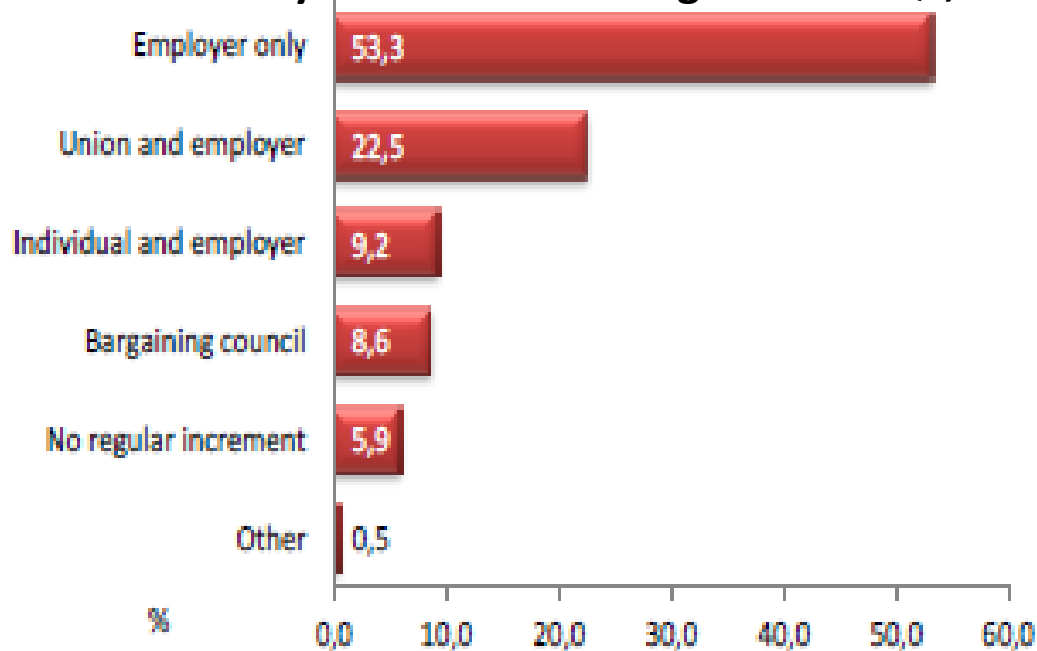
- Highest coverage of collective bargaining is in the public sector where six bargaining councils cover the entire public sector
- There are approximately thirty eight bargaining councils in the private sector
- In addition, there are a number of sectoral bargaining arrangements in the private sector where wages are regulated through collective bargaining between trade unions and employer organisations, eg:
 - the National Bargaining Forum for automobile manufacturing companies
 - the Chamber of Mines which facilitates wage negotiations between member mines
 - the bargaining forum for private security



Collective Bargaining Coverage

- Plant level bargaining also takes place in a large number of unionised companies throughout the economy
- The total number of collective bargaining agreements that are in place would require accurate quantification

How salary increment was negotiated – Q4, 2014



Source: QLFS, Q4, 2014



Sectoral Determination Coverage

- The BCEA makes provision for the promulgation of sectoral determinations for vulnerable workers
- These sectoral determinations aim to bridge the gap in coverage for workers in sectors :
 - where they are likely to be vulnerable and susceptible to exploitation; or,
 - where worker organisations and trade unions are absent, and workers are not covered by the BCEA or other wage regulating mechanisms



Sectoral Determination Coverage

- These sectoral determinations :
 - establish conditions of employment, including but not limited to setting minimum wages
 - provide for non-wage benefits
 - limit the hours an individual can work in a given week in a specific sector
- 11 sectoral determinations



Minimum wages as at 01 May 2015

- 8 of these stipulate minimum wages

Sector	Min ph	Min pd (9 hour day)	Min pm	Increase date
1. Domestic metro (above 27 hours pw)	10.95	98.55	2065.47	1 Dec 2015
Domestic non metro (above 27 hours pw)	9.30	83.70	1812.57	
2. Security Officer Grades D& E Area 1	15.25	-	3172.00	1 Sept 2015
Security Officer Grades D& E Area 2	13.95	-	2901.00	
Security Officer Grades D& E Area 3	12.68	-	2637.00	
3. Forestry	13.37	120.32	2606.78	1 March 2016
4. Farm	13.37	120.32	2606.78	1 March 2016
5. Contract Cleaning Area A metros ex KZN	16.98	152.82	3308.55	1 Jan 2016
Contract Cleaning Area B all other ex KZN	15.47	139.23	3014.33	
6. Hospitality 10 or < workers	13.34	120.06	2601.88	1 July 2015
Hospitality > 10 workers	14.87	133.83	2900.08	
7. Taxi drivers and admin workers	13.68	123.12	2847.01	1 July 2015
Taxi rank marshals	10.94	98.46	2275.81	
8. Wholesale & Retail shop ass. Area A	16.67	750.05	3249.98	1 Feb 2016
Wholesale & Retail shop ass. Area B	14.09	634.32	2748.51	
Wholesale & Retail sales person Area A	21.04	946.70	4102.04	
Wholesale & Retail sales person Area B	17.92	806.15	3493.08	
9. EPWP (Ministerial Determination)	9.34	75.10	1625.00	1 Nov 2015

Source: Jane Barrett, Cosatu, 2015

Sectoral Minimum Wage Formulation

- The Employment Conditions Commission (ECC) is the independent statutory body, established in terms of the BCEA to advise the Minister of Labour on the process of sectoral minimum wage formulation
- The Development Policy Research Unit (DPRU) at the University of Cape Town estimates that the ECC is responsible for wage and conditions of employment setting for:
 - approximately 20.8% of the total employed labour force;
 - and 40% of low paid workers in the country



Structure and functioning of the ECC

- The Minister of Labour, in consultation with Nedlac, appoints the ECC Commissioners
- Commission consists of :
 - 5 members
 - 2 members - nominated by Organised Business and Organised Labour respectively
 - 3 members (usually academics) who are knowledgeable about the labour market and conditions of employment, including the conditions of employment of vulnerable and unorganised workers
- These members are required to act impartially
- They are appointed for a period of 3 years

Structure and functioning of the ECC

- The Minister determines the terms of office of Commissioners
- Commissioners are all part-time, with other full-time jobs
- The Commission meets once a month in person, and there is frequent contact via e-mail and teleconferences
- A full-time Secretariat, comprising 6 staff members, is based at the Department of Labour
- The Secretariat is responsible for:
 - the management of outsourced research
 - doing desktop research, including gathering statistics
 - drafting ECC reports
 - organising and attending public hearings
 - liaising with external stakeholders



Process of establishing a SD

STAGE 1 (Feasibility)

1. The Minister of Labour, based on a request from an interest group/DoL/ECC asks the ECC to consider the feasibility and merits of promulgating a SD
3. ECC may request the DoL to commission an outside party to conduct research
4. ECC requests written submission from the public on issues surrounding the potential SD
5. ECC and DoL jointly hold public hearings throughout the country
6. With the assistance of the ECC Secretariat, ECC compiles and analyses all research and input provided to assess feasibility of the potential new SD

If ECC deems SD feasible, proceeds to Stage 2

STAGE 2 (Promulgation)

7. ECC and DoL begin to construct a report with wage and non-wage recommendations for the new SD
8. ECC requests written submission from the public on issues surrounding the potential SD
9. ECC and DoL jointly hold public hearings throughout the country
10. Various rounds of edits and adjustments are made back and forth between the ECC and DoL until a final report is agreed upon by both parties
11. Report is sent to the Minister of Labour – if approved the SD is promulgated

Source: DPRU, 2015

Process of establishing a SD

When advising the Minister on the publication of a new sectoral determination, the BCEA requires the Commission to give consideration to:

Employer-focused concerns:

- the ability of employers to carry on their business successfully
- the operation of SMMEs, and new enterprises
- the likely impact of any proposed condition of employment on employment levels

Employee-focused concerns:

- the cost of living
- alleviation of poverty
- conditions of employment
- wage differentials and inequality
- the possible impact of the proposed conditions of employment on employees' health, safety and welfare



Compliance and Enforcement



Source: DPRU, 2015

- SA has the highest number of minimum wage schedules compared to other African countries
- Could have implications for compliance and enforcement



Compliance and Enforcement

- Minimum wage regulations in SA are currently enforced by labour inspectors
- The labour inspectors conduct workplace inspections and serve employers with penalties for violations based on a well-developed procedure
- These inspections are governed by the Inspection and Enforcement Services (IES) arm of the DoL
- Inspectors are based at 126 labour centres around the country
- There are currently 1, 318 inspectors
- The IES units try to ensure compliance through a combination of individual employer visits, advertising, advocacy sessions with workers and training programmes



Thank you

