**DEPARTMENT OF LABOUR**

**REPORT ON PUBLIC COMMENT ON THE NATIONAL MINIMUM WAGE BILL**

**Preamble**

|  |  |  |
| --- | --- | --- |
| **Organisation** | **Comment** | **Response** |
| AGRISA | It is agreed that measures are needed to eradicate poverty and inequality but AGRISA believes that effective redress will only occur in an environment of economic growth. | The Department notes the comment and agrees that effective redress will require an environment of economic growth. |

**Chapter 1 Interpretation, Purpose and Application**

1. **Definitions**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| AGRISA | Definition of ‘worker’ | Given different definitions between the BCEA, LRA and NMW, it is unclear which definition will be used. LRA and BCEA define workplace as the place where the employee of the employer works. | Worker will be defined as follows:  “Worker” means any person who works for another and who receives, or is entitled to receive, any payment for that work whether in money or in kind. |
| Forestry SA | Definition of employer | Forestry SA recommends that the definition of employer take account of situations where workers perform work for people other than the direct employer, for example, labour brokers. The amended definition proposed is: “…any person who is obliged to pay a worker for the work that that worker performs for that, or any other, person.” | This would introduce uncertainty as to who has responsibility to pay a worker. The obligation rests with the person for whom the work is performed. |
| Labour & Enterprise Policy Research Group, NMW-RI. | Section 1: Definitions | The use of the definition of employee as defined in the BCEA will narrow the scope of application of the NMW and will compromise its ability to achieve its objective. The NEDLAC agreement was based on a broader definition which will include independent contractors.  The BCEA also retains section 62A which is not aligned to the changed definition in the NMW Bill. | Definition of worker will be amended  Section 62A aligns the definition in the BCEA to that of the NMW. Once the latter is corrected, they will be consistent. |

1. **Purpose of Act**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| AGRISA |  | It is noted that the Bill seeks to advance economic development and social justice. In the context of current economic conditions and the drought in some provinces, AGRISA is of the view that the implementation of the NMW in the agricultural sector at this stage is problematic and may lead to unnecessary dismissals. | It is expected that employers who are law abiding will apply for exemptions where conditions make it necessary for them to do so. Resorting to dismissals should not be necessary as there is a remedy in the exemption process.  The exemption process will be made simple and transparent. |
| Forestry SA | Clause 2(d) | Repeat of “supporting economic policy” in 2(d) and (e). | Supporting economic policy will be deleted in 2(d) to avoid repetition. |
| Institute for Economic Justice | Objectives of introducing a NMW  Do the Bills achieve these objectives? | The NMW intended to be part of a new national wage policy that should aim to reconfigure the wage structure and overcome the apartheid cheap labour legacy. It should be seen as part of a broader socio-economic transformation agenda.  The NMW should be part of a broader package of measures.  The NMW level:  The Portfolio Committee should ensure that aspects which related to the value of the NMW should be strengthened in the Bills.  NMW & CB:  Section 4(7) should be amended to prescribe that Sector Determinations, BC agreements or private contracts which are more favourable than the NMW be decreased after or in anticipation of the NMW.  Hourly denomination:  The NMW Commission should review the hourly provision and its possible abuse after the first year and consider the introduction of a weekly and/or monthly NMW.  A table should be included setting out the weekly and monthly equivalents of the NMW.  Working hours:  The Commission should investigate a transitional provision to investigate the minimum payment for working hours. | Noted. It is expected that, over time, the national minimum wage will contribute to reconfiguring the wage structure. It currently, does constitute an important part of the Departments policy approach to protecting low paid workers and regulating the labour market accordingly.  The Department together with other departments in government is working on broader measures that include, inter alia, a comprehensive social security reform process, the National Health Initiative and a Job Summit to deal with job creation.  Section 7 (b)(i) of the NMW Bill requires that the Commission consider the need to retain the value of the minimum wage in light of inflation and the cost of living.  Section 4(4 and 5) ensure that the NMW is the basic floor and section 4(7) would apply to any employer and is therefore broad enough in its application to cover the concern raised.  Noted, although an hourly minimum remains the most appropriate denomination of the NMW for the circumstances that apply in the SA labour market, in particular, the significant number of casual, seasonal, contract work and workers in other forms of employment and remuneration.  This can be included in the Memorandum of Objects or as a guideline or protocol.  The February 2017 agreement between the NEDLAC social partners does include a process around the minimum guaranteed hours of work and this was dealt with by the Committee of Principals in their meeting of 21 September 2017. |

1. **Application of the Act**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| SA Tuna Association, SA Longline Hake Association, SEASI, SAFIEO. | 3 | Given definition of employee as per the BCEA, assume that NMW Bill does not apply to seafarers.  Given the unique nature of the squid fisherman’s employment, the imposition of a minimum wage would be impractical and impossible to apply. | The intention is to amend the definition of employee and that the NMW Bill should apply to seafarers. While the Merchant Shipping Act regulates conditions of employment, it does not regulate minimum wages.  The ILO Convention on Work in Fishing (Convention 188) requires that fishers be given regular periods of rest and furthermore specifies the minimum rest period in a 24 hour and seven day period.  As signatories to Convention 188, the South African government has carried this principle through into the Merchant Shipping Act (no 57 of 1951 as amended). The Merchant Shipping Act also makes provision for Agreements with Crew that must, inter alia, contain details about the time that each seafarer is to be on board the vessel or to begin work.  The collective agreements concluded for the Squid and Fishing sectors through the Statutory and Bargaining Councils also make provision for hours of rest while at sea.  Any impediments to implementing the NMW for seafarers do not lie in the legal framework and would therefore be of an operational nature to which appropriate solutions can be found.  An amendment should be made to section 3(3) of the BCEA to include the National Minimum Wage Act after the reference to sectoral determination, including the application of chapters 3, 4, 5 and 6. |
| SA Tuna Long Line Association |  | The absence of any reference to a transitional period for Seafarers, as afforded to farming and forestry sectors, compounds the Bill’s intention in respect to its application to those defined as seafarers. Should the intention be for the NMW to apply to seafarers, substantial consultation and amendment to the Bill is required. | There has been opportunity for public consultation, first by the Department of Labour and now by Parliament. The relevant statutory and bargaining councils have also been informed of the pending legislative change during early 2017. |

**Chapter 2 National Minimum Wage**

1. **National Minimum Wage**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| AVBOB | Section 4(2) | Unclear how employers are to deal with commission earners who are remunerated solely on commission and not on regular hours worked.  Clarity is sought on whether independent contractors will also be affected by the minimum wage. Will they be considered a worker under the definition of the Bill. | The NMW requires payment of a minimum wage for hours worked. Employers of commission earners will have to comply with this requirement and adjust commission payment as necessary.  Yes, the intention is to amend the definition to revert to the worker defined as; “any person who works for another and who receives or is entitled to receive, any payment for that work whether in money or in kind.” |
| Labour & Enterprise Policy Research Group | Section 4.6  Section 4(7) and section 5 | By making unilateral altering of wages, hours of work or other conditions of employment , an unfair labour practice, it removes the right to strike over these issues.  These sections will create confusion and it should be made clear through an explicit link to sections 4 and 4A of the BCEA what deductions are permitted and which are not permitted. | Correct, but the protection afforded through the unfair labour practice provision is brought in to protect the primarily vulnerable and unorganised workers.  An amendment will be made to add section 34 of the BCEA to S4(7) of the NMW. |
| Cape Chamber of Commerce & Industry | Section 4 (6) | Making it an unfair labour practice for any employer to unilaterally alter wages, hours of work or other conditions of employment could have a stagnating effect on business. | Allowing for the unilateral altering of wages, hours of work and other conditions could have a very negative impact on workers. |

1. **Calculation of Wage**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| AGRISA | Clause 5 | Content of this clause may be open for different interpretations and or ambiguous. The Sectoral Determinations must be taken into consideration when considering the NMW Bill and there are different provisions in the SD’s on this issue.  AGRISA want to emphasise that allowable deductions as per sectoral determinations must remain in place. | Sectoral Determination’s remain in place. Clause 8 of the Farm Worker Sectoral Determination makes provision for deductions and remains valid.  Section 20 of the BCEA Bill makes provision for transitional provisions and provides for the continuation of sector determinations by clarifying that section 56 of the BCEA which deals with the period of operation of sector determinations, remains in force. |
| Forestry SA | Clause 5 (1) | Clause 5(1) should be amended or a new clause added to allow for deductions in line with Sectoral Determination for Forestry. | The Sectoral Determinations still apply in terms of the transitional provisions to the BCEA Bill. The deductions referred to can continue in line with the provisions of the sectoral determination. |
| SA Tuna Long Line Association |  | There are no defined hours of work but rather periods of rest for seafarers as set out in regulations to the Merchant Shipping Act, working hours on board fishing vessels cannot be measured. The application of a minimum wage should therefore be thoroughly debated and further consultation is strongly suggested. | The regulation of periods of rest in the Merchant Shipping Act and collective agreements suggests that hours are regulated. Furthermore, the Merchant Shipping Act requires an Agreement with crew that includes monitoring time of seafarers on board vessels.  Section 9 of the BCEA can be used as a guideline for the purposes of calculating a daily rate of pay applicable to seafarers. |
| COSATU, FEDUSA, NACTU Joint Submission |  | The provision for deductions that exists in Sectoral Determinations should be allowed to continue by inserting a further amendment to section 5(1)(b) to read:  “with the exception of the deductions allowed in terms of the domestic, farm worker and forestry sectoral determinations.” | Deductions provided for in Sectoral Determinations do continue in terms of the Transitional Provision in the BCEA Bill (section 20). |
| Labour & Enterprise Policy Research Group | Section 5(1)(b)  Section 5(2) | Payments in kind are a common feature in agriculture and domestic work and are carefully regulated in the Farm Worker and Domestic Work sectoral determinations. Section 5(1)(b) prohibits payments in kind with the implication that employers will now charge a rent for accommodation or an amount for food. It is recommended that the existing regulation in the Farm and Domestic sectoral determinations be allowed to continue.  It is submitted that section 5(2) conflicts with section 9A of the BCEA Bill as it can be read as conflicting with section 9A and defeating its intention of ensuring a minimum daily payment. Section 5(3) should also be amended accordingly. | This is dealt with in transitional arrangements (s20) of the BCEA.  Amend section 5(2) to include :  “..subject to section 9A of the BCEA.”  Section 5(3) to be amended to make reference to section 5(2). |
| Cape Chamber of Commerce & Industry | Calculation of wages (section 5) | Excluding allowances for transport, accommodation, bonuses or other payments from any calculation of wages will have a negative and counter-productive effect. | The NEDLAC agreement was to exclude allowances so as to ensure that the NMW is not eroded in its value more than necessary. |

1. **Annual Review**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| Provincial Minister of Economic Opportunities, WC Govt | Section 6 (6) | The process in the Bill whereby the amended schedules are tabled in the National Assembly by-passes the legislative parliamentary process in the process that is proposed.  What is the purpose of the 7 days in paragraph 6(6)(b)?  What happens if the National Assembly passes a resolution that does not endorse the amended schedules? | The process in the Bill does not by-pass parliament but envisages an expedited process to arrive at the adjustment of the NMW. An amendment will be made to section 6(6)(a) to require the Minister to table the NMW Commission’s recommendations as well as the schedules in the National Assembly.  The seven days are intended to provide time for the schedules to be gazetted in line with the timelines required by the Government Printers.  The National Assembly is the highest authority in the country and the resolution would have to be given effect to. The legislation does not need to state this. |
| SAIPA |  | In light of the recent credit rating downgrade, the adjustment to the national minimum wage should be bi-annual or be aligned with the credit rating review process. | The NMW Commission will have to consider all factors that affect the economy and employment. Credit rating reviews can be taken into consideration but are not a primary factor for consideration by the NMW Commission. |
| FishSA |  | Incorporated into the review should be economic conditions within the sector, consultation with recognised industry associations, employer associations and chambers of commerce. | The review is aimed at adjusting a national minimum wage. Conditions in particular sectors will form part of the review process although public engagement will not be sector based. |
| SACBC Parliamentary Liaison Office |  | The Annual Review should make provision for the review report as a whole to be tabled in Parliament so that it can be publicly interrogated. Clause 6 should be amended to provide for the report to be tabled in the National Assembly for the Assembly to deal with as it deems fit. | An amendment to section 5 of the NMW Bill can be made to ensure that the Minister publishes the report and recommendations of the NMW Commission after its approval by Cabinet. |
| NMW-RI | NMW Commission and Annual Reviews (section 6)  Section 6 & 11(d)  Section 6(4) | The NMW-RI recommend that there should be a minimum increase of CPI as faced by the lowest quintile of wage earners (or lowest two quintiles).  An additional clause between 7(a) and 7(b) is recommended and that a new 7(b) should use the word ‘ensure’ (i) that the real value of the national minimum wage is not reduced through a minimum mandatory inflation-based increase (inflation as faced by the lowest two quintiles).  A new 7(c) be included to be worded;  Further consider –   1. Inflation as faced by the lowest two quintiles, the cost of living and the need to retain the real value of the national minimum wage.   “Value” should be replaced with “real value” throughout.  The Bill is unclear about the purpose of the medium-term target.  It is recommended that:  i. The Bill make clear that the medium-term target is intended to provide a goal to progressively increase the value of the NMW;  ii. Clause 11(d) should be clearer with regard to the mandate of the NMW Commission.  Section 6(4) refers to the Minister’s ability to refer the Commission’s report back for clarification and/or alteration. The NMW-RI state that it is not clear what ‘alter’ refers to and whether this could mean that the Minister has the power to instruct the Commission to make an alteration. The powers of the Minister in this respect are not clear and appear too broad.  The NMW-RI recommend that the annual review should be made public in the interests of transparency. | The NMW Commission must consider increases in light of a number of factors and debate the issues before the Commission.  The NMW Commission must consider all the factors outlined in section 7(b) of the NMW Bill and then apply their minds. It is not appropriate for the law to be prescriptive on this matter.  A medium term target for the NMW is just that, namely a target level to be reached by the minimum wage over a specified period of time. Legislation does not need to be prescriptive. If necessary, the Memorandum of Objects to the Bill could elaborate on this point.  Section 6(4) to be amended to read:  “to clarify or reconsider the recommendation.”  Section 6(2) of the NMW Bill to be amended to enable to the NMW Commission to consider including public comment in the process of making recommendations. |
| Institute for Economic Justice |  | Annual increases:  The Commission must progressively improve the real value of the NMW.  The level of the increase above inflation to be determined by other factors listed.  Inflation must be calculated on the level of inflation faced by low-paid workers.  Minimum levels for a family must be considered as a key factor in determining the increase. | The February agreement by the NEDLAC social partners notes that the annual adjustments should not lead to an erosion of the value of the national minimum wage. This remains a matter for the NMW Commission, the Minister, Cabinet and Parliament. Section 7(b)(i) of the Bill makes reference to the need to retain the value of the NMW.  The legislation should not prescribe on this issue, nor should it be prescriptive on the methods used to calculate inflation and other indicators to be used for the annual review of the NMW. |

1. **Conduct of annual review**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| AGRISA |  | It is important that the criteria for the Commission to apply to the first and subsequent adjustments be developed and communicated on how the commission will measure and evaluate the impact of the NMW. | Section 7(b) of the NMW Bill sets out the factors to be considered by the Commission when conducting an annual review. |
| Forestry SA | Clause 7 (1) | Forestry SA propose an amendment to include the need to promote “job creation along with, given the circumstances, prevention of job losses.” | The factors to be considered by the Commission for the purposes of conducting an annual review include the impact of an adjustment on employment or the creation of employment. Having to take this into account before deciding on a recommendation is the appropriate way of giving importance to employment and job creation in relation to the minimum wage. |
| NMW-RI | clause 7(b)(vii) | The NMW-RI notes with concern the wording of clause 7(b)(vii) for the Commission to consider the “likely impact of the recommended adjustment on employment or the creation of employment”.  They argue the following:   1. It is complicated to measure future impact of an adjustment as this would require complex statistical modelling. 2. The measurement of impact on the “creation of employment” is even more complex. 3. To the extent that these can be measured, competing models will produce competing estimates of future impact. This could result in deadlock on the issue in the Commission between social partner representatives and independent experts.   A more general wording is recommended for 7(b)(vii) along the following lines:  “the general impact on employment in the economy”. | The measurement of impact on employment may always be contentious but the Commission will have to address appropriate evaluation methods and work with the Secretariat in this regard. |
| Institute for Economic Justice |  | Medium-term target:  The Commission must within its first year of operation stipulate the level which the minimum wage must achieve within 3-5 years.  The medium-term target should take account of appropriate benchmarks and relevant ILO instruments. | The Bill deals adequately with the medium-term target and factors to be taken into account are covered by the February 2017 social partner agreement. |

**Chapter 3 National Minimum Wage Commission**

1. **Establishment of Commission**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| Institute for Economic Justice |  | Sector Determinations & the ECC:  A mechanism to ensure that BC’s are introduced within 3 years in all sectors currently covered by SD’s and other uncovered sectors must be inserted.  The NMW Commission must be given a mandate to adjust SD’s appropriately and to recommend their extension, if BCs are not set up in the 3 year period.  All non-wage conditions must be explicitly protected and the Commission given a mandate to adjust these, as appropriate.  A provision to require the Minister to seek the advice of NEDLAC on any amendment or withdrawal must be reinstated. | The registration and establishment of bargaining councils cannot be legislated for as this requires trade unions and employer organisations to jointly agree to establish a council.  An amendment to extend the transition period contained in section 20 of the BCEA Bill will be considered.  The Department does not agree with the continued operation of sector determinations, but will await the outcome of the Parliamentary process. The rationale is documented in the Departments response to the public submissions to the Portfolio Committee. |

1. **Composition of Commission**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| Forestry SA | Clause 9: Composition of the Commission | It is crucial that the voice of the unemployed be heard through their participation in the Commission. | The voice of the unemployed should be reflected by the community constituency. The need for the Commission to consider adjustments in light of the possible employment effects will also require a focus on minimising unemployment effects. |
| NMW-RI | Section 9A | The NMW-RI recommends that the provision for minimum hours of work be included not only in the BCEA amendments but also be referenced in the NMW Bill. They also recommend that given the trend towards increased casualization, workers working less than 27 hours should receive one third more than the NMW hourly rate. | Section 5(2) of the NMW Bill must read; “Subject to section 9A of the BCEA a worker is entitled….on any day.” |
| EOHCB |  | It is requested that a special dispensation be created for access and input by small and micro businesses to the Commission. | Opportunities for public input to the NMW Commission review process will be considered.  The NMW Commission is also required to take the operation of SMME’s into consideration when conducting their annual review. An amendment will be made to section 9 to enable the NMW Commission to include public comment in its report and adjusting the NMW. |
| Cape Chamber of Commerce & Industry | Composition of NMW Commission (section 9) | What is meant by “organised community”?  The CCCI is also concerned at the number of members who represent employers and who could, potentially, be outvoted by the other constituencies. | Organised community is a term used in the NEDLAC Act and refers to the non-governmental organisations that represent community interests in NEDLAC.  Decision-making on the NMW Commission is intended to be by consensus, but the Minister has the power to refer recommendations back to the Commission, if necessary. |

1. **Appointment and termination of appointment of members of Commission**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| NMW-RI | clause 10(1)(a) | It is not clear in clause 10(1)(a) if the Chair of the Commission is one of the three independent experts, a fourth person, or drawn from the existing members nominated by social partners. This confusion is compounded by reference to ‘four independent experts’ in the NMW Bill Explanatory Memorandum at para 3.8.1 and 3.8.2. | It is clear that the composition of the NMW Commission will be a Chairperson and three independent experts.  The Memorandum to be corrected. |

1. **Functions of Commission**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| Forestry SA | Clause 11 (b) | The requirement of the Commission to report annually should include a need to report on the economy, including levels of employment. | This is implicit in reporting on the economy, but could be added to |
| FishSA | Section 11: Functions of the Commission | Setting medium term targets requires adequate economic analysis, taking account of business cycle indicators, etc.  Ideally, the minimum wage would be the outcome of a consensus oriented consultative process between social partners and then institutionalised by government. A participative process will be more conducive to higher levels of compliance that a top-down regulatory approach by government. | Refer to comment above on public participation. |
| Labour & Enterprise Policy Research Group, UCT | Section 11(c) & (e) | The way the section currently reads fails to respond to section 27 of the Employment Equity Act. The NMW on its own will have little impact on reducing income differentials and it is recommended that amendments be made to section 27 of the EEA. | Corresponds with BCEA and the intention is for the NMW Commission to take further the process of formulating recommendations to deal with income differentials. |
| Institute for Economic Justice |  | Role of the NMW Commission:  Range of issues dealt with and captured in an annexure to the submission. |  |
| Retail Association | Section 11 of NMW Bill and repeal of chapter 9 of BCEA (ECC) | It is proposed that functions of NMW Commission be amended to include; “advising the Minister on sectoral determinations.” | An appropriate amendment to section 11 to be considered. An amendment to the definition of Commission in the BCEA to refer to the NMW Commission will also be done. |

1. **Secretariat of Commission**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| Forestry SA | Clause 13 (c) | The Secretariat’s function to monitor and evaluate in section 13 (C) should be reworded to capture levels of employment and collective bargaining. | The legislation need not list all the factors to be dealt with in the monitoring and evaluation function. A monitoring and evaluation programme will have to deal with these aspects and will be spelt out in the Secretariat’s programme. |
| NMW-RI |  | It is recommended that the NMW Commission be given direct authority over the staff of the Secretariat.  The NMW-RI also commented on the opportunity offered by the NMW Commission to develop in-house capacity for research to be conducted by the Secretariat rather than outsourced. | S13 already makes clear that the Minister must provide the Commission with a Secretariat to perform the listed functions.  The intention is to have a combination of in-house capacity in the Secretariat, supplemented as necessary by outsourced research capacity. |

**Chapter 4 General**

1. **Exemptions**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| AGRISA |  | A regulation is needed to specify the timeframe for applications and feedback and the presumption that exemptions have been granted if no communication has been received.  The regulation needs to deal with the requirements to qualify for exemptions and include information on incentive schemes to assist business to pay the NMW. | Regulations will be published that will address the exemption process. |
| Forestry SA | Clause 15 | Exemptions be made easier to acquire through allowing not only registered “employers’” to apply for exemption on behalf of their respective members or particular groups of them, but through changes to the regulations, allowing representative bodies such as Forestry SA, who are not such registered organisations, to do so, specifically in relation to a group or groups of their members through a “blanket exemption” mechanism. | Section 15 makes provision for an employers’ organisation registered in terms of any law to act on behalf of its members. Blanket exemptions will, however, not be catered for as information on individual employers will be required. |
| COSATU, FEDUSA, NACTU Joint Submission | Only the comments not already submitted to the Department and responded to will be dealt with here.  Section 15 | Labour proposes the creation of a provision to allow for low-wage bargaining councils to apply for a phase-in to the NMW level. This could allow low wage sectors to and certain wage categories in agreements to phase in to the NMW.  Applications for a phase-in should be to NEDLAC before the introduction of the NMW.  There should be a review of the exemption system every 12 months to ensure that it is achieving the objectives of the exemption system. | This provision was not part of the NEDLAC agreement and if it is introduced at this stage, it will be difficult to justify special treatment for those covered by council agreements. The preferred solution is to utilise the exemption provisions in the NMW Bill and regulations. It will be extremely difficult to give a special dispensation to some bargaining councils when other sectors may well be in a similar position, that is, where a sector is characterised by labour intensive, low wage employment. |
| Labour & Enterprise Policy Research Group, UCT | Section 15(1) | Exemption applications should be by individual employers or by employer organisations acting on behalf of individual employers or together with individual employers. | This is the intention of section 15(1). Employer organisations can only lodge applications on behalf of their individual members. |
| NMW-RI |  | The submission recommends that the NMW Bill deal with more of the detail relating to exemptions rather than leaving it all to regulations.  The NMW-RI oppose any prospect of sector-wide exemptions being granted and do not support the wording relating to an employers’ organisation acting on behalf of its members being able to apply for exemptions.  They recommend removal of the words ‘employers’ organisation’ from section 15(1) and if it is deemed necessary to provide for mechanisms through which whole subsectors or groups of employers are to be excluded that this take place through the NMW Commission.  The delegation of power to grant exemptions and the work of the Commission needs a clear interface. The view of the NMW-RI is that those granting exemptions should be within the Secretariat and be accountable to the Commission.  Section 16 does not, according to the submission, make reference to the need to collect and make public data on exemptions. They recommend that the Minister be instructed to provide regulations on “(c) the collation and public dissemination of relevant statistics relating to exemptions applied for and granted.” | Will be addressed in Regulations  Commission will release statistics on exemptions as part of their annual report. |
| Institute for Economic Justice |  | Exemptions:  Reference to employers organisations should be removed.  The Bill should specify the key elements that must be contained in regulations, including the requirement to submit financial statements.  The Minister must table draft regulations at NEDLAC. | The intention is to allow employers organisations to assist their members is lodging application although applications will have to be per individual employer.  The draft Regulation dealing with exemptions does specify key information requirements that should accompany an application by an individual employer for an exemption.  This has been done. |
| EOHCB | Section 15 & 16 | Section 16 states that the Minister must publish draft regulations for comment. EOHCB will need to comment on these regulations.  EOHCB asks what measures will be implemented to ensure that regulations relating to the NMW will be operational before 1 May 2018. In the event of such regulations not being operational, what transitional arrangements will be made in respect of employers who are unable to comply with the NMW. | The Regulations will be published for comment. |
| Women on Farms Project | Exemptions | The criteria for exemptions are not stipulated and exemptions will undermine the successful implementation of the NMW. Without clear and transparent public processes related to exemptions, it is likely that farmers may try to evade paying the NMW. | The criteria will be contained in Regulations and the process is intended to be clear and transparent. |

1. **Regulations**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| Labour & Enterprise Policy Research Group | Section 16 | The Bill leaves too much to the discretion of the Minister in relation to regulations dealing with the exemption system. The basic framework for exemptions as outlined in section 50 of the BCEA, should be replicated in the NMW Bill.  The Bill also makes no provision for the Department of Labour to supply the NMW Commission with data relating to exemptions. | Noted. The details normally contained in regulations are not appropriate to a Bill or Act.  Section 13(C) requires the Secretariat to monitor the impact of the NMW. This is clearly intended to be a basis for reporting to the NMW Commission and will include reporting on exemptions. |
| Cape Chamber of Commerce & Industry | Section 16 | The Minister is given too much power to make changes to regulations as he/she is not required to publish alterations to Regulations before making them final. | This is a standard procedure in the process of enacting regulations. Public comment is taken into account on the first draft published and the legislation is not required to go through repeated rounds of public scrutiny as this could result in lengthy delays. |

1. **Short title and commencement**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| SA Home Textile Manufacturers Employers’ Organisation | Implementation date | The intended date is premature as infrastructure not in place to consider exemption applications.  Implementation date should be after the implementation of the annual July wage increase to avoid disputes related to possible “double increase” expectations. | The implementation date will move although the provision for exemptions may well be ready in time. |

**Schedule 1**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| F Pretorius |  | Market forces of supply and demand must play their role in setting wages in order to adapt to high unemployment rate.  No consideration should be given to a further national minimum wage. | The national minimum wage is intended to improve the wages of lowest paid workers and to protect them from unreasonably low wages. Market forces will not on their own deal with the low level of wages paid in many sectors. There is also evidence of minimum wages not impacting negatively on employment and the economy. |
| S Ntshudu |  | The NMW should be at least R6000.  Level 3 in the public sector should be abolished.  The Bill should enhance access to adequate housing. | The national minimum wage at R20 was the level recommended by an expert advisory panel and agreed to by the NEDLAC constituencies. It is viewed as striking the appropriate balance between improving wages of the lowest paid and minimising the risk of job losses.  Public sector levels are the subject of collective bargaining in the public sector bargaining councils.  A national minimum wage deals with earnings and not benefits, such as housing. The latter is a matter for contracts of employment and collective bargaining. |
| Forestry SA | Schedule 1, clause 3 | Clause 2(a) should be changed to indicate a phasing in period of three years for farm worker to reach 100 percent of the national minimum wage.  The definition of farm worker should be reworded to add “on site” primary forestry processing activities and to include security guards on forestry premises. | As indicated above, the period within which farm and domestic workers are brought up to the national minimum wage will be determined by the NMW Commission pending research on the timeframe. The NEDLAC agreement on the introduction of the NMW states that it should be within 2 years pending research by the Commission on the timeframe.  The definition as currently worded is broad enough to cover these activities in forestry. |
| SACBC Parliamentary Liaison Office | Schedule 1 (1)  Schedule 1 (2) | Government should be urged to raise the level of the NMW as soon as possible.  Not clear why farm, domestic and workers in EPWP’s should be subjected to lower wages than the NMW.  Propose that there should be a cut-off date provided for these categories to come in line with the NMW and that there should only be a one year period specified before these categories come in line with the NMW. | Noted.  The rationale for this is to minimise job losses in these sectors and to allow for a period within which wages are adjusted upwards to the NMW.  The NEDLAC agreement specified a 2 year period subject to research on the timeline by the NMW Commission. |
| Labour & Enterprise Policy Research Group | Schedule 1, 2(a) and (b) and Schedule 2  Schedule 1 3(d)  Schedule 1 | The Bill does not prescribe a target date for the phasing in of the different wage tiers contained in Schedule 1 and 2.  The submission also questions whether it is intentional that workers employed under the Employment Tax Incentive will be subject to the NMW from 1 May 2018. The ETI Act makes provision for a minimum of R2000 per month – well below the NMW. Workers subject to the ETI should be partially excluded and possibly phased in over the specified period to the full NMW.  The definition of an ‘EPWP’ in Schedule 1 gives the Minister discretion via section 50 of the BCEA to partially exempt categories of workers from the NMW.  It should be Parliament that makes such a decision through the tabling of a schedule.  The lower tiers of the NMW for agricultural and domestic are expected to be phased out over time. The NMW-RI note that the phasing out is not mentioned in the Bill and they recommend including a reference to this in Schedule 1.  The NMW-RI draw on international comparisons to recommend the inclusion of learners in the NMW. The point is made that SA offers a number of incentives to employers to defray the costs of training and that there is therefore no rationale for excluding learners from the NMW or including them at a lower tier. | The understanding in the NEDLAC engagement was that the period would not be referred to in the Bill. It was agreed that it must be reviewed by the Commission.  Refer to previous comment on ETI. The ETI Act refers to wage regulating measures that should apply. The NMW will clearly be such a measure.  Agreed, in respect of the decision making process contained in section 6 of the NMW Bill.  The Ministers right is limited in terms of the purpose of the Act and the  Minister cannot vary the minimum wage in terms of section 50 of the BCEA.  The understanding in the NEDLAC engagement was that the period would not be referred to in the Bill. It was agreed that it must be reviewed by the Commission.  The inclusion of learners as per the learnership determination was part of the agreement at NEDLAC and cannot be re-opened. Learner wages can be adjusted by the NMW Commission as part of their annual review. |
| EOHCB |  | 25% of the employees in the hairdressing industry currently earn less than the proposed NMW. In order to mitigate against potential job losses, EOHCB proposes a transitional arrangement for job categories in their industry that earn below the proposed NMW. It is proposed that employees in these categories be paid a minimum of R18 on 1 May 2018 and that this arrangement continue to 31 December 2018. | Those who cannot afford the NMW will have to apply for an exemption. |
| Qutom Farms | Schedule 1 | Qutom farms submit that an increase of the wage to R18 per/hour would put them in an unthinkable position where they may have to consider retrenchment. | It will be necessary for Qutom Farms to apply for an exemption once the NMW is implemented. |
| Cashbuild | Schedule 1 | The proposed minimum wage of R20 per hour would mean an additional 23.9% increase on the current minimum wage. Cahbuild is covered by the Wholesale and Retail SD where the latest minimum for a General Assistant is R16.14 per hour. | It will be necessary for Cashbuild to apply for an exemptions once the NMW is implemented if they cannot afford to pay R20 per/hour for general assistants. |
| SAFTU, NUMSA | Schedule 1 | SAFTU & NUMSA reject the wage levels contained in Schedule 1 and calls on government to pave the way for a genuine living wage.  SAFTU supports the principle of a NMW, but insist that it must be a meaningful and a living wage. SAFTU does not believe that there is any justification for phasing in the NMW to certain sectors.  SAFTU demands a starting point of a R12,500 minimum wage per month. | Government cannot legislate for a living wage, but only for a minimum wage. If NUMSA feels that level for the first NMW is too low, their view is noted.  The risk of job losses in agriculture, domestic work and public employment services are too high to move to R20 immediately. |
| Women on Farms Project | Schedule 1 | The public was led to understand that the NMW would be R3500 per month, but workers will only earn R3500 per month if they work a 40 hour week. Since this is not guaranteed and women seasonal farm worker increasingly work short-time, very few women will actually earn the NMW of R3500.  A growing practice on farms is the use of work targets. When targets are not met, workers are not paid the legal daily or weekly wage.  Farm workers have previously demanded a living wage, however they are being given a poverty wage.  Non-compliance with minimum wages, especially for women farm workers is widespread and farmers are likely not to pay the NMW. | The R20 per hour is the result of extensive deliberation and an agreement in NEDLAC. Submissions regarding future adjustments can be made to the NMW Commission.  The use to targets is a practice that would need to be engaged with by the affected workers and their organisations. Legislation cannot deal with the specifics of work targets.  The R20 is intended to strike a balance between improved earnings and employment security. It’s objective is to set a minimum wage floor, not a living wage.  The BCEA as amended makes provision for the referral of disputes in case of underpayment. |
| Khothatsong | Schedule 1 | As a NPO, Khothatsong is concerned at their inability to afford the R20 per hour as contained in Schedule 1 to the NMW Bill. They employ home-based carers, a gardener and a team of foster mothers who currently earn below R20 per hour.  They request the extension of the EPWP tier to NPO’s. | There is a provision for an exemption available to this NPO or, if they are funded from an EPWP, the R11 per hour will apply to them. |
| AgriSA |  | Further clarity is sought on the provisions of Schedule 1 to the extent that the definition of ‘Farm worker’ is applicable to workers employed in the primary processing of agricultural and forestry produce and in sawmills.  The R18 per hour for farm workers will have a significant economic effect on rurally located labour intensive businesses such as integrated sawmilling and forestry businesses.  Sawmillers are by necessity also timber growers conducting forestry operations as an integral part of the “forest value chain.”  The definition of ‘farm worker’ makes reference to ‘mainly or wholly relating to forestry activities’ and the boundaries of this definition are unclear. | Forestry activities include sawmill activities on a farm.  The Bill makes provision for a remedy in the form of exemption procedures.  Regulations will be published providing detail of the exemption procedures.  According to the Sectoral Determination for Farm work:    ‘farming activities’ includes primary and ***secondary agriculture***, mixed farming, horticulture, aqua farming and the farming of animal products or field crops excluding the Forestry Sector. |
| Provincial Minister of Economic Opportunities, WC Government | Schedule 1 | It is suggested that the NMW be applicable to the EPWP. This understanding is based on the wording of the Memorandum of Objects. | There is a separate tier for the EPWP at R11 per hour. The Memorandum of Objects will be amended. |

**Schedule 2**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| EOHCB | Schedule 2: Learner allowances | The existence of a number of skills programmes in the hairdressing industry that are not based on learnership agreements will become subject to paying the NMW. This will not be viable for a number of employers and will limit career paths in the industry.  The proposal put forward is to include structured learning programmes in schedule 2 in order to exempt them from the NMW.  Section 2 of Schedule 2 is also limited in the number of credits provided for at certain learning levels eg. Level 4. An apprentice en route to becoming a qualified hairdresser requires 540 credits at level 4 whereas section 2 limits level 4 to 480 credits.  The learner allowance does not make provision for commission based remuneration which is integral to the hairdressing industry and which often exceeds the allowance.  It is proposed that the Bargaining Council present an amended schedule 2 including the number of credits required by apprentices in the hairdressing industry. | Skills development is supported through the levy-grant system and SETA skills development support. The only wage regulating measure in terms of the BCEA has been the Learnership Determination which will now continue under the NMW Bill. There have been no changes to Schedule 2. |

**General**

|  |  |  |  |
| --- | --- | --- | --- |
| **Organisation** | **Sub-section** | **Comment** | **Response** |
| NS Maphalala |  | Suggest that national minimum wage should be R3500-R4000 per month and subject to a minimum 5% annual increase for both SMME’s and bigger corporates should have a minimum wage of R5000 per month considering size and turnover.  Organisations that are struggling to meet their employment equity goals or transformation goals should be monitored more stringently for compliance and high fines should be instituted for these organisations.  The Act must provide for ease of exemptions to ease job losses.  Welfare organisations should have been excluded from the ambit of the Bill. | The first NMW has been agreed to by the NEDLAC social partners and future adjustments will be recommended by the NMW Commission. Annual increases cannot be legislated as they will have to be subject to careful consideration of a number of factors by the NMW Commission. This process is outlined in sections 6 and 7 of the NMW Bill.  Noted. This is an issue that affects implementation of the Employment Equity Act.  Provision for exemptions has been made and Regulations have been prepared.  No clear motivation is provided for such an exclusion and the exemption process is available to welfare organisations as well. |
| Provincial Minister of Economic Opportunities, WC Govt. |  | Of concern is potential job losses following the introduction of the national minimum wage. It is recommended that the Bill must consider the unintended consequences of the NMW on the private sector.  A second concern is the exemption of the expanded public works programmes from the national minimum wage (according to para 3.16 of the Memorandum of Objects of the NMW Bill). It is suggested that the NMW be applicable to the EPWP’s.  It is proposed that different rates of minimum wages be set for different industries and sectors rather than a one-size-fits-all approach. | Legislation cannot consider unintended consequences, but can minimise the risk of such consequences. Through the provision for exemptions, this risk is mitigated.  The EPWP’s are included in the ambit of the NMW but as a special tier (R11 per hour). This is a minimum wage level which can be improved upon by Provincial Governments in their implementation of public works programmes.  The NMW tries to steer away from a multiplicity of minimum wages as contained in the present system of sectoral determinations. |
| Forestry SA |  | The implementation of the NMW be put on hold until the economic environment improves to an extent whereby the unintended consequences thereof will be minimised.  The phasing in period of the NMW applicable to farm workers be extended to a minimum of three years. | This will not be possible given the agreement in NEDLAC and subsequent developments. The exemption process is intended to mitigate for potential negative effects on business.  The period within which farm and domestic workers are brought up to the national minimum wage will be determined by the NMW Commission pending research on the timeframe. The NEDLAC agreement on the introduction of the NMW states that it should be within 2 years pending research by the Commission on the timeframe. |
| Danie Malan |  | Government is the only employer allowed to pay less than minimum wage. Private sector cannot help to reduce poverty, because labour legislation and minimum wage law prevents employment of the masses. Private Sector employers employ less and less due to legislation. Big employers are using more technology to improve efficiency and less workers. Most SMME’s don’t have the capacity to employ lots of workers as the minimum is too high. Relax legislation to improve employment and use legislation to protect and improve worker rights. | General comment on the national minimum wage and the effect of labour legislation noted.  While the unemployed have a right to the level of the wage that they will accept in return for employment, so too does government have the right to legislate a minimum wage as a floor to ensure a minimum level of remuneration. |
| Corning (Pty) Ltd. |  | The Act must provide for ease of exemptions in order to ease job losses.  Welfare organisations should have been excluded from the ambit of the Bill. | Section 15 makes provision for exemptions. Regulations in terms of section 16 to set our procedure for applying for an exemption. |
| OXFAM |  | The minimum wage will have no real value for many workers in the absence of guaranteed weekly hours.  A national monthly minimum wage be enacted.  The Commission to have the power to investigate not only wages but conditions of employment in specific sectors. | Legislation cannot guarantee weekly hours of work. This could constitute interference with the conduct of a business.  A minimum monthly wage would not protect the many workers who are employed on a part-time, contract or casual basis and would be far more complicated given the variation in hours of work in any month for many sectors and occupations. |
| Social activists, Labour Educators, Researchers and Concerned Individuals |  | The minimum wage falls short of the working-poor line of R4317 per month.  The exclusion of farm, domestic and workers in EPWP’s and those on learnership agreements fly in the face of a concept of a single national minimum wage.  Exclusion of Sectoral Determination rates .  There should be a national maximum wage in South Africa which will be more effective in addressing issues of poverty and inequality.  The implementation, monitoring and imposing of sanctions relating to the NMW Bill and other labour legislation should be strengthened. | The NMW is intended to serve as a minimum wage to protect low earning workers. It cannot regulate a living wage. That will be the outcome of collective bargaining and the subject of individual contracts of employment.  They are not excluded but placed on a special tier with an agreement that these workers and sectors be phased in to the national minimum wage, except EPWP workers and learners who may remain at a lower rate.  The submission misunderstands the transitional provisions in respect of Sectoral Determinations. In terms of section 20(3) of the BCEA Bill only wages in SD’s that are above the national minimum must increase proportionally to any adjustment of the NMW. In respect of other wage rates, the NMW will replace them.  The regulation of maximum wages is beyond the scope of the current amendments, although it is anticipated that by raising minimum wages, this could have the effect of placing pressure on the rate of increase of higher wages in companies.  There are ongoing efforts to achieve this and there are amendments to the BCEA that strengthen enforcement measures and sanctions for underpayment |
| FishSA |  | Clarity is required in terms of commission fee based workers, seasonality aspects in some sub sectors of the fishing industry.  Government must have the capacity to enforce regulations and ability to deal efficiently with exemption applications.  Exemptions granted for 1 year only should be reviewed for sectors in economic distress. | The NMW must be paid.  The NMW is exclusive of commission, incentives, etc. As it is based on hours worked, the payment of the minimum wage will be no different for seasonal or permanent workers  Application on annual basis and an exemption will be limited to 12 months. |
| Safieo |  | The BCEA excludes employees working on vessels at sea except for section 41 dealing with severance pay. NMWB do not exclude employees employed on vessels at sea. The Bargaining Council for the Fishing Industry governs conditions for vessels at sea. Provisions of the Main Agreement have specific application in respect of the terms and conditions of employment of employees – will continue to apply.  The agreement provides for the payment of a daily rate with commission from the first ton of fish caught. | An agreement may make provision for commission work on a regular basis but the employee performing commission work must receive at least the prescribed minimum wage. |
| BUSA |  | Notwithstanding the agreements reached in NEDLAC (summarised in submission), Business remain concerned about the impact of the NMW Bill on smaller and formalising businesses as well as emerging enterprises.  Business further submits that there was a drafting oversight in failing to exclude:   * Individuals that are at work purely to gain work experience * Individuals that work on a voluntary and unpaid basis, for a stipend in a non-profit organisation | A volunteer that is paid no remuneration is not an employee at common law, not an employee for the purposes of the definition of employee in the BCEA or the definition of ‘worker’ in the Nedlac Draft. It is therefore not necessary to specifically deal with volunteers in the draft. |
| SACBC Parliamentary Liaison Office | Sectoral Determinations | Support expressed for the Bill and specific provisions such as clauses 4(4), 5(1) & (2), etc.  Submission made that businesses which cannot survive in the long-term if they have to pay R20 p/hr may have more deep-seated problems than simply labour costs.  More complex problem is that a minimum wage may have a generally depressing effect on wages. A minimum wage can easily become a maximum wage. Important that the NMW Commission should monitor these aspects and report on them.  The submission urges the Committee to ensure that no worker is left worse off as a result of the introduction of the NMW and the elimination of the sectoral determinations. | Noted.  Agreed. This requirement will be taken into account in relation to the M&E plan for the NMW Commission.  In terms of the transitional provisions, there will be a 3 year period during which the NMW Commission will consider the phasing out of the SD’s. |
| Hilton Green Consulting |  | The Act must provide for ease of exemptions in order to ease job losses.  Welfare organisations should be excluded from the ambit of the Bill. |  |
| CWAO |  | The absence of a guaranteed monthly minimum wage or guaranteed 40 weekly hours, the minimum wage of R20 per hour will have no real value for many workers and will become a mere instrument to drag down the wages of higher-earning workers.  CWAO is of the view that by limiting the NMWC to making considerations on wages only, the NMW is likely to have limited impact and workers will lose the positive interventions that the ECC has been able to make in ensuring conditions as well as pay are regulated in workplaces.  CWAO propose that the NMWC to have the power to investigate not only wages but also conditions of employment in specific sectors and advise the Minister of Labour in making further SDs.  The Minister of Labour to continue to make new SD for sectors and the Minister’s powers to make SDs to be retained. | The NMW is intended to serve as a minimum wage to protect low earning workers. It cannot regulate a monthly wage. That will be the outcome of collective bargaining and the subject of individual contracts of employment.  The LRA encourages collective bargaining and there should be a joint effort by employers, employees and their trade unions to negotiate improvements to conditions of service. The sector determinations also remain in place in terms of the transitional provisions. |
| NMW-RI | Poverty and the NMW  Sectoral Determinations | The NMW-RI recommends including references to an objective of the NMW being to ensure that wages meet the needs of workers and their families and that minimum wages combat poverty and working poverty.  Recommendations are made for including references to the alleviation of poverty and working poverty, the need for wages to meet the needs of workers and their families and the reduction of wage inequality. Insertions are recommended at :   1. Preamble 2. Clause 2 3. Clause 11(b) 4. Sections of the SEIAS Report   The NMW-RI submission motivates for the retention of sectoral determinations as a way of regulating wages for vulnerable workers in certain sectors. The motivation includes reference to the ability to regulate minimum wages that are above the national minimum wage for certain categories of work in certain sectors.  The NMW-RI recommends that the powers associated with the ECC with respect to SD’s be given to the NMW Commission.  Deductions:  Bill does not regulate deductions for food and accommodation.  The Bill must prohibit deductions for employer contributions from the NMW.  Labour’s proposal for a 25% cap on allowable deductions, as a proportion of the NMW should be incorporated.  Exclusions and tiers:  Provisions need to be contained in transitional arrangements to ensure that farm and domestic workers are progressively incorporated into the NMW.  Tier for EPWP workers to be improved and an investigation undertaken on a process to progressively incorporate them into the NMW.  Clear definition required for learnerships.  Wage inequality:  An amendment to section 27 to clarify it and give it teeth.  An amendment to 8(e) to include provision for a wage ratio aimed to reduce differentials.  Discussion of a policy package on measures on wage inequality by NEDLAC to be presented to the NMW Commission in mid-2018 or require the NMW Commission to discuss this directly.  Enforcement, penalties and incentives  Adequate penalties need to be contained in the Bill.  A compliance certificate required for eligibility for tenders.  CCMA must be given the necessary powers and resources.  Scaling up and proper resourcing of the DOL inspectorate. | The intention of the NMW is not to set a living wage but a minimum wage.  Section 20(3) – wages above the prescribed minimum wage must be increased proportionally to any adjustment of the national minimum wage  Deductions are regulated by section 34 of the BCEA and in specific sectoral determinations whose applicability continues in terms of the transitional provisions to the BCEA bill.  Deductions are dealt with in section 5(1) of the NMW Bill and a further amendment will deal with deductions for statutory contributions.  The NMW Commission will investigate the alignment of domestic and farm worker minimum wages subject to research on the timeframe.  Noted. This will be the responsibility of the NMW Commission.  Learner is defined in Schedule 2, in the Learnership Determination and in the Skills Development Act.  There are adequate references to income differentials in the functions of the NMW Commission. Wage inequality is a broader concept that will frame the work of the Commission.  A ratio is not agreed to.  Such a proposal should be raised in NEDLAC and taken further in that forum.  Noted. |
| Shukumisa |  | The submission by the Shukumisa Coalition in collaboration with other NGO and civil society organisations outlines the DSD system of subsidisation to NPO’s who provide social welfare services.  The submission supports the introduction of the NMW but points to the difficulty for some NPO’s to pay the proposed minimum given the current system of government subsidy.  Recommendations are made for the establishment of an expert group to investigate the subsidies and that the sector be granted a temporary exemption until the expert group completes its work.  The expert group should also resolve the different understandings of employee held by the Department of Labour and the DSD.  It is recommended that the NMW Commission include representation of the NPO social welfare sector. | The Department is considering a special exemption route for NPO’s that would enable the NMW to be applied but with the possibility of a 12 exemption for NPO’s who receive a subsidy but cannot comply with the NMW.  The Department stands by its definition of employee and the understanding of a volunteer as a person who performs a service without receiving any pay. The issue that will be given attention is the category of volunteer’s in the NPO social welfare sector who receive a stipend.  The Department supports the proposal for representation of the NPO sector on the Commission although this should be facilitated by the Community constituency. |
| Women on Farms Project | Enforcement | Enforcement of the NMW will be with the CCMA and this is likely to make resolution of workers’ cases lengthier and more difficult. | Enforcement will remain with the inspectors of the Department of Labour. Disputes concerning underpayment may be referred to the CCMA. |
| Consumer Goods Council of SA |  | The introduction of the NMW is welcomed. | Noted. |
| Cape Chamber of Commerce & Industry |  | The CCCI is disappointed that there is no incentive to encourage youth employment in the bill.  They do support the ideal of narrowing the wage gap.  They are concerned at the high cost of the public sector. | Noted. |