Submission

to the
Department of Labour and
Parliamentary Portfolio Committee on Labour
on
The National Minimum Wage Bill

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1. **Introduction to Forestry South Africa**

Forestry South Africa (FSA) is an Association which represents the interests of its members in particular and the promotion and wellbeing of the South African Commercial Forestry Industry in general. Although voluntary in its nature, FSA’s membership includes all 11 corporate timber companies operating in South Africa, 1 100 commercial timber farmers and 20 000 small-scale timber growers. This membership represents over 90% of the Industry as a whole and virtually all the private sector involved in the Industry. Due to this representivity, FSA is viewed by both Government and the Private Sector as the body which represents the South African Forestry Industry.

This submission, for which we are grateful of the opportunity to be able to make, is made on behalf of the South African Forestry Industry by Forestry South Africa’s Human Resource Committee.

It is thus hoped that DoL will consider our submission as representing the views of the Industry as legitimate and done so in good faith.

2. **Characteristics of the Forestry Industry**

In many ways the characteristics of the Forestry Industry mirror those of the Agricultural Industry. For the most part these characteristics are far different from those exhibited by other sectors of the economy such as the manufacturing, mining or services sectors. Below is a summary of these characteristics. Some are similar to those of the Agricultural Industry but some are unique to the Forestry Industry. However, all have, to a greater or lesser extent, a bearing on how the National Minimum Wage (even at the R18.00 per hour dispensation) will impact the Forestry Industry.

2.1 **Structure of Industry**

The Industry can be sub-divided into four distinct sub-sectors, namely:

- 11 Corporate Timber Growers (also primary timber processors)
- 1 300 Commercial Timber Farmers
- 25 000 Small-Scale Timber Farmers
- 6 Public Entities (including SAFCOL (state owned) and various municipalities)

Each of the above sub-sectors have differing “ability to pay” characteristics. The “one size fits all” approach adopted in term of the NMW will result in differing challenges in terms of affordability and compliance per sub-sector, particularly for the small-scale grower sub-sector.

2.2 **Employment in the Forestry Industry**

The Forestry Industry directly employs 60 000 people. In addition to this, it creates a further 28 000 jobs indirectly in its own operations and a further 70 000 full-time jobs in down-stream processing activities (e.g. sawmills, pole treating plants, pulp and paper mills etc.). These figures exclude those related to the livelihoods created in the small-scale grower Sector.

Other employment related issues to be noted are the following:

- **Forestry Provides Entry Level Jobs into the Labour Market**
  Forestry, as with Agriculture, provides entry level jobs into the labour market in an
environment where very few other formal job opportunities exist in the rural areas in which our operations take place, especially for unskilled workers. Many of those employed in the entry level jobs have had poor schooling and are functionally illiterate and innumerate when taken on.

- **Exhibits High Labour Turnover Rates**
  Once upskilled these workers are able to take better work opportunities elsewhere. This, alongside other reasons, is why labour turnover is extremely high.

- **Outsourcing of Operations to Forestry Contractors**
  Outsourcing of forestry operations started over 20 years ago and in the corporate timber grower sector, is now the norm. It is estimated that over 30 000 people work for over 300 forestry contractors. Over the past decade or so there has been a significant move by the corporate sector, as part of their BEE score card requirements, *vis à vis* the enterprise development and procurement elements, to help create and utilise the services of black-owned forestry contracting businesses.

### 2.3 Structure of Employment in the Forestry Industry
 Forestry is still, despite, a continual increase in mechanisation, a highly labour-intensive Industry. The skills level of those employed directly in the Industry reveals the following:

- Unskilled 70%
- Semi-Skilled 20%
- Skilled 10%

This is important, as any substantial increase in a minimum wage, as would occur through the implementation of the NMW, would have a significant impact on operating costs.

This is further exacerbated by the fact that any increase in the minimum wage has a knock-on effect on all wage levels, thereby having a marked impact on the total wage bill of any operation.

In turn, this is again exacerbated by the fact that labour costs can contribute up to 40% of total forestry operating costs. In this case, a 17% increase in the minimum wage from February 2017 to May 2018 would increase total operating costs over that period by a minimum of 6.8%.

### 2.4 Difference between Wages and Remuneration
 Wages in the Forestry and Agricultural Industries are only one component of the total remuneration earned by workers. Due to the nature of these businesses, which are located in rural and often remote areas, workers are, in most cases, provided with accommodation (including electricity and water), rations and transport to work. Total “labour” costs associated with a forestry or agricultural enterprise are thus not solely related to wages.

This needs to be taken cognisance of when assessing the impact that the NWM will have on affordability.

### 2.5 Task Based Work System
 Historically, wages paid to forestry workers were based on the completion of a specific task rather than hours worked. This universally accepted system, when applied correctly through the use of accepted Industry productivity norms, worked well and was of particular benefit to those workers with above-average productivity levels (as they earned extra pay). This system
was catered for in the Sectoral Determination for Forestry Workers which was implemented in 2006.

It must be noted that the NMW, based as it is on a wage per hour worked, irrespective of productivity, could adversely impact productivity and thus, enterprise profitability.

2.6 Highly Volatile Net Farm Income
The net farm income of forestry enterprises, as is the case with agricultural enterprises, can vary considerably over time - even from year to year. These, sometimes, significant changes in net farm income are invariably linked to factors beyond the growers’ control and include:
- long-term climatic changes;
- drought conditions;
- damage to crops caused by pests and diseases; and,
- of particular relevance to forestry, forest fires.

All of the above factors can have adverse short, medium or long-term impacts on the financial viability of forestry enterprises and hence, their ability to pay increased production costs.

2.7 Forestry Operations are Suited to Mechanisation
As mentioned above, although the Industry is still a highly labour-intensive operation, it needs to be recognised that forestry operations are, under most conditions, suited to their mechanisation (as is the case in the countries with which we compete).

In order to remain competitive, through increasing productivity, the mechanisation of forestry operations has increased significantly over the past decade. Initially, this began with the mechanisation of harvesting operations but in recent years, silvicultural operations have become increasingly mechanised.

This has occurred because the cost of mechanisation has become relatively less expensive than manual operations from a productivity perspective (i.e. cost per unit of output). The major driver for this has been the above inflation wage increases granted since the introduction of the Sectoral Determination for forestry workers in 2006 and particularly the increase of 56% granted in 2013.

The importance of this is that the large increase in the minimum wage that the NMW will result in, coupled with the current more favourable exchange rate, will make the cost differential between mechanised and manual operations even greater. This will encourage further mechanisation and a concomitant increase in job losses.

2.8 Forestry Industry is a Major Catalyst for Rural Development
The Forestry Industry, as is the case with the Agricultural Industry, plays a pivotal role in sustaining rural communities, towns and villages, through enhancing their socio-economic wellbeing through the provision, sponsorship or support of, amongst others, the following:

- Job opportunities
- Housing provision
- Infrastructure development & maintenance
- Educational initiatives: crèches, primary schools, skills development initiatives
- Health initiatives: clinics, district nurses, health awareness campaigns
- Safety: fire-fighting and security services
• Sporting and recreational facilities
• Support of local businesses

Of upmost importance is the provision of jobs, as the income earned is spent on sustaining the economy of rural towns and settlements. It is thus imperative that the NMW is implemented in a manner which does not result in job losses (although this will be difficult to achieve).

2.9 Integrated Nature of Forestry and Primary Processing Operations

The timber produced from plantations is processed in a variety of primary processing plants to produce the following primary processed products:
• Pulp
• Woodchips
• Sawn timber (lumber)
• Mining timber (for use as mine supports in underground mining operations)
• Treated poles (primarily telegraph, transmission and building poles)
• Charcoal
• Other products (e.g. matches)

With the exception of pulp, woodchips and matches, the other products mentioned above are, in a lot of cases, processed in facilities “on site” or adjacent to the plantations from which they derive their timber feed stock.

The workers working in these processing facilities invariably live and work together with their fellow colleagues working in the plantations. Indeed, in smaller operations, the workers may well switch between work in the plantation and work in the processing plant should the need arise.

The importance of this is that where the above occurs, a wage differential between members of the same workforce will undoubtedly lead to friction between members of the workforce.

In order to prevent this situation from arising, it is recommended that the definition of “farm worker” under Clause 3 of Schedule 1 (Section 6 (6)) be amended so as to include “on-site” primary forestry processing workers. Please refer to the recommendation made under Point 5.10 later in this submission.

It needs to be noted that this recommendation will not adversely affect those workers covered by bargaining council agreements.

2.10 The Vast Majority of Forestry Operations are FSC Certified

The South African Forestry Industry is a world leader in terms of forest certification with over 80% of our 1.2 million hectares of plantations being certified by the Forest Stewardship Council (FSC) as being sustainably managed. This percentage increases to 85% if only privately owned or managed plantations are looked at.

In order to achieve (and maintain) this strictly enforced certification, the certificate holder must comply with all laws in the jurisdiction in which it operates and secondly that due to the “jointly and severally” conditions of FSC certification, they must also ensure that all third-parties, including forestry contractors working for them, comply with the required certification standards. This is important as it has a positive bearing on the level of compliance that the NMW will enjoy within the Industry.
2.11 The Forestry Industry is a Price Taker in Respect of its Products
Any increases in production costs such as wage increases have to be fully absorbed by timber growers as these cannot simply be passed onto their customers (timber processors), who themselves are also price takers (e.g. pulp, paper and woodchip prices are dictated by the world price, as with oil or gold for example, and USD denominated). These production cost increases thus have a direct impact on the profitability and competitiveness of forestry enterprises and ultimately, their survival.

2.12 Lack of Government Support for the Forestry Industry – Impacts Our Ability to Compete on a “Level Playing Field”
The Forestry Industry supplies its products to primary processors who convert this roundwood into various value-added products either for local consumption, further processing or for export. Unlike in many other countries, which actively support their forestry and processing industries through mechanisms such as plantation establishment grants, marketing subsidies or tariff protection, the South African Forest Sector does not benefit from such support measures.

Any increase in production cost increases, labour costs being a significant component, have to be fully absorbed, thereby having a detrimental effect on our ability to compete on the international market.

3. Sectoral Determination 12 for the Forestry Sector – Impact & Consequences
Any debate on the introduction of the NMW has, in our view, to be put into the context of minimum wage increases regulated by Sectoral Determination 12 for the Forestry Sector over the period 2012 onwards. This is because the circumstances faced by employers in 2013, although more drastic than those envisaged when the NMW is implemented, could, unless phased in sensibly, have similar consequences.

3.1 Minimum Wage Increases – 2012 to 2018
Sectoral Determination 12 for the Forestry Sector was implemented in 2006. Between 2006 and 2012, annual increases were considered reasonable. However, in 2013 the minimum wage jumped by no less than 56%, as is shown in the graph below.
Although the wage increases between March 2014 and March 2018 were again considered reasonable, the introduction of the NMW will again see a substantial increase in wages over a short period of time – as indicated in the above graph, a minimum 30% increase over a 16 month period (February 2018 to May 2019). This is highly concerning and will have serious ramifications in terms of enterprise sustainability and job losses.

3.2 Consequences of the 56% Wage Increase in 2013

As mentioned previously, forestry is a labour-intensive activity where labour costs can contribute between 30% and 40% of total operational costs. When faced with a 56% increase in minimum wages in 2013, the following occurred:

1. In an effort to save jobs, employers within the sector cut working hours rather than jobs as, at the new increased wage rates, they could not remain profitable with the same staff complement.

2. Those growers who could not do the above or mechanise, went out of business.

3. There has and continues to be a move towards the mechanisation of operations as this is able to deliver increased productivity – the key to affordability.

The net effect of increasing the minimum wage by 56% in 2013 was a loss of jobs in the Sector. This could have been higher had it not been for the fact that most employers were able to reduce working hours. When the NMW is introduced, this option will no longer be available.

4. General Comments on NMW Bill

The objectives of the Bill, as set out in the Preamble to the Bill and those listed under Clause 2 dealing with the purpose of the Act, regarding the need to eradicate poverty and inequality are noble objectives and ones that we fully subscribe to.

Given the current socio-economic situation facing the country, Government’s number one priority should, in our view, be focussed on creating jobs. This can be done only through providing an environment conducive to increased investment leading to sustained economic growth and hence, increased wealth for the country’s citizens.

We are of opinion that the introduction of the NMW will, given the current economic climate and hence the ability of employers to retain jobs, let alone create them, will have serious unintended consequences that will render the objectives of the NMW totally unachievable. In this context, the following points need to be raised.

4.1 Impact of NMW of Employment Levels

As at the 4th quarter of 2017, Statistics SA’s Quarterly Labour Force Survey revealed that the unemployment rate in South Africa, using the “narrow definition”, stood at a disturbing 26.7% of the working population or 5 880 000 people. Youth unemployment was even higher with the unemployment rate of those aged between 15 and 24 being 51.1% and those aged between 25 and 34 being 33.4%.

Research conducted by UCT and UJ into the feasibility of implementing the NMW estimated that between 205 000 and 897 000 jobs could be lost as a direct result of its implementation. These
figures indicate that the current number of unemployed people could thus jump by between 3.5% and 15.3%. When the dependents of those who will lose their jobs are taken into account, the number of people thrust into poverty is truly frightening. These figures should raise alarm bells for policy makers but it would appear that they have been ignored by them.

It is our view, given the current economic circumstances and drastic levels of unemployment, the implementation of the NMW at this stage would be irresponsible.

**Recommendation:**
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.

### 4.2 Impact of NMW of Employment Levels in the Agriculture and Forestry Sectors

The abovementioned research conducted by UCT and UJ states that:

> “Research on the impact of minimum wages in sectoral determinations in South Africa has found that adjustments have not had significantly negative dis-employment effects, with the exception of agriculture”. This includes the Forestry Industry.

The following points in relation to the Forestry Industry need to be noted. They are also applicable to the agriculture sector.

#### 4.2.1 Minimum Wage Levels – Quantum & Pace of Increases, Productivity & Consequences

The ability of any enterprise to pay increased labour costs depends, in large part, to a commensurate increase in productivity. Should labour costs outstrip productivity, the sustainability of any business, whether in forestry or agriculture or not, becomes increasingly uncompetitive and thus unprofitable. Forestry enterprisers, like any other, have to generate profits in order to re-invest in their respective businesses in order to grow them, or at least sustain them.

If the cost (or income) structure of an enterprise changes gradually over time, this can be managed in an orderly manner in order to sustain the business going forward. An enterprise, however, finds it difficult to adjust to sudden shocks – whether through, for example, a sudden decrease in a price received for their products or, alternatively, an increase in costs.

In terms of forestry enterprises and as previously mentioned, growers have no control over their income as they are “price takers” but on the other hand, they cannot pass on to their customers any increased production costs. This leads to a classic “cost, price squeeze”. As income cannot be controlled, the only alternative for survival is to reduce costs or increase productivity.

The following Table shows the minimum wages applicable to forestry workers over the period March 2012 to March 2018 and the wages to be implemented in terms of the NMW up to May 2019. Importantly, it also shows the “real” wages (i.e. taking inflation into account) during this period and the resultant annual and accumulative increases thereof.
Minimum Wage History - Forestry Sector 2012 - 2019 (Rands per hour)

<table>
<thead>
<tr>
<th>Year</th>
<th>Note</th>
<th>Minimum Wage</th>
<th>Increase on previous year</th>
<th>Accumulative Increase</th>
<th>CPI 2012 = 100</th>
<th>Minimum Wage</th>
<th>Increase on previous year</th>
<th>Accumulative Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td></td>
<td>7.32</td>
<td>-</td>
<td>-</td>
<td>100.0</td>
<td>7.32</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2013</td>
<td></td>
<td>11.43</td>
<td>56.1%</td>
<td>56.1%</td>
<td>105.6</td>
<td>10.82</td>
<td>47.9%</td>
<td>56.1%</td>
</tr>
<tr>
<td>2014</td>
<td></td>
<td>12.41</td>
<td>8.6%</td>
<td>69.5%</td>
<td>112.6</td>
<td>11.02</td>
<td>1.8%</td>
<td>50.6%</td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td>13.37</td>
<td>7.7%</td>
<td>82.7%</td>
<td>117.7</td>
<td>11.36</td>
<td>3.1%</td>
<td>55.2%</td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td>14.25</td>
<td>6.6%</td>
<td>94.7%</td>
<td>125.0</td>
<td>11.40</td>
<td>0.4%</td>
<td>55.7%</td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td>15.39</td>
<td>8.0%</td>
<td>110.2%</td>
<td>131.8</td>
<td>11.68</td>
<td>2.4%</td>
<td>59.5%</td>
</tr>
<tr>
<td>2018 1</td>
<td></td>
<td>16.25</td>
<td>5.6%</td>
<td>122.0%</td>
<td>138.4</td>
<td>11.74</td>
<td>0.6%</td>
<td>60.4%</td>
</tr>
<tr>
<td>2018 2</td>
<td></td>
<td>18.00</td>
<td>10.8%</td>
<td>145.9%</td>
<td>138.4</td>
<td>13.01</td>
<td>10.8%</td>
<td>77.7%</td>
</tr>
<tr>
<td>2019 3</td>
<td></td>
<td>20.00</td>
<td>11.1%</td>
<td>173.2%</td>
<td>145.3</td>
<td>13.76</td>
<td>5.8%</td>
<td>88.0%</td>
</tr>
<tr>
<td>2019 4</td>
<td></td>
<td>21.20</td>
<td>6.0%</td>
<td>189.6%</td>
<td>145.3</td>
<td>14.59</td>
<td>6.0%</td>
<td>99.3%</td>
</tr>
</tbody>
</table>

Notes
1. Increase on 1 March. Inflation for 2018 assumed to be 5% higher than in 2017
2. Increase on 1 May. Inflation for 2018 assumed to be 5% higher than in 2017
3. Increase on 1 May assumed to be R20 / hr. Inflation for 2019 assumed to be 5% higher than in 2018
4. Increase on 1 May assumed to 6% higher than R20 / hr. Inflation for 2019 assumed to be 5% higher than in 2018

As can be seen from the above Table, the following is highlighted in terms of wage increases granted under the Forestry Sectoral Determination.

- Wages have increased by 122.0% in nominal terms between 2012 and March 2018
- Wages have increased by 77.7% in real terms between 2012 and March 2018

In terms of the impact of the NMW, the following should be noted.
- In nominal terms, the wage will increase from Feb 2018 to May 2019 by 30% (16 months)
- In real terms, this represents an estimated increase of 17.9%

The wage increases regulated in terms of the Sectoral Determination from 2012 to 2018 in addition to those that are proposed in terms of the NMW have and will pose severe problems in terms of affordability for the Industry. Of concern is that these increases are not only way above inflation, but have not come anywhere close to matching increases in productivity. The net result has been a substantial negative impact on the continued sustainability of forestry (and agricultural) enterprises.

It should also be noted that job losses resulting from the 56% increase in the minimum wage in 2013 were minimised through the reduction of working hours. As mentioned previously, this will not be an option when the NMW is implemented. Job losses are expected to be significant.

4.2.2 Operational Costs – The Bigger Picture

As mentioned previously, labour costs can be a significant proportion of the total operational costs of a forestry operation. When determining the level of the NMW, this should not be viewed in isolation but should take into account other operational cost increases. Over the past few years these have been well above the published headline inflation rate increases for other operational costs. These include, amongst other things, the following:

- Eskom tariffs
- Municipal property rates
- SFRA water tariffs for forestry
- Transnet Freight Rail tariffs
The bottom line is that the cost pressures from the above have already had a negative financial impact on forestry (and other) businesses and as a consequence, their long-term sustainability.

4.2.3 Industry’s Ability to Meet Cost Increases in Order to Afford Higher Wages

As alluded to above, the “cost, price squeeze” on the Industry over the last few years has been immense. The substantial increases in real terms of the minimum wage levels have impacted significantly on the sustainability of forestry enterprises and their ability to absorb further cost increases through the implementation of the NMW.

Continuing this upward movement in wages without a commensurate improvement in productivity is counter-productive – it simply makes the Sector less internationally competitive and in the long-term will lead to job losses through the increasing trend to mechanise operations.

4.3 Phasing in of NMW for Farm Workers

It is gratifying to note that the drafters of the NMW Bill have recognised the particular circumstances faced by the Agricultural and Forestry Sectors (along with those faced by domestic workers) in that the minimum wage applicable to farm workers will be phased in over 1 year. In terms of this, the minimum wage applicable to farm workers will be R18 per hour w.e.f. 1 May 2018, rising to 100% of whatever the minimum wage will be on 1 May 2019.

This concession is to be welcomed, although given the circumstances faced by the Agricultural and Forestry Sectors and the history of wage increases since 2012, as highlighted in this submission, we are of the opinion that the phasing in period is far too short for the Industry to accommodate such another wage “shock” that will result from the introduction of the NMW.

In order to provide the Agricultural and Forestry Sectors ample time to adapt to this new wage regime in order to minimise job losses, we would sincerely ask the drafters of the Bill to consider extending the phase in period provided for in the Bill to a minimum of three years.

**Recommendation:**
The phasing in period of the NMW applicable to farm workers be extended to a minimum of three years.

5. Specific Comments on NMW Bill

5.1 Chapter 1: Definitions: Definition of “Employer”

The definition of an employer is stated as being “any person who is obliged to pay a worker for the work that that worker performs for that person.”

**Comment:**
This definition does not cater for an employer whose workers perform work for people other than him or herself. This would relate, for example, to employers classified as labour brokers or contractors.
Recommendation:
The definition of an employer be amended to take into account the above situation by changing the wording to read as follows: “...any person who is obliged to pay a worker for the work that that worker performs for that, or any other person.”

5.2 Chapter 1: Purpose of Act: Clause 2 (d)

This clause states that one of the purposes of the Act is to advance economic development and social justice by:

“promoting collective bargaining and supporting economic policy; and”.

Comments:
1. The part of this clause dealing with supporting economic policy is repeated in Clause 2 (e).
2. It should also be noted that the extension of collective bargaining agreements to third parties has been a cause of significant (yet avoidable) job losses in a number of Industries – the textile Industry being a case in point.

Recommendation:
Clause 2 (d) be reworded as follows:
“promoting collective bargaining and supporting economic policy; and”.

5.3 Chapter 2: Calculation of Wage: Clause 5 (1) (b)

Clause 5 (1) states that:

“Despite any contract or law to the contrary, the calculation of a wage for the purpose of this Act is the amount payable in money for ordinary hours of work excluding - ”.

It then goes on to list those things that shall be excluded from such a calculation. Clause 5 (1) (b) includes:

“any payment in kind including board and accommodation”.

Comments:
This appears to be in direct conflict with Clause 10 of Sectoral Determination 12 for the Forestry Sector (Regulation Gazette No. 8419 of Volume 489 of Gazette No. 28598, dated 17 March 2006) which deals with “Deductions and Other Acts Concerning Remuneration”.

Clause 10 of the Forestry Sectoral Determination specifically allows for employers, amongst other things, to deduct up to a maximum of 10% of a worker’s wages for the provision of accommodation and a similar maximum deduction for the “in kind” provision of food, under certain criteria and with the written consent of the worker concerned. Other deductions are also allowed, with the written consent of the worker for;

- The repayment of loans or credit extended to the worker by the employer;
- The provision of food over and above the allowable 10% deduction to the employer; and
Any amount which the employer is required to make by law or in terms of a Court order or arbitration award.

In the forestry and agricultural context, employers are often the providers of their workers’ accommodation and food rations. Importantly, due to the fact that a large number of workers in such employment do not have the ability to lend money from commercial banks, their employers are often the first people they approach for loans and/or credit.

Should such deductions not be allowed under the NWM, the socio-economic impacts on the workers themselves would be negatively impacted, as employers would find it difficult to continue to provide accommodation, rations, loans or extend credit to their workers.

**Recommendation:**
Clause 5 (1) needs to be amended or, alternatively, a new Clause added, to allow for the above deductions to continue to be made in line with the provisions and criteria included in the Sectoral Determination.

### 5.4 Chapter 2: Conduct of Annual Review: Clause 7 (a)

Clause 7 (a) states that the National Minimum Wage Commission (the Commission), should promote:

(i) the medium-term targets referred to in sections 11 (d);
(ii) the alleviation of poverty; and
(iii) the reduction of wage differentials and inequalities.

**Comments:**
These are noble aspirational goals and should indeed be promoted. However, given that one of the results of the introduction of the NMW will undoubtedly be considerable job losses, as predicted in the Department of Planning, Monitoring and Evaluation’s own Socio-Economic Impact Assessment Report, the goals to be promoted listed make no reference to one crucial factor - job creation / preservation.

Although we fully agree with the need to promote the factors listed, in a country where the unemployment rate is at such alarming levels, job creation should, above all else, be priority number one. Why is this not even mentioned as one of the factors that the Commission should be promoting?

**Recommendation:**
Clause 7 (a) needs to be amended to include a fourth (and most important) factor to promote – job creation along with, given the circumstances, prevention of job losses.

### 5.5 Chapter 3: Composition of Commission: Clause 9 (1)

This clause details the representation on the Commission, the total number of whom being 13. Other than the independent Chairperson and three independent experts nominated by the Minister, three members from each of the following are to be represented on the Commission.

- Organised business
• Organised community
• Organised labour

Comments:
Given the extraordinary high levels of unemployment that exist in the country, a crucial stakeholder on such a Commission needs to be those representing the unemployed who have been and continue to be marginalised and excluded from the debate on labour issues.

It is not clear from the above who on the Commission will represent unemployed people’s views and aspirations. It will certainly not be those representing organised business or labour, nor probably the experts appointed by the Minister. That leaves the “organised community” representatives, although it is not clear who these people will represent.

Recommendation:
It is crucial that the voice of the unemployed be heard through their participation in the Commission.

5.6 Chapter 3: Functions of the Commission: Clause 11 (b)

This clause states that the Commission should:

“investigate and report annually to the Minister on the impact of the NMW on the economy, collective bargaining and the reduction in income differentials.”

Comments:
We support this. However, when it comes to reporting on the impact of the NMW on the economy, this is very broad. There are of course many ways in which the NMW wage will impact the economy as a whole, both negatively and positively. Given the importance of the NMW’s impact on the labour market in terms of job creation or conversely, job destruction, this needs particular attention and analysis by the Commission.

Recommendation:
Clause 11 (b) be reworded as follows:
“investigate and report annually to the Minister on the impact of the NMW on the economy, including levels of employment, collective bargaining and the reduction in income differentials.”

5.7 Chapter 3: Secretariat of the Commission: Clause 13 (c)

This clause states that the Secretariat’s functions include:

“the monitoring and evaluation of the impact of the NMW on the economy and the reduction in income differentials.”

Comments:
1. This differs from the stated function of the Commission in that “collective bargaining” is not one of the Secretariat’s functions.
2. As per our comments stated in Point 5.6 above, when it comes to reporting on the impact of the NMW on the economy, this is very broad and should specifically include a reference to its impact on levels of employment.
Recommendation:
Clause 13 (c) be reworded as follows:
“the monitoring and evaluation of the impact of the NMW on the economy including levels of employment, collective bargaining and the reduction in income differentials.”

5.8 Chapter 4: Exemptions: Clause 15 (1)

This clause states that:

“An employer or an employers’ organisation registered in terms of section 96 of the LRA, or any other law, acting on behalf of its members, may, in the prescribed form and manner, apply for an exemption from paying the minimum wage.”

Comments:
1. The above clause limits representative bodies such as Forestry South Africa, who are not registered “employers’ bodies”, from being able to make exemption applications for certain groups of our members.
2. Given the potentially huge impact that the implementation of the NMW will have on certain of our members, particularly our 20 000 small-scale timber growers, it would be totally impractical for them to apply for an exemption individually.

Recommendation:
Exemptions be made easier to acquire through allowing not only registered “employers’ organisations” 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 South Africa, 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.

5.9 Schedule 1 (Section 6 (6)): Clause 2 (a)

This clause states that:

“farm workers are entitled to a minimum wage of R18 per hour from 1 May 2018;”

Comment:
Please refer to the motivation made in Point 4.3 of this submission regarding the phasing in of the NMW in respect of farm workers and the recommendation made thereto (i.e. the phasing in period be extended to a minimum of 3 years).

Recommendation:
Clause 2 (a), which currently reads as follows:

“farm workers are entitled to a minimum wage of R18 per hour from 1 May 2018;”

Be changed to indicate a new phasing in schedule as motivated for in Point 4.3 of this submission.
5.10 **Schedule 1 (Section 6 (6)): Clause 3**

This clause defines a “farm worker” as being a person:

> “who is employed mainly or wholly in connection with farming or forestry activities, and includes a domestic worker employed in a home on a farm or forestry environment and a security guard on a farm or other agricultural premises, excluding a security guard employed in the private security industry in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);”

**Comments:**

1. Please refer to the motivation made in **Point 2.9** of this submission regarding the inclusion of workers employed in certain “on site” primary forestry processing activities under certain conditions outlined in the above point.

2. The above definition related to a security guard who is included in the definition of a farm worker only includes those working “on a farm or other agricultural premises”. It omits those working in forestry premises.

**Recommendations:**

The definition of “farm worker” under Clause 3 of Schedule 1 (Section 6 (6)) be reworded as follows:

> “farm worker” means a worker who is employed mainly or wholly in connection with farming or forestry or “on site” primary forestry processing activities, and includes a domestic worker employed in a home on a farm or forestry environment and a security guard on a farm, forestry or other agricultural premises, excluding a security guard employed in the private security industry in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);”

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