



SACTWU

**SACTWU Submission to
Minister of Labour on the
Review into Minimum Wages and
Conditions of Employment in
the Wholesale and Retail Sector**

29 May 2015

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Overview

The SA Clothing and Textile Workers' Union (SACTWU) welcomes the opportunity to make an input on the Minister of Labour's review into minimum wages and conditions of employment in the wholesale and retail sector. SACTWU represents some workers in clothing, textile and footwear retailers, distribution centres and wholesalers.

We believe that wages and conditions of work in the wholesale and retail sectors are inadequate and need to be substantially adjusted upwards and improved.

Our submission first sets out some of the background and then proposes changes to Sectoral Determination 9: Wholesale and Retail Sector (SD9).

The Minimum Wage

The current Sectoral Determination does not go far enough in addressing poverty and inequality as most workers within this sector are still paid very low wages. SACTWU submits that minimum wage levels for this sector must be adjusted significantly in order to provide workers with a more decent income, to be aligned to national strategic goals around decent employment, and to counter growing income inequality which is particularly virulent in this sector.

South Africa's imperative to pursue decent work has serious implications for wages across the South African labour landscape, and it forces the conclusion that if 'decency' is to have any rational basis, wages must be linked to the cost of living and must ultimately allow workers to live a decent life. In its truest form, therefore, decent work necessitates the payment of a Living Wage.

It is SACTWU's position that a Living Wage must be the ultimate goal in the retail sector. However the immediate minimum wages, while lower than a Living Wage, must also be congruent with national economic policy and the objective of decent work. They should in the very least be defined by a survival wage: in other words, defined by the cost of living. In developing countries, the minimum wage need to cover the living expenses of the whole family and further dependents as recommended by the International Labour Organisation, (ILO).¹

Currently in South Africa there is no relation between minimum wages and the cost of living (Coleman, 2012).² Yet, as we sketch below, it is SACTWU's contention that a minimum wage linked to the cost of living is not only a human rights and policy necessity in the retail sector, but that this wage is actually affordable too.

¹ Herr, H & Kazandziska, M (2011) *Principles of Minimum Wage Policy - Economics, Institutions and Recommendations*. International Labour Organisation

² Coleman, N. (2012) Concept paper: Towards new collective bargaining, wage and social protection strategies. UCT Conference on Strategies to Overcome Poverty and Inequality, September 2012

Large Enterprises Dominate

According to Statistics SA's 2012 Retail Trade Industry and Wholesale Trade Industry reports (the latest edition), the wholesale and retail industries, but especially the retail sector, are dominated by large enterprises, in terms of employment. In this regard, in 2012 large enterprises employed more than 55% of total wholesale and retail industry employees. This was as high as 65% of total employees in large enterprises in the retail segment alone. Indeed the following 27 large companies alone constitute roughly one third of total employees in the wholesale and retail industry:

Shoprite Holdings Ltd, Pick 'n Pay Stores Ltd, Edcon Ltd, Pepkor Holdings (Pty) Ltd, Massmart Holdings Ltd, JD Group Ltd, Woolworths Holdings Ltd, Mr Price Group Ltd, The Foschini Group (Pty) Ltd, Truworths International Ltd, Ellerine Holdings Ltd, Clicks Group Ltd, Lewis Stores (Pty) Ltd, Dis-Chem Consolidated (Pty) Ltd, Cashbuild Ltd, Spar Group Ltd, Waltons (Pty) Ltd, Kaap Agri Beleggings Ltd, Cape Union Mart International (Pty) Ltd, Melbro Holdings (Pty) Ltd, Tekkie Town (Pty) Ltd, Ellies Holdings Ltd, Verimark Holdings Ltd, Holdsport Ltd, Stuttafords International Fashion Company (Pty) Ltd, Moresport (Pty) Ltd, and Homechoice (Pty) Ltd.

In terms of sales, large enterprises also dominate the industry. In this regard, 69% of the income in the wholesale industry and 71% of the income in the retail industry is earned by large enterprises.

In other words, any adjustments to wages and working conditions in the wholesale and retail industry will have a disproportionate impact on large enterprises. It is SACTWU's contention that large enterprises are capable of implementing higher wages and working conditions, including for reasons set out below.

Those smaller enterprises which cannot afford increases, can be covered by an exemption process.

Sales and Profits

In the recent period, sales in the wholesale and retail industry have been slower than previous years, especially in the mid-2000s.

Nevertheless, the slow growth of sales does not mean the industry is not profitable and cannot afford to pay workers higher wages.

Certainly the industry is generally a more profitable industry than many other in the economy. In this regard, Statistics South Africa's Quarterly Financial Statistics records that in December 2014, net profits (before interest and income tax) of the 'trade industry' (which includes the wholesale and retail sectors amongst others) were 11%. This was far higher than net profits in mining and quarrying (3.31%), manufacturing (5.60%), construction (3.50%), and transport storage and communication (3.82%) amongst others.

Yet despite having higher profits, the industry often pays lower wages than other industries. Using the existing SD9 and the Labour Research Service's (LRS) wages

and salaries database, the wages of shop assistants in 2014 were R3 250, and general assistants were R2 804, while the average labourers wage in manufacturing was about R4 165 per month and the average underground miners wage was about R6 067 per month.

If industries which are less profitable than the wholesale and retail industry are able to pay their workers higher salaries, SACTWU believes this more profitable industry should do so too.

Indeed, we are deeply concerned about the skewed distribution of income in this industry. In this regard wholesale and retail workers' salaries stands in extreme contrast to the salaries and remuneration packages earned by many CEOs in this industry, particularly those from large enterprises.

Shoprite for instance regularly awards its CEO bloated remuneration packages, most recently R49.9m in 2014³. For its part, Woolworths awarded its CEO a total package of R27.5m in 2014⁴.

The Labour Research Service⁵ has mapped the salaries and remuneration of CEOs and directors in some large wholesale and retail enterprises. The results show that CEO salaries in the retail sector are on average some of the highest out of all sectors in the economy. In this regard, the average CEO salary in 2014 was about R10m while their average total remuneration was R15.8m.

This represents gross inequality of income in this industry. Such extreme income equality undermines the very fabric of South African society and must be addressed in all spheres in which it manifests. Failing to do so poses a very real threat to social cohesion in South Africa.

Motivating a New Minimum Wage

In terms of international standards, South Africa's minimum wages, including in this sector, are far too low. In most countries, minimum wages are between 40-50% of the median wage. International bodies, such as the ILO, argue that in countries with extreme inequalities, the minimum wage should be higher: up to 75% of the median wage. In Latin America, minimum wages are above 50% of average wages (Herr et al, 2011; ILO Global Wage Report 2008/9). South Africa falls behind BRIC countries here, with China, Brazil and India having a higher minimum wage in relation to the average wage. In Brazil, the real value of the minimum wage increased by 81% between 2003 and 2010 (Coleman, 2012).

According to Baltar et al. (2010),⁶ the minimum wage in Brazil has contributed to raising people's standard of living and has had a very positive impact on poverty levels.

³ Shoprite Integrated Annual Report, 2014

⁴ Woolworths Integrated Annual Report, 2014

⁵ Labour Research Service, MNC Reports, <http://www.lrs.org.za/mnc/reports/repsec/?rep=0&id=16>

⁶ Baltar, P., Santos, A., Krein, J., Leone, E., Proni, M., Moretto, A., Maia, G. & Salas, C. (2010) *Moving towards Decent Work. Labour in the Lula government: Reflections on recent Brazilian experience*, GLU Working Paper No. 9, 2010.

From 61.4 million people in 2003, the number living in poverty dropped to 41.5 million in 2008 (a decrease from 34.3 per cent to 21.9 per cent of the total population). Further, the proportion of formal employment in the whole economically active population (including the unemployed) aged 15 and above increased from 36.1 per cent in 2004 to 40.9 per cent in 2008. Based on the calculation of 40 to 50% of the average wage (taken as R12 000), minimum wages in South Africa should be R4800 to R6000 per month (Coleman, 2012).

Proposals

On behalf of its members in retailers, distribution centres and wholesalers across South African, SACTWU would like to propose the following improvements to conditions of employment and increases in wages.

Wages and social security

Minimum wages

The minimum wage for the lowest paid worker in retail (shop assistant) must be R4,500 per month or R1,038.55 per week, while the lowest paid worker in wholesale (general assistant) must be R4,053.76 per month or R935.56 per week.

According to the SD9 wage schedule for 2015/2016, the current lowest paid worker in retail stores is a shop assistant at R3,249.98. This would mean an increase of R1,250.02. The current lowest paid worker in distribution centres is a general assistant at R2,803.74. This would also mean an increase of R1,250.02.

We propose that all categories of retail workers' wages (except for supervisors and managers, specifically the following categories: 'Trainee manager', 'Supervisor', 'Assistant Manager' and 'Manager') are increased by R1,250.02 per month as opposed to an equivalent percentage increase as a percentage increase will contribute to greater inequality between workers in the sector. We propose that supervisors and managers receive an increase equivalent to 75% of the increase for workers, i.e. R937.52.

The principle of lower paid workers receiving greater increases than higher paid managers and supervisors is already contained in SD9, e.g. in the 2015/2016 wage schedule, lower paid workers received a 7.1% increases versus a 6.1% increase for higher paid persons in Area A. A similar occurrence could be seen for Area B.

If these increases are granted, both workers and managers will receive good increases and inequality will decrease.

Given the above, and the profitability of large enterprises in the sector, we further recommend that large businesses (enterprises with more than 100 employees, as per the National Small Business Act No. 102 of 1996) pay a premium above this,

specifically an increase for workers of 150% that of smaller businesses, i.e. an increase of R1875.03 per month, and for supervisors and managers also 150% that of smaller businesses, i.e. an increase of R1,406.28.

Areas

SACTWU reiterates our call, made in a submission on this sectoral determination in 2012, to abolish wage differentials between Area A and Area B. We believe there should only be one area. We have not found evidence which is conclusive on the matter of lower costs of living in rural or peri-urban areas.

Annual increases

We believe that annual wage increases should be set based on calculations that take into consideration the real impact or changes in the cost of living directly affecting the concerned workers.

We therefore appreciate the fact that rather than basing wage increases on headline inflation, the last Sectoral Determination wage schedule based such increases on the expenditure category most applicable to workers in the sector, inflation for quintile 3. We urge the Minister to continue with this practice.

However, taking into account the very low wages in this sector, the huge gap between executive pay and workers' wages and the need to deal with poverty, including working poverty in South Africa, we believe a premium needs to be added to the annual increase and would propose a 3% top-up, in addition to the inflation for quintile 3 increases mentioned above.

Retirement fund

We propose the progressive introduction of social security measure in the industry. It is evident that workers need to provide for their old-age, for many obvious reasons for the workers and their families, but also to lighten the load on the state's grants system.

Workers in many sectors have achieved this, including due to the organisational strength of their unions and through bargaining. Prospects of retail workers achieving this are bleak, taking into account the low union density in this sector and the power of employers, mainly evident in the level of casualisation, contract workers and temporary workers.

We therefore urge the Minister of Labour to introduce a retirement fund. The contributions to this retirement fund can be increased over the years but as a first step, we propose a compulsory retirement fund whereby employers are required to pay 7% of workers' wages to the fund.

Hours of work

Ordinary hours of work

We recommend that workers be guaranteed a minimum number of hours of work per week so that workers are not forced into lives of extreme poverty and insecurity even though they have jobs. Retail and wholesale sector workers cannot be allowed to be part of the working poor. We therefore recommend a minimum of 35 hours per week.

Alternatively, we recommend increasing the threshold of 27 hours referred to in section 2 and 11 of SD9 to 35 hours, creating less of an incentive to have casual staff and temporary staff. The sector is characterised by precarious work. The Minister can change this.

In addition, we propose that the Minister introduce further rules to deal with precarious work in retail and wholesale, specifically that there will not be more than 30% of P27s (or P35s if our proposal above is accepted) in a store at any time. This should be done through a legislated ratio of casual/short-time workers to full time workers.

Section 12(4) allows companies in the sector a '15 minute allowance' whereby workers are forced to work without pay – this is often at closing time while there are still customers in the stores. In our members' experience, this often amounts to 30 to 45 minutes of unpaid work per day.

We recommend that this provision be scrapped and that workers are paid from the time they enter to the time they leave work. All over-time work should be compensated. Workers should not be expected to subsidise companies and their profits with their labour.

Overtime

Section 14 allows employers to pay workers overtime in the form of time off or over-time pay. It is workers' experience that they have to fight in order to get time off, which amounts to theft of workers' labour.

We therefore recommend that this clause has stricter provisions. We suggest including the following: 'Workers must be granted their owed time off within the immediate week thereafter.'

Meal and rest intervals

SACTWU's members in the retail and wholesale sector are sometimes instructed to go for a meal or rest interval shortly after arriving at work. This happens for various reasons and means that following such a break, they work for many hours before their next break.

We recommend that the Minister clarifies in the Sectoral Determination that there should not be any breaks within first two hours of an employee starting her or his shift.

Night work

With reference to Section 20(1), the Minister previously resisted calls from employers to amend the definition of 'night work' to apply from 21h00-5h00. We would urge the Minister to continue to do so.

We would further urge the Minister to

- Amend the definition to work performed from 18h00-07h00, taking into account factors such as the availability of public transport, the impact on working people's homes and safety concerns.
- Employees' compensation for night work be increased to an allowance of at least 15% of the hourly wage for every hour or part of an hour that the employee works. Given the unsocial and dangerous conditions of night work, this is the least workers should receive.
- Furthermore with reference to Section 20(2), we propose to include '(c) whereby employers are required to provide night transport for workers from the employee's place of residence to the workplace and back to their place of residence or reimburse employees for transport from and to their place of residence with a transport allowance' given the difficulties and cost incurred for workers who perform night work.

Leave

Annual leave

Our members who work in the sector report abuse regarding annual leave and when such leave is taken. Companies refuse that employees take leave and prefer to pay them out for leave.

We believe that one of the ways this could be dealt with is that the flexibility or grace period of six months within which annual leave must be taken, as contained in section 22(4), should change. This is too long. We propose the amendment of this to three months after the end of the annual leave cycle.

Sick and family responsibility leave

Sick leave and family responsibility leave should be applicable to all those working less than 27 hours, contrary to the current version of SD9 (Section 11(d)) which allows for employers to conclude a written agreement with such workers that takes away their right to these kinds of leave. This amounts to discrimination against workers who work fewer hours.

Maternity leave

With reference to Section 25(7)(ii), we propose the deletion of this clause as workers should not be discriminated against on the basis of their pregnancy and/or recent child birth.

General

Temporary Employment Services (TES)

The Union submits that the existence and increase in proportion of atypical forms of employment within the sector undermines efforts, including those of government, aimed at creating decent work within the country. The sector is still characterised by a large proportion of workers who are employed in flexible contracts and workers in other atypical forms of employment.

SACTWU supports the banning of labour brokers as they encourage the super-exploitation of workers, undermine workers and trade union rights and create instability. If immediate banning of labour brokers is not accepted, we propose limiting and phasing out the extent of labour brokers in the sector with the following:

- Workers employed by a TES should not constitute more than 10% of permanent staff within the company.
- TES in the sector should be phased out over a period of 1 year.

Job categories

The current job categories in the Sectoral Determination and in the wage schedule attached thereto causes confusion and allows for abuse.

We would therefore propose that the Sectoral Determination be amended to reduce the number of job categories, including by merging categories.

We would propose that the position of Sales Assistant to be scrapped and only the position of Sales Person be retained. Both have the same prescribed wages in any case. Ideally, we would also want Shop Assistants to be scrapped in placed in the higher single category in which Sales Assistants and Sales Persons are found.