



**SIKHULA SONKE
SUBMISSION**

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Submitted to the Department of Labour

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Introduction

Who are we?

Sikhula Sonke, meaning we grow together (IsiXhosa) works with farm dwellers, mainly in the Western Cape Province. Sikhula Sonke is a women led trade union and its registration was granted on 10 December 2004. It operates as a social movement dealing with all livelihood challenges of farmwomen (domestic violence, food insecurity, alcoholism and evictions. Sikhula Sonke is a member's driven organisation and a vehicle for women voices to be heard.

Sikhula Sonke's primary focus remains to foster self-organisation and direct action on shop floor level.

We acknowledge 27 April as an important day for farm workers regarding dreams of liberation and justice. Yet the past 17 years of democracy have been most disappointing for farm workers and their dependants, who are some of the most marginalised, impoverished and dispossessed in our society.

We appreciate the fact that relatively good laws were passed to protect farm workers. However, this has in many instances led to more insecure jobs, outsourcing and an increase in labour brokerage. Capacity problems at the Department of Labour and weak enforcement mechanisms has given farm-owners, multinational corporations and businesses a signal that they can violate trample on worker rights.

All the evidence are that the problems faced by farm-workers and farm-dwellers affected women in more severe ways.

We are very happy that the Basic Conditions of Employment Act is reviewed and support many of the proposed changes and would like to use this opportunity to propose more changes for consideration. This submission is only focusing on the areas where we propose changes.

Amendment of section 32 of Act 75 of 1997

2. Section 32 of the principal Act is hereby amended by the addition of the following subsection:

"(5) Employers must contribute benefits of similar or equal value to employees employed on a fixed term contract as the benefits afforded to permanent employees."

To be added: Workers who are employment during **harvesting seasons** should be afforded the same benefits. These workers do not get fix term contracts.

6. The following section is hereby substituted for section 45 of the principal Act:

45. "Medical examinations

The Minister may, after consulting the Commission, make regulations relating to the conduct of medical examinations of children **[in employment]** who perform work."

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Deputy General secretary Patricia Dyata, Treasurer: Dawid Africa,
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Wilma Absalon, Sara September.

To be added: The Minister may, after consulting the Commission, make regulations relating to the conduct of medical examinations of **women who are exposed to pesticides**. This can also be included in the Occupational Health and Safety Act as.

Amendment of section 55 of Act 75 of 1997, as amended by section 11 of Act 11 of 2002

9. Section 55 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

"(1) After considering the report and recommendations of the Commission contemplated in section 54 (4), the Minister may make a sectoral determination for one or more sector and area or as contemplated by subsection (8)."

To be added: After considering the report and recommendations of the Commission contemplated in section 54 (4), the Minister may make a sectoral determination for vulnerable sectors such as **home base care workers and pack house workers**.

(b) the substitution in subsection (4) for paragraph (b) of of the following paragraph: provide for the adjustment of remuneration by way of—

(i) minimum rates; or

(ii) minimum increases of remuneration;"

To be added: provide for the adjustment of remuneration by way of:

(i) Living wage rates; or

(ii) Cost of living increases of remuneration;"

(c) the substitution for paragraph (g) of subsection (4) of the following paragraph:

"(g) Prohibit or regulate task-based work, piecework, homework, the placement of employees by temporary employment services, sub-contracting and contract work;"

(c) the substitution for paragraph (g) of subsection (4) of the following paragraph:

"(g) Take out prohibit

It should be **regulate** task-based work, piecework, homework

To be added: Amount to be paid for piecework must be negotiated with the unions and Employees.

Add: Workers should still get the prescribed wage even when they do not meet the Targets

Motivation: piecework is an encouragement to earn more

Take out: The placement of Employees by temporary employment services, sub-Contracting and contract work;"

To be added: Direct employment of workers and banning of labour brokers

"(o) subject to the provisions of the Labour Relations Act, set a threshold of representativeness for a registered trade union to have the organisational rights contemplated in sections 12 and 13 of the Labour Relations Act in respect of all workplaces covered by the sectoral determination; and

(p) any matter necessary to determine the conditions of a labour tenant as contemplated in section 4 of the Land Reform (Labour Tenants) Act No. 3 of 1996;"

Add: Specific provisions should be made on farms and private homes.

Amendment of section 65 of Act 75 of 1997, as amended by section 17 of Act 37 of 2008

11. Section 65 of the principal Act is hereby amended by—

(a) the deletion in subsection (1) of paragraphs (b) and (c); and

(b) the addition of the following subsection:

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"(5) An interpreter, a member of the South African Police Service or any other assistant may, when required by a labour inspector, accompany the labour inspector when he or she performs his or her functions under this Act or any employment law."

Add: An interpreter, a member of the South African Police Service, **Trade Union shop steward, Trade Union Official** or any other assistant may, when required by a labour inspector, accompany the labour inspector when he or she performs his or her functions under this Act or any employment law."

Amendment of section 77 of Act 75 of 1997

15. Section 77 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

"(1) Subject to the Constitution, the Labour Court has exclusive jurisdiction in respect of all matters in terms of this Act." and

(b) the substitution of subsection (3) of the following subsection:

"(3) The Labour Court has **[concurrent]** exclusive jurisdiction **[with the civil courts]** to hear and determine any matter concerning a contract of employment, irrespective of whether any basic condition of employment constitutes a term of that contract."

Change: the Commission for Conciliation Mediation and Arbitration has [concurrent] exclusive jurisdiction to hear and determine any matter concerning a contract of employment, irrespective of whether any basic condition of employment constitutes a term of that contract."

Motivation: It is very costly and lengthy to go to the Labour Court, the C.C.M.A has jurisdiction to arbitrate unilateral change to terms and conditions of employment.

"OFFENCES AND PENALTIES

Proposed change: Minimum applicable fine should be R50 000 and not R10000.

Motivation: Companies and big enterprises can easily pay off ten R10000 and will continue to have total disregard for worker rights.

Thank you for the opportunity to engage you. Forward to worker liberation!!!

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