SUBMISSION TO THE DEPARTMENT OF LABOUR ON THE REPORT OF THE NATIONAL MINIMUM WAGE COMMISSION ON THE REVIEW AND ADJUSTMENT OF THE NATIONAL MINIMUM WAGE FOR YEAR 2022

Introduction

1. This document is a response to an invitation to make written responses to the recommendations in the National Wage Commission's annual review of the national minimum wage. The invitation was contained in Government Gazette 45649 (Notice No 1606) of 17 December 2021 at page 17.

2. The Helen Suzman Foundation is a non-governmental organization promoting constitutional democracy and the rule of law. In pursuit of these objectives it undertakes legal research and litigates in matters with constitutional implications. It also carries out research into political, social and economic issues relevant to its overall goals.

Why is the NWC Review so incompletely referenced?

3. A good faith effort to consult the public on the Review implies the responsibility to identify all data sets used and all technical reports relied upon and that both should be fully available to the public. Uniform Resource Locators (web addresses) should be supplied for data sets and technical reports. The Review does not meet these standards. Tables appear without source notes, reports are mentioned without complete bibliographic references and URLs, there is no assurance that everything can be accessed, and there is no consolidated bibliography. We wish to convey our protest about these defects, especially as the period for comment was set at less than a month, including the midsummer holidays.

What is the smallest annual adjustment that can be made legally in terms of the National Minimum Wage Act (NMWA)?

4. The NMWA contains two provisions which bear on the question:

- Section 2(c): [The purpose of this Act is to advance economic development and social justice by—
  (c) preserving the value of the national minimum wage;

- Section 7(b)(i): [For the purposes of conducting an annual review and recommending adjustments, the Commission must consider]
  (i) inflation, the cost of living and the need to retain the value of the minimum wage.

5. The question arises: how can one be sure that these sections of the Act are complied with?

6. The Review deals with the matter as follows:

> The Commission notes that inflation for low-income households is currently significantly higher than it is for the upper-income group. In October 2021, the headline year-on-year CPI rate was

> 5%. The inflation rate for the poorest decile was 6,5%, while it was 5,2% for the richest decile. The main reason is the relatively sharp increase in transport and food prices, as these constitute a higher share of consumption for lower-income households.
>
> The fact that the overall inflation rate understates price increases for low-income households means that in order to maintain the value of the national minimum wage in terms of purchasing power, the increment must exceed headline inflation[1].

7. But this is inadequate. The deciles referred to are household expenditure deciles. Persons earning the minimum wage are spread over households belonging to a number of expenditure deciles. And they are unlikely to belong to households in the bottom decile. A person working 40 hours per week at the 2021 national minimum wage and who spends all their income would earn and spend R 45 120 in a year, which would put them into the fourth expenditure decile[2], even if there were no other income accruing to their household. If there were other household income, the decile could be higher. And the year-on-year inflation rate for the fourth decile in October 2021, was 4.8%, below the headline CPI rate of 5.0%, and well below the first decile rate of 6.5%.

8. The point is this: whether or not the value of the minimum wage is preserved or retained depends on the position of the household to which the earnings accrue. There are two steps between individual income and household expenditure. The first is the addition of other household income and the second is the relationship between household income and household expenditure.

9. This creates a complexity which the Review has not considered. It might be resolved by estimating the distribution of minimum wage earners across household expenditure categories and derive a weighted average of decile-specific inflation rates. Given the availability of data, this is not easy to do, so a simpler approach would simply be to use the headline rate of inflation.

Should the minimum wage be increased by more than the legally necessary minimum?

10. Section 7(b) of the Act contains the following provision:

> Section 7(b): [For the purposes of conducting an annual review and recommending adjustments, the Commission must consider]
> (vii) the likely impact of the recommended adjustment on employment or the creation of employment.

11. The Report has not adequately provided the context for the consideration of this impact.

[1] Review, pp 7-8

[2] Statistics South Africa, Consumer Price Index: October 2021, Statistical Release P0141, 17 November 2021, p 11

12. Table 1 sets out the evolution of GDP per capita since 2013.

Table 1

Year	**GDP constant 2015 prices R million**	**Population thousands**	**GDP per capita constant 2015 prices Rand**
2013	4302291	53687	80136
2014	4363118	54544	79992
2015	4420793	55386	79817
2016	4450171	56208	79174
2017	4501702	57010	78964
2018	4568670	57793	79053
2019	4573835	58558	78107
2020	4279647	59309	72159
2021	4502189	60 042	74984
2022	4578726	60756	75362

Sources:
GDP constant 2015 prices – from 2013 to 2020: SA Reserve Bank, Online statistical query (historical macroeconomic time series information) at https://www.resbank.co.za/en/home/what-we-do/statistics/releases/online-statistical-query
Population – from 2013 to 2022: World Population Prospects 2019, Population data, Standard Projections at https://population.un.org/wpp/Download/Standard/Population. The medium projection estimates for 2021 and 2022 are used.
Note:
The GDP growth projections for 2021 and 2022 in the SA Reserve Bank's Monetary Policy Statement of November 2021 at https://www.resbank.co.za/content/dam/sarb/publications/statements/monetary-policy-statements/2021/statement-of-the-monetary-policy-committee-november-2021/Forecast%20Report%20Nov%202021.pdf are used as the basis for projecting the 2021 and 2022 GDP in 2015 constant prices.

13. The key conclusion is that GDP at constant 2015 prices has declined since 2013 in such a way as to make expected GDP per capita at constant prices in 2022 6.0% lower than in 2013.

14. Table 2 sets out data from the Quarterly Labour Force Survey from the third quarters of years between 2013 and 2021.

Table 2

Year	Employees Thousands	Labour Force Thousands	Employees as per cent of Labour Force	Unemployment rate - official definition
2013	12997	19916	65.3%	26.2%
2014	12992	20268	64.1%	27.8%
2015	13739	21246	64.7%	27.9%
2016	13645	21706	62.9%	29.3%
2017	13949	22402	62.3%	29.8%
2018	13841	22589	61.3%	29.4%
2019	13739	23109	59.5%	30.9%
2020	12323	21224	58.1%	32.3%
2021	11892	21925	54.2%	37.3%

Source:
Statistics SA, Quarterly Labour Force Survey: third quarter 2021, Statistical Release P0211, 30 November 2011, Additional download: QLFS Trends 2008-2021Q3, Tables 2, 2.1 and 3.6 at http://www.statssa.gov.za/?page_id=1854&PPN=P0211&SCH=72945

15. Table 2 reflects the decline in respect of the labour market, especially in the context of a growing labour force. Tables 1 and 2 illustrate the difficulties of minimum wage determination in contemporary circumstances. As Professor Fedderke pointed out in 2012:

> South African labour market conditions are unusual by international standards. High and persistent unemployment rates do not prevent real labour costs from rising. Job losses are rapid and sustained even in the presence of very mild exogenous shocks. The inference of this descriptive evidence is that the labour market faces severe rigidities that prevent it from adjusting to any exogenous shock to the economy, that prevent the price of labour from adjusting to market clearing levels, and that therefore result in significant levels of unemployment[3].

We see no reason to depart from this view. Indeed, the situation has deteriorated in recent years. From this perspective, a national minimum wage which cannot move down in real terms is a further rigidity not present in 2012.

16. We believe that the contraction in employment and the rise in unemployment have been so large since 2019 that the best way of reconciling the requirements of Section 7(b)(i) and 7(b)(vii) of the NMWA is to keep the national minimum wage at constant 2019 prices at R20 per hour

[3] Johannes Fedderke, The Cost of Rigidity: the case of the South African Labour Market, Economic Research Southern Africa Working Paper 290, June 2012, p 1, at http://www.econrsa.org/publications/working-papers/cost-rigidity-case-south-african-labor-market

until such time that the ratio of employees to the labour force returns to at least its 2019 level (see Table 2). If, in line with paragraph 4 above, one accepts the increase in the headline consumer price index as the measure by which the minimum wage in current prices has to increase to preserve value, the formula for the hourly minimum wage becomes:

$$\text{Hourly minimum wage in year t} = 20 \times \frac{\text{projected consumer price index in the middle of year t}}{\text{consumer price index on 1 September 2019}}$$

provided that the year starts on 1 March, as it did in 2021. On the basis of the Reserve Bank's inflation forecast in its November 2021 monetary policy statement, that would work out to R 22.62 per hour. The formula would also make it straightforward to meet the requirement for setting three year targets for the national minimum wage, since the ratio of employees to the labour force is unlikely to return to its 2019 level over that period.

Why is there no mention of elasticities in the Review?

17. We find it surprising that the term 'elasticity' appears nowhere in the Review. Both the wage elasticity and the output elasticity of the demand for labour are critical magnitudes to consider when setting the minimum wage. In particular, if the wage elasticity is less than minus one, an increase in the minimum wage means that aggregate wages paid to workers at the minimum wage drops rather than rises. Estimating these elasticities is a technically demanding task, and there are controversies about them in countries with considerably higher GDP per capita than South Africa's who are able to produce richer and more reliable data than we can. But this does not excuse us from the best analysis we can make, given the available data.

18. This brings us to a more general point. We accept that a new institution like the National Wage Commission will need time to develop its analytical capacities, links with relevant academic researchers (of whom there are quite a few) and general professionalism. The Review considered here is the third in a series, but it requires an improved analytical approach, which needs to be assembled in a more logically coherent manner. We would welcome evidence of a well thought-out strategy to improve the quality of its recommendations to the Minister of Labour on an important policy issue. We are available to assist in this regard.