



**THE WIETA ETHICAL CODE
OF
BEST PRACTICE**

Version 3.0 (2016)

www.wieta.org.za

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INTRODUCTION

i. WIETA

The South African wine and related industries have adopted ethical parameters by which it has come to measure its impact in tackling many of the widespread development challenges affecting those employed in wine production and other agricultural products.

WIETA, a not for profit, voluntary association of many different stakeholders in the South African wine industry, was formally established in 2002 as the Wine and Agricultural Ethical Trade Association. WIETA strives to ensure fair treatment, respectful relationships and dignified lives toward achieving a transformed agricultural sector.

ii. Preamble to the WIETA Ethical Code of Best Practice

The WIETA Ethical Code of Best Practice outlines the minimum employment standards that members of the association commit themselves to. Workers protection are the highest aspiration of the WIETA Code.

iii. Interpretation of the WIETA Ethical Code of Best Practice

The Ethical Code constitutes twelve principles that apply to all members of WIETA within South Africa who strives to be ethically accredited by the organisation, *inter alia* producers, cellar, estates, co-operatives and temporary employment services.

The WIETA Ethical Code of Best Practice must be read in conjunction with the WIETA Code Benchmark version 3.0 (2016) that further explains each principle of the WIETA Ethical Code of Best Practice. Members will be audited against the Ethical Code and Ethical Code Benchmark.

iv. International and national references

The principles set out comply with the provisions of prevailing South African labour and health and safety legislation and international labour and health and safety standards, United Nations ('UN') and International Labour Organisation ('ILO') Conventions. The Ethical Code, Benchmark and the audit methodology has also been benchmarked against the Global Social Compliance Programme's ('GSCP') reference documentation, <http://www.theconsumergoodsforum.com/gscp-our-work/equivalence-process/equivalence-process-user>. However, where South African labour legislation is amended from time to time, and the conditions of the legislation provide more favourable terms and conditions of employment in the sector, or, where the members of the association agree to more favourable terms and conditions of employment than those stipulated in labour legislation and it affords the highest protection to workers, this code will be amended accordingly.

The standards comply at a minimum with the following international standards:

- The ILO call for Decent Work
- C1, Hours of Work (Industry) Convention, 1919
- C14, Weekly Rest (Industry) Convention, 1921
- C95, Protection of Wages Convention, 1949
- C131, Minimum Wage Fixing Convention, 1970

- C135, Workers' Representatives Convention, 1971
- C155, Occupational Safety and Health Convention, 1981
- C161, Occupational Health Services Convention, 1985
- R85, Protection of Wages Recommendation, 1949
- R116, Reduction of Hours of Work Recommendation, 1962
- R135, Minimum Wage Fixing Recommendation, 1970
- R164, Occupational Safety and Health Recommendation, 1981
- R190, Worst Forms of Child Labour Convention Recommendation, 1999
- R184, Home Work Recommendation, 1996

The standards apply to permanent, temporary, agency workers as well as piece rate, salaried, hourly paid, young workers, part time workers, night workers, migrant workers and home workers.

In each principle of the WIETA Ethical Code of Best Practice, references to both national and international legislation and conventions can be found.

v. WIETA's values

As an organisation WIETA is committed to ensuring that the following values are embedded in our vision, mission, strategic programmes and operating and performance standards.

- Commitment to change;
- Integrity;
- Making a difference;
- Taking the lead;
- Creating space to interact;
- Excellence in what we do.

vi. Implementation of the WIETA Ethical Code of Best Practice

Companies that join WIETA as a member are expected to adopt a similar value system and this translates to continuous improvement in labour practices on farms, production sites and in cellars. As a first step members are expected to proactively adopt WIETA's Ethical Code.

Members are required to –

- Demonstrate and communicate their commitment to ethical trade;
- Integrate ethical trade into their business policies and practices;
- Demonstrate clear improvement in the working lives of their employees on an on-going basis;
- Show proactive support to and monitoring of any grape, wine and/or agricultural suppliers in improving their workers' working conditions;
- Ensure that they enable all their workers to actively participate in the understanding of the code, the implementation thereof and the monitoring of the code.

Members of WIETA commit themselves to undertake an independent participative and multi-disciplinary assessment of their ethical trade and labour practice by undertaking an ethical audit against the WIETA Ethical Code of Best Practice. It is required that a senior member of management

at each member's site takes responsibility for understanding and the implementation of the Ethical Code.

To be compliant with the Ethical Code, member sites have to undertake an ethical audit and submit their corrective actions with evidence for approval to WIETA's accreditation committee. Once approved members receive an ethical certificate, valid up to three years dependent upon their ethical risk performance. For more information read the WIETA Audit Process and Methodology version 3.0 (2016) on the website, <http://www.wieta.org.za/>.

Independent auditors who have experience in the areas of social, labour and health and safety and have a good understanding of the agricultural sector have been approved by WIETA to monitor compliance with the Ethical Code. Accredited auditors receive regular and ongoing training.

Small Producers and smallholdings

Small Producers and smallholders by international definition can typically be defined by some of the following characteristics –

- May produce relatively small volumes of produce;
- May have relatively small plots of land;
- May produce for export despite their size;
- Are generally less well-resourced than commercial-scale farmers;
- May be considered part of the informal economy (may not be registered and tend to be excluded from certain aspects of labour and occupational health and safety legislation);
- May be dependent on a small supply of labour that lives on farm or may hire seasonal workers through a temporary employment services; independent contractor or have an arrangement to share labour with neighbouring farms;
- Are often vulnerable in supply chains.

If a member site uses less than 20 workers (permanent and temporary workers employed directly by the member site or contracted workers) some requirements in the WIETA Ethical Code of Best Practice and the WIETA Code Benchmark will not apply to the member. In such cases the auditor will consider these requirements as not applicable.

Requirements in the WIETA Ethical Code of Best Practice and the WIETA Code Benchmark that do not apply to small producers and sites, as defined above, will be marked with an *.

vii. Certified Fair Labour Seal

To qualify for the Fair Labour certification seal for individual wines, members also need to involve their wine, grape and/or related agricultural suppliers to that wine in the audit and certification process. Before the applicant can apply for the use of the WIETA Seal, a traceability exercise needs to be undertaken to ensure that all wine, grape and/or related agricultural suppliers to the application have undertaken the necessary requirements for recognition by WIETA as a certified site.

Verification is undertaken through the SAWIS system once a member has submitted an application form for traceability for the seal. All successful applications are valid for the specific vintage year.

viii. Application of current versions

The WIETA Ethical Code of Best Practice and the WIETA Code Benchmark version 3.0 (2016) commence on 1 August 2016 and member sites will be audited against these requirements. All member sites that undergo an initial audit or an audit for their next certification cycle on or after 1 August 2016 will be audited against the requirements set out in this version and version 3.0 therefore replaces all previous versions.

Members who have conditional certification and have to undergo a site verification of their corrective action(s) will be measured against the version of the Ethical Code and Benchmark that was applicable during their audit in the particular audit cycle.

This version of the Ethical Code and Benchmark will be reviewed in full in 2019. WIETA may however before the next full review amend any requirement in the Ethical Code and Benchmark by adding, deleting or changing as it deems necessary. Once an amendment has been made to the Ethical Code the amended version will be available on the website, <http://www.wieta.org.za/>. Amendments will be communicated to members through WIETA's quarterly newsletter and it is necessary for members to ensure that they are kept up to date of all amendments.

ix. Code Violations

From time to time, information about alleged violations of codes of labour practice amongst WIETA members and/or their suppliers may be received by trade unions, NGOs, buyers, or producer members of WIETA.

As well as resolving the issue, the intention is to promote better communication and good working relationships amongst employers and employees, in the spirit of working together to resolve breaches of the WIETA code in the wine and agricultural supply chain.

For more information please read the WIETA Code Violations document on the website, <http://www.wieta.org.za/>.

THE WIETA CODE

0. Management systems

- 0.1. The workplace has adopted an ethical Code (the WIETA Code) governing working and living conditions for everyone at the workplace.
- 0.2. Employers shall where reasonably practicable and applicable, extend the principles of this ethical code through their wine and grape supply chain. Employers shall further establish appropriate procedures to evaluate their suppliers' ability to meet the requirements of the ethical code. Appropriate records of their suppliers shall be kept.
- 0.3. Management shall at least annually review the suitability and continuing effectiveness of the ethical code/farm policy in terms of labour practices and ethical trade principles.
- 0.4. Employers shall appoint a senior member of management who shall be responsible for compliance with these systems and shall ensure that employees and management are aware of the content of the ethical code/farm policy.
- 0.5. Employees have democratically elected male and female representatives based on the principle of freedom of association to represent them in discussions with management on implementation of the code at the workplace.
- 0.6. Where non compliances are identified, management shall implement corrective actions and allocate adequate resources. Employers shall investigate, address and respond to the concerns of employees and other interested parties with regard to non-compliances with the ethical code.
- 0.7. Employers shall not be involved in nor tolerate any act of corruption, extortion or embezzlement, nor in any form of bribery, including but not limiting, the promising, offering, giving or accepting of any improper monetary or other.

1. Prohibition on child labour and the employment of young workers

- 1.1. Employers shall not employ children under the age of 15 and children under the age of 15 shall not be present at the workplace.
- 1.2. Should young persons between the ages of 15 and 18 seek employment, employers shall ensure that this does not interfere with their school going activities.
- 1.3. Employers shall ensure that young workers, under 18 years of age do not perform night work and that the work provided to young workers is appropriate to the age of the young person concerned, and shall take care to ensure that the work performed does not risk the young person's well-being, education, physical or mental health, or spiritual, moral or social development.
- 1.4. In cases where child labour is found to be present, the employer shall take appropriate measures to remediate the situation that will put the best interest of the child first.

References

South African Legislation

Constitution of the RSA, 1996:

- *Section 28 (1)(e) provides that every child has the right to be protected from exploitive labour practices.*
- *Section 28(1)(f) provides that every child has the right not to be required or permitted to perform worker services that are age inappropriate or places at risk that child's well-being, education, physical or mental health, spiritual, moral or social development.*
- *Child means a person under the age of 18 years (section 28(3)).*

Basic Conditions of Employment Act (75 of 1997), as amended:

- *Section 43(1) provides that no person may employ a child under the age of 15 years or who is under the minimum school-leaving age, if this is 15 or older.*
- *Section 43(2) repeats section 28(1)(f) of the Constitution.*
- *Section 44(2) provides that regulations may be made by the Minister prohibiting or placing conditions on the employment of a child who is at least 15 years of age and no longer required to attend school. Section 47 places the onus on the employer, if the employer alleges that it has complied with the age requirement.*
- *BCEA and the Sectoral Determination 13: Farm Worker Sector:*
- *Sub-clauses 1 and 2 of clause 25 of Part F: repeats the legislation and Paragraph 15 of the Guidelines provides that the employer must verify the age of the employee from the identity document or birth certificate.*

South African Schools Acts (84 of 1996):

- *Section 31(1) provides that a learner must attend school until the last school day of the year in which he/she reaches the age of 15 or grade nine, whichever is first.*

Children's Act 38 of 2005 International Reference

International Reference

ILO Convention 182, Worst Forms of Child Labour, 1999

ILO Convention C138 – Minimum Age Convention 1973 (No138)

2. Prohibition on forced, bonded, prison or indentured labour

- 2.1. Employers shall not engage in or support the use of forced labour, prison labour, bonded or indentured labour. Employees shall not be required to lodge 'deposits' or original identity documents with their employer upon commencing employment nor shall employers permit or encourage workers to incur debt through recruitment fees, fines or, other means.
- 2.2. Employees shall have the right to leave the workplace after their shift.
- 2.3. Family members of employees living on the premises of, as per the provisions of the Extended Security of Tenure Act, and working for an employer, shall not be prevented from taking work off farm.
- 2.4. Spouses or cohabiting partners, parents or children of employees living on the premises of and working for any employer shall have their own individual contracts of employment.
- 2.5. Spouses and dependants of employees are not occupiers in their own right. Their right derives through the employee and thus they are not required to work in return for the right to reside with the employee. Their right to reside with the employee terminates upon termination of the employee's right as an occupier, unless they have an independent agreement deriving from their own employment contract with the owner of the land.
- 2.6. Employers shall ensure that disciplinary procedures clearly sets out that any form of forced or bonded labour as a disciplinary measure shall not be tolerated.

References

South African Legislation

Constitution of the RSA, 1996:

- *Section 13 Provides that no one may be subjected to forced labour.*
- *Section 9 provides that everyone is equal before the law and has the right to equal protection and benefit of the law. Section 21 provides that everyone has the right to freedom of movement.*
- *Section 22 provides that every citizen has the right to choose their trade, occupation or profession freely (and as regulated by law). Section 28 provides that children have the right to family care and that the child's best interests are of paramount importance.*

Basic Conditions of Employment Act:

- *Section 48 prohibits forced labour and no one may for his or her own benefit or benefit someone else, cause, demand or impose forced labour.*
- *BCEA SD 13: Sub-clauses 1 and 2 of clause 25 of Part F repeat the legislation.*

Extended Security of Tenure Act 62 of 1997

International Reference

ILO Convention C029 – Forced Labour Convention, 1930

ILO Convention – Abolition of Forced Labour, 1957

3. A safe and healthy work environment

- 3.1. Employers shall provide a safe and healthy working environment for employees, and shall take adequate steps to prevent accidents and injury to health arising out of, associated with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment.
- 3.2. The CEO shall appoint a senior management representative responsible for the health and safety of all personnel, and accountable for the implementation of a healthy and safe working environment. As required by the Occupational Health and Safety Act, the CEOs shall ensure the election of employee health and safety representatives.
- 3.3. Employers shall strive towards the implementation of a practical integrated health and safety framework that allows for the analysis of risks, the implementation of measures to reduce or eliminate those risks, mechanisms for decision making on and monitoring of the implementation of health and safety measures, and record keeping in this regard.
- 3.4. Notwithstanding the above, employers shall ensure:
 - 3.4.1. the safe storage, application and disposal of pesticides and agrochemicals;
 - 3.4.2. that workers are provided with necessary safety equipment and clothing, and that steps are taken to prevent injury of persons by farm equipment and heavy machinery;
 - 3.4.3. that workers receive regular, adequate and recorded health and safety training, including in the handling of chemicals and other hazardous substances, in the handling of heavy machinery, and in managing of waste management. Training shall be repeated for all new or reassigned workers and management;
 - 3.4.4. that measures are in place to provide first aid and other emergency treatment in the event of accidents occurring at the workplace, and that workers compensation documentation and other accident and illness documentation required by law are available and utilised in the event of work related accidents and illnesses;
 - 3.4.5. that readily visible safety signs are supplied in all relevant languages;
 - 3.4.6. that adequate fire prevention, firefighting and fire safety measures are in place;
 - 3.4.7. that measures are in place to prevent exposure to fumes in wineries and cellars;
 - 3.4.8. that measures are in place to ensure that employees working or their families residing in close proximity to the site where spraying occurs, are not placed at risk through exposure to the chemicals and pesticides being applied;
 - 3.4.9. access to clean toilet facilities for all employees employed at the workplace;
 - 3.4.10. access to clean drinking water is provided to all employees employed at the workplace and where applicable sanitary facilities for food preparation and storage;
 - 3.4.11. the safety and stability of buildings and equipment, including on farm accommodation of workers.

- 3.4.12. that on-farm accommodation provided is structurally sound and weatherproof, is provided with adequate floor screeding; toilet facilities and waste disposal, as well as electricity or other appropriate energy resources for heating, cooking and lighting; is adequate to the number of residents and that there is no overcrowding and that measures are taken to ensure the maintenance and upkeep of the accommodation provided.
- 3.4.13. Appropriate working conditions for pregnant women, in line with the code of good practice on the protection of employees during pregnancy and after the birth of their child.
- 3.5. Employers will not promote or implement any practices that perpetuate a culture of alcohol dependence. Where alcohol dependence or abuse is identified as a problem, employers shall take reasonable steps to address this at the work place.

References

South African Legislation

Occupational Health and Safety Act (85 of 1993), as amended:

- *GNR929 General administrative regulations*
- *GNR1031 General safety regulations*
- *GNR924 Facilities regulations*
- *GNR1179 Hazardous chemical substances regulations*
- *GNR1521 General machinery regulations*
- *GNR250 Electrical machinery regulations.*

Compensation for Occupational Injuries and Diseases act (130 of 1993)

International Reference

ILO Convention 155, Occupational Health and Safety, 1981 and Protocol 2002

ILO Convention 161, Occupational Health and Safety Services, 1985

ILO Convention 187, Promotional Framework for Occupational Health and Safety, 2006

ILO Convention 184, Safety and Health in Agriculture, 2001

ILO Convention 162, Asbestos, 1986

ILO Convention 170, Chemicals, 1990

4. Freedom of association & the right to bargain collectively

- 4.1. Employees without distinction shall have the right to join or form trade unions or organisations of their own choosing and to bargain collectively, without prior authorisation from their employer.
- 4.2. Employers shall ensure that wage increases and benefits of employment are determined through a process of fair negotiation in which workers get a genuine opportunity to represent their interests.
- 4.3. Employers shall adopt an open attitude towards the activities of trade unions and their organisational activities, allow and facilitate trade union access to the workplace to organise workers, and shall not discriminate against any person because of his or her trade union membership or political affiliation.
- 4.4. Representative trade unions organising workers shall be accorded organisational rights in terms of the provisions of the Labour Relations Act 66 of 1995.
- 4.5. Management shall furnish employees and their representatives who engage in collective bargaining with all relevant information to enable them to engage meaningfully in negotiations.

References

South African Legislation

Constitution:

- *Section 18 provides that everyone has the right to freedom of association.*
- *Section 23(1) provides that everyone has the right to fair labour practices.*
- *Section 23(2) makes provision for employees' right to form and join a union, to participate in the activities and programmes of a trade union and to strike (as regulated by national legislation). Section 23(5) provides for trade unions to engage in collective bargaining read with relevant national legislation such as the Labour Relations Act.*
- *These rights may be limited if reasonable and justifiable in terms of section 36 of the Constitution.*

Labour Relations Act, Act 66 of 1995, as amended:

- *Section 4(1) provides that every employee has a right to form and to join a trade union, subject to that trade union's constitution. A Employer of a trade union may participate in that trade union's lawful activities, participate in election of office bearers, officials and representatives, to hold office if elected and if appointed as a trade union representative, to carry out such function in terms of the Act or collective agreement (Section 4(2)).*
- *LRA: Section 5 Protection of employees and persons seeking employment.*
- *LRA section 13 Deduction of trade union subscriptions.*
- *LRA Section 12 Trade union access to workplace.*

International Reference

ILO 087, Freedom of Association and the Right to Organise, 1948

ILO 098, The right to organise and Collective bargaining, 1949

ILO 151, Labour Relations, 1978

ILO 154, Collective Bargaining, 1981

5. Workers shall not be unfairly discriminated against

- 5.1. No Employer shall engage in or support unfair discrimination on arbitrary grounds, including (but not limited to) race, sex, marital status, sexual orientation, caste, social background, diseases, disability, pregnancy, ethnic or national origin, nationality, membership in union organisations, political affiliation gender or any other personal characteristics or belief, in respect of their employment practices and policies. Employment practices and policies include, but are not limited to recruitment, remuneration, access to training, promotion, benefits of employment (including housing and pay benefits), discipline, termination, retirement, recruitment, hiring, working conditions, job assignments.
- 5.2. Employers shall base all terms and conditions of employment on an individual's ability to do the job, not on the basis of personal characteristics or beliefs.
- 5.3. Employers shall not tolerate incidences of sexual or racial harassment or bullying at the workplace; including gestures or language and physical contact that is racially or sexually coercive, threatening, abusive or exploitative.
- 5.4. Employers shall implement measures to promote and advance those disadvantaged by historical discriminatory practices, in line with the provisions of the Employment Equity Act 55 of 1998 and the Skills Development Act

References

South African Legislation

Constitution of the RSA, 1996:

- *Section 9 everyone is equal before the law. Legislative measures may be taken to achieve equality.*

Employment Equity Act (Act 55 of 1998):

- *The employer must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice (section 5). Unfair discrimination includes direct or indirect discrimination based on race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth (section 6).*
- *Note that it is not unfair to take affirmative action measures and exclude or prefer a person based on an inherent requirement of a job (section 6).*

Skills Development Levies Act (9 of 1999)

International Reference

ILO 111, Discrimination (Employment and Occupation), 1958

- 6. Workers shall be fairly treated and fair disciplinary measures shall be adopted.**
- 6.1. Workers shall be fairly treated with dignity and respect.
- 6.2. Physical abuse or corporal punishment, the threat of physical abuse, or other forms of intimidation shall be prohibited.
- 6.3. Employers shall adopt disciplinary rules and procedures that comply with the provisions of the Labour Relations Act 66 of 1995, in particular, schedule 8 to this act, and shall keep records of all disciplinary proceedings in the personal file of the employee involved.
- 6.4. Workers should be encouraged to make use of the grievance procedures and should not be discriminate, disciplined or dismissed for having done so.
- 6.5. Employers must explain the adopted disciplinary rules and procedures to workers in clear and understandable terms.

References

South African Legislation

Labour Relations Act:

- *Section 185 provides that every employee has the right not to be unfairly dismissed and a right not to be subjected to an unfair labour practice.*
- *Schedule 8 of the LRA – Code of Good Practice – Dismissals contains guidelines for disciplinary procedures prior to dismissal for reasons relating to conduct (misconduct, poor work performance) or capacity (ill health, injury).*
- *The National Economic Development and Labour Council (NEDLAC) has in terms of section 203(1) of the LRA issued a code of good practice for dismissals based on operational requirements (Government Gazette 20254).*
- *Disputes may be referred to the CCMA.*

International Reference

ILO 158, Termination of Employment, 1982 and other relevant conventions

7. Working conditions shall be fair and working hours shall not be excessive.

- 7.1. Employers shall ensure that they comply with national law in respect of working hours, and shall in particular ensure that:
- 7.1.1. normal working hours do not exceed 45 hours per week;
 - 7.1.2. overtime work and work on public holidays is voluntary,
 - 7.1.3. work on Sundays and Public Holidays is remunerated at double the employee's hourly wage;
 - 7.1.4. overtime hours do not exceed 10 hours a week for cellars and 15 hours for farms, and overtime work is remunerated at a premium of one and a half times the person's hourly rate,
 - 7.1.5. workers do not work for more than a week without a break of at least 36 hours;
 - 7.1.6. workers receive at least three week's paid leave per year
 - 7.1.7. workers are paid in respect of their sick leave, in accordance with the provisions of the Basic Conditions of Employment Act
 - 7.1.8. workers are provided with maternity/family responsibility leave in terms of the Basic Conditions of Employment Act
- 7.2. Management shall keep written records of all hours worked and leave taken by employees, in terms of the Basic Conditions of Employment Act and or SD 13.
- 7.3. Prior to commencement of employment, all employees shall be provided with a contract of employment, which will set out their terms and conditions of employment in relation to working hours, remuneration and leave.

References

South African Legislation

BCEA:

- Chapter 2 Regulation of working time (sections 6 to 18)
- Chapter 3 Leave (sections 19 to 27)
- Code of Good Practice on the arrangement of working time.
- BCEA SD13: Part D: Hours of Work
- BCEA SD13: Part E: Leave

International Reference

ILO 001, Hours of Work Industry, 1919

ILO 014, Weekly Rest (Industry), 1921

ILO 156, Workers with Family Responsibilities, 1981

ILO 183, Maternity Protection, 2000

ILO 122, Employment Policy, 1964

8. Striving towards the payment of a living wage

- 8.1. Notwithstanding the provisions of the Sectoral Determination for Farmworkers, employers as members of WIETA shall strive towards paying employees a living wage – enough to allow employees and their households to secure an adequate livelihood. This should be sufficient to meet basic needs such as food, clothing, shelter and education, and to have money left over for discretionary spending.
 - 8.1.1. Wages and benefits paid must, meet, at a minimum, national legal standards set by the Sectoral Determination for Farmworkers, or industry benchmark standards, whichever is highest.
- 8.2. Employers ensure that compensation for employees for overtime, benefits and leave at minimum, national legal standards set by the Basic Conditions of Employment Act, Sectoral Determination for Farmworkers, or industry benchmark standards, whichever is highest.
- 8.3. Employers shall remunerate employees in accordance with the principle of equal pay for equal work and work of equal value.
- 8.4. Piece rates, where paid, shall not be less than the minimum legislated daily rate.
- 8.5. Employees shall be provided with written and understandable pay slips, which include clear documentation of gross wages, all deductions made and net wages.
- 8.6. Provision shall be made for the payment of UIF and other statutory deductions.
- 8.7. Deductions shall not be made in respect of protective clothing, farm equipment, or other items essential to the performance of workers' tasks.
- 8.8. Deductions for payment in kind shall not exceed 25% of the employee's gross wage and shall be made with the written consent of the employee concerned.
- 8.9. Where farm shops exist, employers shall ensure that they are run in an open and transparent fashion and shall ensure that employees are not excessively indebted to and therefore reliant upon this shop or any other system whereby deductions are made for groceries or household provisions acquired on behalf of the worker.
- 8.10. Employers shall not provide alcohol as payment or part payment, or as a voluntary consideration that can be taken in lieu of an equivalent portion of the wages.
- 8.11. All other deductions from Employees wages must be implemented in line with legislation and that there are no other deductions prohibited by legislation.

References

South African Legislation

BCEA SD13:

- *Clauses 2 of Part B: Minimum wage levels*
- *Clause 3 Minimum wages for farm workers under 18 years of age*
- *Clause 8 Permissible deductions*
- *Clause 13 Overtime*

BCEA : Overtime : Clause 10

Unemployment Insurance Contributions Act (4 of 2002): Section 6

Sectoral Determination 13 Part B (1) March 2015 to February 2016 Adjustment Minimum Wage Levels

International Reference

ILO 95, Protection of Wages, 1949

ILO 131, Minimum Wage Fixing Conventions,1970

ILO 100, Equal Remuneration Convention,1951

9. Regular employment shall be provided

- 9.1. Work performed must be on the basis of a recognised employment relationship, established through national law and practice.
- 9.2. Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of sub-contracting arrangements or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.
- 9.3. Should employers make use of labour contractors, they shall take measures to ascertain the conditions of employment of workers provided by the contractor, and shall endeavour to ensure that the contractor is complying with the standards set out in this code of conduct in respect of those employees working on their premises.

References

South African Legislation

BCEA SD13: Clause 33 of Part G: Termination of employment – Temporary Employment Services

International Reference

ILO 97, Migration of employment, 1949

ILO 143, Migrant workers, 1975

ILO 110, Plantations, 1958

ILO 184, Home Work Recommendation, 1996

10. Housing and tenure security

- 10.1. Employers and farm owners shall comply with the provisions of the Extension of Security of Tenure Act in respect of those living on their land. In particular, employers shall respect the occupational rights of farm dwellers, and shall comply with the provisions of the legislation insofar as these regulate the eviction of those living on the farm.
- 10.2. Employers must comply with the housing standards, employers are referred to point 3.4.12 of the Code and the WIETA Housing Standards Guidelines 2014.

References

South African Legislation

Extension of Security of Tenure Act (Act 62 of 1997):

- *Section 6(2)(a) provides the occupier with a right to security of tenure and section 6(2)(d) to family life in accordance with the culture of that family. Spouses and dependents are not occupiers in their own right; their right derives through the occupier and thus terminates upon termination of the occupier's right, unless they have an independent right deriving from their own employment with the owner.*
- *Section 8 provides that the occupier's right of residence may be terminated on lawful grounds provided it is just and equitable.*
- *An occupier is defined as a person who resides on agricultural farm land with permission by the owner and who does not earn an income in excess of R5 000.00 per month. Long-term occupiers have a right to live on the land permanently if they have lived on the land for ten years and are sixty years or older or rendered disabled during the period of employment with the owner.*

Legal Framework for Housing Standards

- *National Building Regulations and Building Standards Act (1977)*
- *Occupational Health and Safety Act*
- *Environmental Regulations for Workplaces, 1987:(2281);*
- *General Safety Regulations (1993),*
- *National Environmental Management: Waste Act (2008), Art. 21-23*
- *The Extension of Security Tenure Act and the Provision of Accommodation in the Agricultural Sector (ESTA) (2007);*
- *Sectoral Determination: Agriculture sector 13 (2009);*
- *South Africa mining accommodation standards;*
- *South African National Standards (SANS)*
- *International Finance Corporation (IFC) and European Bank for Reconstruction and Development (EBRD). (2008). Workers' accommodation: processes and standards A guidance note by IFC and the EBRD;*
- *International Labour Organization, Workers Housing Recommendation (1961);*
- *SA 8000 accommodation guidelines;*
- *International Covenant on Economic, Social and Cultural Rights*

11. Striving towards social responsibility and community development as best practice

- 11.1. Employers are encouraged to contribute positively to the sustainable development of communities in which they operate. Employers are encouraged to demonstrate best practices by making positive social and developmental contributions above and beyond legal compliance.
- 11.2. Employers are encouraged to demonstrate a commitment to and management of social responsibility policies and programmes in support of fair working and living conditions within the community in which they operate.
- 11.3. Employers are encouraged to promote the responsible production, distribution and consumption of substances such as alcohol amongst their employees and their families within the context of the broader farming community.

References

South African Legislation

The South African Constitution

The South African Bill of Rights

International Reference

ILO 117, Social Policy, 1962

ILO 200, HIV and Aids Recommendations. 2010