

National Economic Development and Labour Council (NEDLAC) (South Africa)

Source: OECD (2016), *Pilot database on stakeholder engagement practices in regulatory policy*, <http://www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm>

Provider of information	Answers
Organisation	Department of Labour
Division	Labour Relations – Directorate: Collective Bargaining
Name (optional)	Ian Macun, Tel: +27 12-3094634 Unathi Ramabulana, Tel: +27 12-3094046
Overview of the practice	Answers
Name of practice	National Economic Development and Labour Council (NEDLAC)
If available, please provide links that provide further information about the practice or attach documents.	NEDLAC website NEDLAC founding documents , including the NEDLAC Founding Declaration, Constitution, and the Act and protocols governing NEDLAC NEDLAC latest annual report of 2014-15
Is this practice ongoing or was it applied only during a limited amount of time/at one specific occasion?	Ongoing practice
In what year was the practice launched?	The Council was established in law through the National Economic Development and Labour Council Act no. 35 of 1994. NEDLAC was launched in February 1995.
Was the practice updated/reformed since then? If yes, when and how has it evolved over time?	No.
Please describe the practice, including information on <ul style="list-style-type: none"> • Features of the practice that you consider its key strengths • Key challenges faced during the implementation of the practice • Main results of the practice. 	<p>NEDLAC is a representative and consensus-seeking statutory body established in law through the National Economic Development and Labour Council Act of 1994. It aims to facilitate sustainable economic growth, greater social equity at the workplace and in the communities, and to increase participation by all major stakeholders in economic decision-making at national, company and shopfloor level.</p> <p>NEDLAC consists of representatives from government, organised labour, organised business and community organisations. They seek to cooperate, through problem-solving and negotiation, on economic, labour and development issues, and related challenges facing the country. The Council considers all proposed labour legislation before it is introduced into Parliament as well as all significant changes to social and economic policy before it is implemented or, in the case of legislation, before it is introduced into Parliament.</p> <p>NEDLAC's highest decision-making body is the Executive Council which is formed by representatives of all constituent groups. The Executive Council is supported by a Management Committee which oversees and coordinates the work of the Council. Issues that are tabled at NEDLAC are referred to one of the four NEDLAC Chambers for negotiation or consultation. These are</p> <ul style="list-style-type: none"> • the Development Chamber, which seeks to reach consensus and conclude agreements on matters pertaining to social and economic policy; both urban and rural implementation strategies as well as developmental programmes • the Labour Market Chamber, which considers all proposed labour legislation relating to the labour market policy;

	<ul style="list-style-type: none"> the Public Finance and Monetary Policy Chamber, which considers and engages on policy and legislation pertaining to financial, fiscal, monetary and exchange rate policies the coordination of fiscal and monetary policy, the related elements of macroeconomic policy and the associated institutions of delivery; and the Trade and Industry Chamber, which seeks to reach consensus and make agreements on matters pertaining to the economic and social dimensions of trade, as well as industrial, mining, agricultural and services policies, and the associated institutions of delivery. <p>Issues of a cross-cutting nature are dealt with by special committees or task teams.</p> <p>Policy proposals or legislation for consideration by NEDLAC are tabled by Government. In addition, labour, business or the community constituency can also table issues. The core work programme of NEDLAC is largely determined by the policy and legislative matters that Government tables for engagement.</p> <p>Since its inception, the different NEDLAC Chambers have been consulted on a wide range of draft legislation (e.g. Acts, Bills, Codes of Good Practice), including in the areas of labour relations, social policy, education, health, trade and environment.</p> <p>Issues are referred to NEDLAC for consideration and engagement. NEDLAC conducts an engagement process on the issue tabled with its members and prepares a report outlining areas of agreement and disagreement. The NEDLAC report is sent to the relevant Minister and subsequently tabled in Parliament. NEDLAC is given the opportunity to brief relevant parliamentary Portfolio Committees on NEDLAC reports on an annual basis.</p> <p>The South African government notes that the practice tends to be consensus building and therefore offers a consensus solution rather than what specific parties would consider the “best” solution. This is considered both a strength and a challenge of the system by the government.</p> <p>According to the 2014/15 NEDLAC Annual Report one key challenge NEDLAC faces is that its effectiveness is largely determined by the social partners that comprise the organisation. Internal challenges being experienced by these social partners have an impact on NEDLAC’s ability to implement its role.</p>
Please provide specific details or examples to illustrate the practice (including supporting links and documents).	NEDLAC report on the National Climate Change Response Green Paper NEDLAC report on the National Education Evaluation and Development Unit (NEEDU) draft bill Report on the revised South African Code of Good Practice on HIV and AIDS and the world of work
What stage(s) in the process of policy making does the practice relate to? (Please tick all that apply)	<input type="checkbox"/> Early-stage in the development of regulations (before draft) <input checked="" type="checkbox"/> Later-stage in the development of regulations (during draft) <input type="checkbox"/> Implementation (incl. transparency/accessibility) <input checked="" type="checkbox"/> Ex-post evaluation of regulations <input type="checkbox"/> Review of regulatory policy
What were the objectives of the practice?	NEDLAC strives to promote the goals of economic growth, participation in economic decision-making and social equity. It seeks to ensure effective public participation in the labour market and socioeconomic policy and legislation, and to facilitate consensus and cooperation between Government, labour, business and the community, in dealing with South Africa’s socioeconomic challenges.
Main actors involved in the practice	Answers
Responsible authority	Ministry of Labour
Country	South Africa
Level of government (e.g. national/regional/municipal level)	National government

<p>Were partners involved in preparing, implementing or evaluating the practice? If yes, please list the partners and describe their involvement.</p>	<p>No.</p>
<p>Stakeholder involvement</p>	<p>Answers</p>
<p>Which methods were used to involve stakeholders for the practice?</p>	<p>In general, NEDLAC is consulted on all proposed labour legislation. For some pieces of legislation whose employment impact is considered secondary, NEDLAC is considered more informally, i.e. no official report is prepared. NEDLAC also consults on other work besides labour legislation, e.g. many trade agreements are also consulted within NEDLAC.</p> <p>Issues are tabled in front of one of the four NEDLAC Chambers or a specialised committee for negotiation or consultation. Issues can be tabled by any of NEDLAC's constituencies or the Government, which is required to table relevant forthcoming policy, regulations and legislation.</p> <p>Issues are referred to NEDLAC for consideration and engagement. When an issue is tabled, the extent and time frames for engagement by NEDLAC constituencies are determined and classified according to pre-defined categories, ranging from minimal engagement with a maximum time frame of three months to extensive engagement with a time frame of six months and issues that require further information or systematic research, for which the constituencies agree on a time frame.</p> <p>Each chamber holds regular meetings to consider issues relevant to that chamber, draft reports or make recommendations for agreements. The purpose of engaging on issues is to reach agreement, and to arrive at a report which minimises, or preferably eliminates areas of disagreement. Reports include agreements reached, any disagreement or suggestions for legal drafting where agreed. All reports, resolutions, policy documents and recommendations adopted by a chamber are submitted to the Executive Council for ratification.</p> <p>Parties are bound not to re-open discussion in Parliament on any area where agreement was reached in NEDLAC. Parties have the right to raise issues in Parliament on which there has been no agreement, or on which a NEDLAC agreement was silent. The other parties should be informed in these cases.</p> <p>All relevant reports of the Council, including the annual reports or reports on any proposed legislation or policy relating to or affecting social and economic matters, are submitted to the relevant Ministers. They subsequently submit them to the National Council of Provinces and the National Assembly.</p> <p>The Council also holds annual national summits to involve as many relevant groups and forums as possible in order to give feedback on Council activities in a transparent manner, to obtain inputs from organisations or persons not normally involved, and to establish broader ownership of the Council. All NEDLAC constituencies are entitled to send representatives to the Annual Summit and choose who will participate on their behalf, although each constituency can nominate only a limited number of delegates.</p> <p>Finally, the Council conducts additional research through the Fund for Research into Industrial Development, Growth and Equity, which is funded by the Department of Trade and Industry. The research aims to help improve the global competitiveness of South Africa's industries through research studies.</p>
<p>Which stakeholder groups were involved?</p>	<p>Representatives from all four constituent groups are represented equally in the Executive Council.</p> <p>Similarly, an equal number of representatives from organised business, organised labour and the State form each of the four chambers. Representatives of community and development interests are only represented in the Development chamber.</p> <p>Members that represent their respective constituencies at NEDLAC are selected in the following way:</p> <ul style="list-style-type: none"> • Members representing organised business are appointed by the Minister of Labour on nominations made by organised business. • Members representing organised Labour are appointed by the Minister of Labour on nominations made by organised labour. • Members representing organised Community and development interests are appointed by the Minister in consultation with organised business and organised labour. Members representing the community and development interests include the South African Youth Council, the National

	<p>Women's Coalition, the South African National Civics Organisation, the Disabled People South Africa, the Financial Sector Coalition, and the National Cooperatives Association of South Africa.</p> <ul style="list-style-type: none"> • Members representing the State are appointed by the President.
How were stakeholders notified of the engagement opportunity?	A Parliament representative informs NEDLAC twice a year on the legislative programme for the forthcoming year.
What inputs were received from stakeholders (e.g., brief comments, position papers)?	NEDLAC draws up reports on the issues it is consulted on that outline areas of agreement and disagreement of the involved constituencies.
How were inputs from stakeholders used and by whom?	Through the NEDLAC engagement on legislation, government departments take account of comment and amend legislation accordingly. The NEDLAC reports are principally for use by Parliament when deliberating on a matter that has been referred to NEDLAC.
Was participation limited? If yes, please describe the selection mechanism.	<p>Yes.</p> <p>Participation in NEDLAC is open to representatives from organised business, organised labour, the State and community and development interest groups. Members of the public, however, can submit written inputs on issues to NEDLAC in case they want an issue considered.</p>
Was there a mechanism to ensure balanced representation among stakeholder groups? If yes, please describe the mechanism.	<p>Yes.</p> <p>The different stakeholder constituencies need to be represented equally in the NEDLAC Executive Council and Chambers.</p>
Was supporting material made available to stakeholders? If yes, what kind?	<p>Yes.</p> <p>Government Departments might make available research or reports commissioned in relation to a particular issue being considered by NEDLAC. This may for example include an impact assessment of draft legislation or research evaluating an intervention, such as the Employment Tax Incentive.</p> <p>In addition, can use their own budgets to commission research, and task teams/chambers can request additional information from government.</p>
Was ICT used for the practice? If yes, how?	No.
Was information on the process and the outcomes of the practice collected? If yes, what did it include?	<p>Yes.</p> <p>Since its inception, the different NEDLAC Chambers have been consulted on a wide range of draft legislation (e.g. Acts, Bills, Codes of Good Practice), including in the areas of labour relations, social policy, education, health, trade and environment.</p> <p>In the financial year 2013/14, engagements on 8 pieces of legislation and 20 policies were concluded.</p> <p>For each piece of legislation that NEDLAC is consulted on, a report is prepared. It documents decisions taken by the Council, including areas of agreement and disagreement between NEDLAC representatives on key issues covered in the legislation. The report is presented to the responsible Parliamentary Portfolio committee for consideration. For an example, please see the 2010 NEDLAC report on the Municipal Systems Amendment Bill.</p>
Was this information made publicly available? If yes, where could it be accessed? Please provide a web link or copies of the relevant documents	<p>Yes.</p> <p>Performance information is available in the NEDLAC annual reports. NEDLAC reports are also published on the NEDLAC website.</p>
Was feedback provided to participating stakeholders? If yes, please describe how.	<p>Yes.</p> <p>Government, as a full member of NEDLAC's governance structures will provide regular feedback on the functioning of NEDLAC.</p> <p>Reports from all consultation processes in which NEDLAC is involved are tabled at the NEDLAC Management Committee and Executive Council meetings and signed off by the constituency leadership.</p>

Development and implementation	Answers
How long did the development and implementation take?	The NEDLAC Protocol for Tabling Issues stipulates that the maximum period for a consultation process on new legislation can be six months.
Which resources were needed to develop and set up the practice initially (i.e., staff, budget etc.)?	No information available.
Which resources were needed to implement the practice (e.g., staff and budget per consultation)?	<p>The activities of the Council are funded from the budget of the Department of Labour. The NEDLAC Executive Council prepares an annual budget for the financing of the Council for submission to the Minister of Labour each year for his/her approval and the concurrence if the Minister of Finance.</p> <p>The NEDLAC Secretariat which supports the operation of the Council was comprised of a staff of 26 in 2014/15. The total expenditure of NEDLAC in the financial year of 2013/14 was close to 28.7 Mio South African Rand.</p> <p>The budget allocation to NEDLAC in 2016/17 is 30.3 Mio South African Rand.</p>
What challenges were encountered during development and implementation and how were they overcome?	No information available.
Has the practice been tested before implementation? If yes, please describe.	<p>Yes.</p> <p>Effectively, the practice has been tested, as NEDLAC grew out of two bodies pre-dating 1994, the National Manpower Commission and the National Economic Forum.</p>
Outputs and evaluation of the practice	Answers
Did the implementation of the stakeholder engagement practice lead to any new policies, reviews of existing policies, changes in policy design or structural reforms?	<p>For each piece of legislation that NEDLAC is consulted on, a report is prepared. It outlines areas of agreement and disagreement between NEDLAC representatives on key issues covered in the legislation. The report is presented to the responsible Parliamentary Portfolio committee for consideration. For an example, please see the 2010 NEDLAC report on the Municipal Systems Amendment Bill.</p> <p>The consultation process always leads to changes in the legislation. The scope and depth of changes made as a result of the consultation process may vary.</p>
Was the impact of using the practice quantified? If yes, please provide key results of the quantification.	No.
Has the practice been evaluated internally by the government? If yes, what methods were used for evaluation and what were the conclusions? If possible, please attach documents related to the documentation of the evaluation or provide a link.	<p>Yes.</p> <p>Social partners have been involved in a review of NEDLAC which was overseen by the NEDLAC Management Committee. The Review was completed in 2013. Results of the review will become publicly available in the future.</p>
Has the practice been evaluated externally by other actors? If yes, who did the evaluation, what methods were used for evaluation and what were the conclusions?	No.

If possible, please attach documents related to the documentation of the evaluation or provide a link.	
Additional comments and information	Answers
Is there any more information or documentation that would be valuable to share in relation to the practice?	/
Crosslinks to OECD principles and databases	Answers
Related further OECD material	<p>OECD (2015): Regulatory Policy Outlook 2015: http://www.oecd.org/regreform/oecd-regulatory-policy-outlook-2015-9789264238770-en.htm</p> <p>OECD (2015), Regulatory Policy Outlook 2015. Companion Volume: http://www.oecd.org/gov/regulatory-policy-in-perspective-9789264241800-en.htm</p> <p>Indicators of Regulatory Management Systems: Country note South Africa: http://www.oecd.org/gov/regulatory-policy/improving-regulatory-management-in-south-africa.htm</p> <p>OECD website on regulatory policy in South Africa: http://www.oecd.org/gov/regulatory-policy/47827382.pdf</p>
Sources	
<ul style="list-style-type: none"> International Association of Economic and Social Councils and Similar Institutions (AICESIS) (2014), "National Economic Development and Labour Council (NEDLAC)", retrieved from http://www.aicesis.org/database/organization/85/, last accessed 25 November 2016. National Economic Development and Labour Council (NEDLAC) (2015), "Annual Report 2014-2015", retrieved from http://www.nationalgovernment.co.za/entity_annual/699/2015-social-services-national-economic-development-and-labour-council-(nedlac)-annual-report.pdf, last accessed 25 November 2016. National Economic Development and Labour Council (NEDLAC) (2014), "Annual Report 2013-2014", retrieved from http://new.nedlac.org.za/?page_id=56, last accessed 25 November 2016. National Economic Development and Labour Council (NEDLAC) (n.d.), "NEDLAC Founding Documents and Protocols", retrieved from http://new.nedlac.org.za/wp-content/uploads/2015/09/Founding-documents-and-protocols-20151.pdf, last accessed 25 November 2016. National Economic Development and Labour Council (NEDLAC) main website, http://new.nedlac.org.za/, last accessed 25 November 2016. 	