



THE PRESIDENCY

REPUBLIC OF SOUTH AFRICA



SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)

REVISED (2020): FINAL IMPACT ASSESSMENT TEMPLATE –PHASE 2

NAME OF THE PROPOSAL: NATIONAL LABOUR MIGRATION POLICY (NLMP)

1. Please DO NOT ALTER the template and questionnaire
2. Date must be clearly indicated
3. Draft SEIAS report should have a watermark word DRAFT indicating the version and should be accompanied by the supporting documents (draft proposal, M&E plan and pieces of research work)
4. FINAL report will be in PDF format and will be inclusive of the sign-off
5. FINAL report will have the approval stamp of the Presidency on the front cover and will include the signoff
6. Sign off forms are only valid for a period of six months.
7. Bills and Regulations that introduce permitting, licensing and registration system must be accompanied by a streamlined process map and indicate the proposed turnaround time for processing of such.

PART ONE: ANALYSIS FOR FINAL SEIAS REPORT

Please keep your answers as short as possible. Do not copy directly from any other document.

1. Conceptual Framework, Problem Statement, Aims and Theory of Change

There is a growing public and policy interest on the matters concerning migration globally due to increased movement of people across countries for reasons including education, health, business and employment. Of much interest in South Africa is the management of migration for work purposes and the economic impact of migrants, which differs from country to country due to many national factors and processes that help drive some of the economic outcomes of migration at national level.

The term migration may be taken to mean movement driven primarily by labour market considerations; that is, movement which entails both a change of residence and a change of job and which tend to involve relatively long distances, Millington (1994).

According to Reyneri (2003) most migrants enter countries without residence permits for work purpose, which they subsequently get through regularization schemes such as the quota system which serves as a de facto mechanism in most Southern Europe countries (Italy, Spain and Portugal).

South Africa, like most of these countries in the southern hemisphere of Europe, has accumulated sizeable stocks of migrants from all over the world, with majority of them coming from the Southern region of Africa since the dawn of democracy. Specifically, there were around 4, 036,696 migrants in South Africa in 2019 (Inter-Ministerial Committee on Migration Report, 2020). Before the democratic dispensation, South Africa had managed the flow of migrants through bilateral agreements with sending countries and these were specifically designed for work reasons in targeted industries such as mining.

The new democratic era ushered in Immigration Law and the Employment Services Law acting mainly to influence the international labour migration management in the country. This management included the management of migrants covered by inherited bilateral agreements plus the new flow of migrant stocks outside bilateral agreements. While immigration law is general on all migration aspects, gaps had been identified in areas of management of migrants for work reasons, including migration out of South Africa, also for work reason.

South Africa acknowledges the importance of labour migration in the economic development of the country, however, the current policy environment had not been fully addressing changing needs in the economy. The Immigration Act is the overarching legal instrument for management of migration matters in the country, together with other related Acts such as the Refugee Act amongst other instruments.

These pieces of legislation are firstly, not able to deal with all migration issues in the country adequately resulting in salient gaps in the management of labour migration. The gaps are

exacerbated by the many different role-players which include the Department of Employment and Labour (DEL), the Department of International Relations and Cooperation (DIRCO), The Department of Trade, Industry and Competition (DTIC), the Department of Higher Education and Training (DHET), and Department of Science and Innovation (DSI) amongst others.

Many departments have a share in the management of migration and labour migration matters, this results in protracted turnaround times in making decisions and implementation - such as in processing visas and permits to mention a few. Secondly, entrance and exiting of labour migration had not been well handled by any of the departments, resulting in inability to manage stock of skills entering and leaving the country. Thirdly, South Africa had not adequately managed labour migration data generation and analysing partly owing to scattered roles in government and its agencies, and infrequent and inadequate data collection. Fourthly there are misalignments between South Africa's migration laws and the international and regional standards and frameworks, which include provision of labour and social protection of migrants and South Africans equally.

The proposed National Labour Migration Policy therefore aims to address several gaps in the management of migration for work reasons and it does so in four intervention areas, namely:

- A. **Labour migration governance and management which** proposes policy intervention in three specific clusters: Department of Employment and Labour structures and organisation; Inter-ministerial coordination of labour migration and social dialogue and tripartism.
- B. **Data for policy monitoring and evaluation which** focuses on the coordination of labour migration data analysis for NLMP monitoring and evaluation, strengthening the collection, comparison, analysis and use of labour migration related data by a range of data users, (government officials, social partners, civil society, the media) for the purposes of policy monitoring and evaluation.
- C. **Labour migration to South Africa which** focuses on all activities related to the management of labour migration to South Africa, including the recruitment, selection, placement, employment, visa issuance, access to benefits and return of migrant workers, whether low-, semi- or highly- skilled, employed in the South African labour market and their protection.
- D. **Labour migration from South Africa** which focuses on interventions which aim to protect and, where necessary and strategic, assist South African workers in search of employment experience abroad.

1.1. What socio-economic problem does the proposal aim to resolve?

Inadequate control over labour migration is perceived to have negative impact on the economy, specifically on the labour market that is experiencing **high unemployment rate of mostly unskilled and semiskilled workforce**. Most migrants entering the country without documentation are found to be unskilled and their entrance result in higher number of unskilled labour which **impact on labour cost over and above limited jobs available**.

Social cohesion between migrants and South Africans had been marked with conflicts brought about by poverty and unemployment amongst these groups. In addition, South Africa is also experiencing **brain drain as skilled South Africans are leaving** the country that needs them and this is resulting in poorer economic development.

1.2. What are the main root causes of the problem identified above?

1.1. What socio-economic problem does the proposal aim to resolve?	1.2. What are the main roots or causes of the problem?
High unemployment rate, poverty and conflicts between South Africans and labour migrants	<ul style="list-style-type: none"> ▪ Weaknesses in Labour migration governance and management by government and its stakeholders ▪ Poor consultation amongst stakeholders ▪ Weak and insufficient Labour migration data ▪ Absence of policy framework governing inflow and outflow of labour migration in South Africa ▪ Lack of employment opportunities for migrants at their home countries ▪ Push factors from the sending countries such as political, social and economic instabilities

1.3. Summarise the **aims** of the proposal and **how** it will address the problem in no more than five sentences.

The NLMP aims provide guidance to the Department of Employment and Labour, the Department of Home Affairs and other government departments on the desired policy framework applicable to labour migration impacting on South Africa, to ensure management and protection of migrant workers to and from South Africa as well as to fulfil South Africa's international commitment to develop and adopt labour migration policies to fulfil South Africa's international commitment to develop and adopt labour migration policies. These aims will be achieved through development and implementation of the NLMP which will ensure a well-coordinated governance, consistent collection of migration data, provision and extension of labour law protection to all workers and congruency between national and international labour migration policies.

1.4. How is this proposal contributing to the following national priorities?

National Priority	Impact
1. Building a capable, ethical and developmental state	<ul style="list-style-type: none"> ▪ The NMLP will bring about better coordination of labour migration policies and programmes that have potential to advance the country's human rights principles ▪ The policy has potential to build ethical communities where in tolerance and living together will result in development
2. Economic transformation and job creation	<ul style="list-style-type: none"> ▪ Well management of labour migration into the country will provide much needed international skills, provision of remittance by South Africans abroad, and revenue generated from migrant workers and their economic impact on GDP. The policy would also solve generation of reliable data which would benefit planning and South Africa would be in a better position economically and create more jobs, provide skills and have a better economy
3. Education, skills and health	<ul style="list-style-type: none"> ▪ More of South Africans with less education will benefiting in the labour market as there would be proper framework on hiring migrants and also in ensuring that low and semiskilled migrants are sourced on the basis of complementing the labour market needs that cannot be met nationally ▪ Well-coordinated sourcing of scarce skills internationally will boost the country's economic output resulting in increased GDP, exports etc ▪ There will be proper skills transfer from migrant labourers to nationals in the labour markets ▪ Ensuring extension of protection of all workers by labour laws will ensure favourable working conditions for migrants including their health and safety, thereby reducing their risk of contracting workplace related diseases and injuries
4. Consolidating the social wage through reliable and quality basic services	<p>Less burden to health sector as less workers would contract workplace related diseases and injuries</p>
5. Spatial integration, human settlements and local government	<ul style="list-style-type: none"> ▪ There would be reduced pressure on consumption of government services due to proper planning informed by reliable data ▪ Reduced mushrooming of informal settlements

National Priority	Impact
6. Social cohesion and safe communities	<ul style="list-style-type: none"> ▪ The policy has the potential to bring communities together by ensuring that employment of migrant workers is done in accordance with policy prescripts and are understood by all <p>Xenophobic attacks will be eradicated as communities get better understanding of how migration is managed with their constituencies represented in policy development and planning</p>
7. A better Africa and world.	<ul style="list-style-type: none"> ▪ Harmonisation of policies within the region and globally as this policy is aimed at fulfilling that need.

1.5. Please describe how the problem identified could be addressed if this proposal is not adopted. At least one of the options should involve no legal or policy changes, but rather rely on changes in existing programmes or resource allocation.

Option 1.	Special Dispensation Work Permit could be continued with amendments to close identified gaps such as introducing measures to avoid abuse of permits by those producing and issuing fake ones as well as large scale costly deportations.
Option 2.	Work Visas could be continued with amendments to ensure well coordination between all role players

PART TWO: IMPACT ASSESSMENT

2. Policy/Legislative alignment with other departments, behaviours, consultations with stakeholders, social/economic groups affected, assessment of costs and benefits and monitoring and evaluation.

2.1. Are other government laws or regulations linked to this proposal? If so, who are the custodian departments? Add more rows if required.

Government legislative prescripts	Custodian Department	Areas of Linkages	Areas of contradiction and how will the contradictions be resolved
Immigration Act	Department of Home Affairs	<ul style="list-style-type: none"> ▪ Application of quotas to limit the number of foreign nationals from competing for jobs in identified sectors ▪ Section 31 Waiver ▪ Section 14(4) business visa; Bilateral agreements; and labour migration to RSA 	<ul style="list-style-type: none"> ▪ Department of Employment and Labour not the lead department in relation to labour migration matters ▪ Well coordination between government departments with clear roles in the process
Refugees Amendment Act	Department of Home Affairs	Section 22(8) right of asylum-seekers to work	N/A
Employment Services Act	Department of Employment and Labour	Section 8&9 that regulates labour recruitment; Private Employment Agencies; skills transfers; migrant workers quotas	N/A
National Treasury Act and Regulations	National Treasury	Financial regulations on remittance transfers	National Treasury regulates the flow of money going out and coming into the country through relevant regulations
Skills Development	Department of Higher Education and Training	Identification and development on scarce skills list as well as Skills transfer from migrants to South African workers involving DHET for quality assurance	N/A
National Qualification Framework (SAQA) Act 67 of 2008	Department of Higher Education and Training	Evaluation of Foreign qualifications	N/A

Government legislative prescripts	Custodian Department	Areas of Linkages	Areas of contradiction and how will the contradictions be resolved
Quality Council for Trades and Occupations Act 97 of 1998	Department of Higher Education and Training	Evaluation and quality assurance of curriculum for all trades and occupations (Foreign trades & occupations inclusive)	N/A
Statistics Act	Statistics South Africa	Collection of labour migration data	N/A
International Relations Acts and Regulations	Department of International Relations and Cooperation	<ul style="list-style-type: none"> ▪ Negotiation and management of bilateral labour agreements ▪ Assessments of skills for South Africans abroad 	N/A
Occupational Diseases in Mines and Works Act	Department of Mineral Resources	Protection of migrant workers in mining sectors	
Labour Relations, Occupational and Safety, Compensation of Occupational Injuries and Diseases, Unemployment Insurance, National Minimum Wage, Employment Equity, Basic Conditions of Employment Acts	Department of Employment and Labour	All these Acts ensure protection of all workers, including migrant workers	N/A

2.2. Proposals inevitably seek to change behaviour in order to achieve a desired outcome. Describe (a) the behaviour that must be changed, and (b) the main mechanisms to bring about those changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.

- a) What and whose behaviour does the proposal seek to change? How does the behaviour contribute to the socio-economic problem addressed?
- b) How does the proposal aim to bring about the desired behavioural change?

Identified Problem	What behaviour does the proposal seek to change	Groups whose behaviour does the proposal seek to change	How does the behaviour contribute to the socio-economic problem addressed?	How does the proposal aim to bring about the desired behavioural change?
<p>Inadequate Labour migration governance and management: Regulatory activities pertaining to labour migration are managed under different Ministries/Departments resulting in difficulties to coordinate and further resulting in difficulties in managing migration challenges within the Republic of South Africa.</p>	<ul style="list-style-type: none"> ▪ Weak and inadequate inter-ministerial coordination leading to high turnaround times and miscommunication ▪ Insufficient or lack of policy framework 	<ol style="list-style-type: none"> 1. Government Departments: Employment and Labour; Trade, industry and competition; Home Affairs; Higher Education, Science and technology 2. Businesses and their associations 3. Workers and their associations 4. Employment agencies 	<ul style="list-style-type: none"> ▪ Departments have different mandates and roles that cuts across the same subject of migration but not clear on where their mandates stop and how they interface with other in the cluster. ▪ Inadequate consultations and operations not effectively coordinated. ▪ Inadequate consultation of all affected stakeholder (Business, Labour, Communities) or lack thereof. 	<ul style="list-style-type: none"> ▪ Redefinition of responsibilities and procedures between the DEL and the DHA. DEL will become the lead department in the definition of labour market needs and priorities ▪ The policy would provide framework for regular consultation and clear cut roles and responsibilities through Inter Ministerial Committee led by DHA and DEL. ▪ Social partners are invited to sit

Identified Problem	What behaviour does the proposal seek to change	Groups whose behaviour does the proposal seek to change	How does the behaviour contribute to the socio-economic problem addressed?	How does the proposal aim to bring about the desired behavioural change?
				on the Immigration Advisory Board
Lack of reliable data on labour migration	<ul style="list-style-type: none"> ▪ Decentralised administrative databases generated in different departments, ▪ Absence of centralised coordinated migration database 	Government Departments: Employment and Labour; Trade, industry and competition; Home Affairs; Higher Education, Science and technology	<ul style="list-style-type: none"> ▪ Departments have different mandates and roles that cuts across the same subject of migration with all generating administrative data that is not well coordinated. 	<ul style="list-style-type: none"> ▪ Proposed NLMP would provide framework on data collection and processing of administrative data by various departments involved in labour migration.
Uncoordinated management of migrants entering and leaving the South African Labour Market	<ul style="list-style-type: none"> ▪ Poor management of migrants workers entering and leaving South Africa 	Relevant government Departments: Employment and Labour; Trade, industry and competition; Home Affairs; Higher Education, Science and technology <ul style="list-style-type: none"> ▪ Border Management Agency ▪ Migrant labourers ▪ Employers ▪ Sending countries 	<ul style="list-style-type: none"> ▪ Having no other means of surviving in a foreign country ▪ Need to maximise profits. ▪ Internal country specific problems ▪ Lack of oversight by Government 	<ul style="list-style-type: none"> ▪ Establishment and capacitation of a dedicated unit for the placement of South African work-seekers abroad

2.3. Consultations

- a) Who has been consulted inside of government and outside of it? Please identify major functional groups (e.g. business; labour; specific government departments or provinces; etc.); you can provide a list of individual entities and individuals as an annexure if you want.

Consulted Government Departments, Agencies and Other Organs of State

Department's name	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
<ul style="list-style-type: none"> ▪ Transport ▪ Health ▪ DIRCO ▪ Planning, Monitoring and Evaluation ▪ Higher Education and Training ▪ Basic Education ▪ Home Affairs ▪ Mineral Resources ▪ Science and Innovation ▪ Stats SA ▪ Tshwane Municipality ▪ Water and Sanitation ▪ PMO- Presidency ▪ Sports, Arts, Culture and Creation ▪ Agriculture ▪ GCIS 	None	Yes they support the proposal	N/A	N/A

Department's name	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
<ul style="list-style-type: none"> ▪ Social Development ▪ SAPS ▪ DTIC ▪ Small Business ▪ Presidency ▪ DEL & Entities 				

Consulted stakeholders outside government

Consultation at this level is only done with the International Labour Organization while other identified external stakeholders await approval of the Cabinet before it is done.

Name of Stakeholder	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
ILO	None	Yes they support the proposal	N/A	N/A

- b) Summarise and evaluate the main disagreements about the proposal arising out of discussions with stakeholders and experts inside and outside of government. Do not give details on each input, but rather group them into key points, indicating the main areas of contestation and the strength of support or opposition for each position:

Consultation at this level is only done with the International Labour Organization while other identified external stakeholders await approval of the Cabinet before it is done.

2.4. Describe the groups that will benefit from the proposal, and the groups that will face a cost. These groups could be described by their role in the economy or in society. Note: NO law or regulation will benefit everyone equally so do not claim that it will. Rather indicate which groups will be expected to bear some cost as well as which will benefit. Please be as precise as possible in identifying who will win and who will lose from your proposal. Think of the vulnerable groups (disabled, youth women, SMME), but not limited to other groups:

List of beneficiaries (groups that will benefit)	How will they benefit?
Government	<ul style="list-style-type: none"> ▪ Proper inter-governmental coordination ▪ Improved planning informed by accurate and reliable data, e.g. budgetary, human settlement and other government basic services ▪ High skilled migrants with critical and scarce skills will be attracted to the country thereby increasing its productivity in companies and GDP nationally. ▪ Increased ability to protect received migrant workers as a result of informed recruitment aligned to sectors of need ▪ Remittance from South Africans working abroad would contribute to economic development, e.g. increased spending on local goods and services by families receiving remittance locally in South Africa ▪ Improved collection of revenue (e.g. Pay As You Earn) from migrant workers in South Africa and tax from remittance entering the country ▪ Less cost in the health sectors as workers would be less or not subjected to hazardous working conditions that make them contract occupational diseases or injuries ▪ More saving on Unemployment Insurance related to illness benefits ▪ More savings on costs related to compensation for injuries and diseases.
Employers	<ul style="list-style-type: none"> ▪ Clear guidelines on recruitment of migrant workers will benefit employers with compliance ▪ They will be assisted to acquire specific skills that they cannot get locally, thereby protecting them from bogus recruiters

List of beneficiaries (groups that will benefit)	How will they benefit?
	<ul style="list-style-type: none"> ▪ Less expense resulting from increased compliance with labour laws ▪ Protection of workers (migrants and national) lead to healthy work force and this has benefit of increased production and from uninterrupted production resulting from occupational injuries ▪ Employers will also save on sick leave due to increased compliance with OHS Act.
Migrant Workers	<ul style="list-style-type: none"> ▪ Employment opportunities ▪ Favourable working conditions including appropriate Wages (National minimum wages for those migrant workers in vulnerable employment protected by the national minimum wage Act) ▪ Protection by labour laws will result in working with peace of mind and increased trust, without fear of co-workers and of employers harming them
Trade unions	Higher worker-representation base and higher contributions
Communities in South Africa	They will be able to live with migrants peacefully without the perception that they are taking their jobs
Sending countries	Remittance will contribute to their economic development

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
<ul style="list-style-type: none"> ▪ Government 	<ul style="list-style-type: none"> ▪ Administrative costs related to DEL- Public Employment Service e.g. Restructuring the Directorate Labour Migration Services to accommodate new roles and responsibilities identified in the policy such as Opportunity Registration and Placement, monitoring of South Africans abroad, coordinating inter-departmental roles on labour migration etc) ▪ Strengthen or establish the necessary structures and operating procedures ▪ Training inspection force on the policy

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
	<ul style="list-style-type: none"> ▪ Amendments of legislation on inspectors' powers and functions to be set out clearly in legislation ▪ Capacity-building of mediators and judges to labour migration issues and specific rights of migrant workers under South African legislation and jurisprudence ▪ Awareness campaigns on communicating how labour laws would protect migrant workers and ▪ The scope of operations for CCMA and the Labour Court ▪ Monitoring and evaluating implementation and reviews, e.g. on quotas and scarce skills
<ul style="list-style-type: none"> ▪ Employers and employers' organizations 	<ul style="list-style-type: none"> ▪ Employers would incur cost with following the recruitment procedures guided by the policy ▪ Contributing to workers' social protection ▪ Employers would incur cost in providing occupational health e.g. PPE ▪ Employers' organizations would incur cost in providing training concerning the rights of migrant workers to their members ▪ Employers' organizations would develop effective services to assist migrant workers e.g. prior to departure e.g. information dissemination, as well as direct services for those facing abuse, exploitation, harassment while employed

2.5. Describe the costs and benefits of implementing the proposal to each of the groups identified above, using the following chart. Please do not leave out any of the groups mentioned, but you may add more groups if desirable. Quantify the costs and benefits as far as possible and appropriate. Add more lines to the chart if required.

Note: "Implementation costs" refer to the burden of setting up new systems or other actions to comply with new legal requirements, for instance new registration or reporting requirements or by initiating changed behaviour. "Compliance costs" refers to on-going costs that may arise thereafter, for instance providing annual reports or other administrative actions. The costs and benefits from achieving the desired outcomes relate to whether the particular group is expected to gain or lose from the solution of the problem.

For instance, when the UIF was extended to domestic workers:

- The implementation costs were that employers and the UIF had to set up new systems to register domestic workers.
- The compliance costs were that employers had to pay regularly through the defined systems, and the UIF had to register the payments.
- To understand the inherent costs requires understanding the problem being resolved. In the case of UIF for domestic workers, the main problem is that retrenchment by employers imposes costs on domestic workers and their families and on the state. The costs and benefits from the desired outcome are therefore: (a) domestic workers benefit from payments if they are retrenched, but pay part of the cost through levies; (b) employers pay for levies but benefit from greater social cohesion and reduced resistance to retrenchment since workers have a cushion; and (c) the state benefits because it does not have to pay itself for a safety net for retrenched workers and their families.

Group/Option	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
<ul style="list-style-type: none"> ▪ Government 	<ul style="list-style-type: none"> ▪ Administrative costs related to Public Employment Service e.g. Restructuring ▪ Strengthening or establishing systems and operating procedures ▪ Training inspection force on the policy ▪ Amendments of legislation on inspectors' powers and functions to be set out clearly in legislation ▪ Capacity-building of mediators and judges to labour migration issues and rights of migrant workers under South African legislation and jurisprudence ▪ Awareness campaigns on communicating how labour laws would protect migrant workers over and the scope of operations for CCMA and the Labour Court 	<ul style="list-style-type: none"> ▪ N/A 	<ul style="list-style-type: none"> ▪ Proper inter-governmental coordination ▪ Improved planning informed by accurate and reliable data, e.g. budgetary, human settlement and other government basic services ▪ High skilled migrants with critical and scarce skills will be attracted to the country thereby increasing its productivity in firms and GDP nationally. ▪ Increased ability to protect received migrant workers as a result of informed recruitment aligned to sectors of need ▪ Remittance from South Africans working abroad would contribute to economic development, e.g. increased spending on local goods and services by families 	<ul style="list-style-type: none"> ▪ N/A

Group/Option	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
	<ul style="list-style-type: none"> ▪ Monitoring and evaluating implementation and reviews, e.g. on quotas and scarce skills 		<ul style="list-style-type: none"> receiving remittance locally in South Africa ▪ Improved collection of revenue (e.g. Pay As You Earn) from migrant workers in South Africa and tax from remittance entering the country ▪ Less cost in the health sectors as workers would be less or not subjected to hazardous working conditions that make them contract occupational diseases or injuries ▪ More saving on Unemployment Insurance related to illness benefits ▪ More savings on costs related to COIDA 	
<ul style="list-style-type: none"> ▪ Employers and employers' organizations 	<ul style="list-style-type: none"> ▪ Employers would incur implementation cost in ensuring occupational safety, e.g. buying PPE ▪ Training concerning the rights of migrant workers ▪ Developing effective services to assist migrant workers e.g. prior to departure ▪ Awareness campaigns for workers to get information about abuse, exploitation, and harassment 	<ul style="list-style-type: none"> ▪ Following recruitment procedures guided by the policy to get visas ▪ Contributing to workers' social protection e.g. Compensation for diseases and injuries, Unemployment and pension benefits 	<ul style="list-style-type: none"> ▪ Clear guidelines on recruitment of migrant workers will benefit employers with compliance ▪ They will be assisted to acquire specific skills that they cannot get locally, thereby protecting them from bogus recruiters ▪ Less expense resulting from increased compliance with labour laws ▪ Protection of workers (migrants and national) lead to healthy work force and this has benefit of increased production, uninterrupted production resulting from occupational injuries 	<ul style="list-style-type: none"> ▪ N/A

Group/Option	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
			<ul style="list-style-type: none"> ▪ Employers will also save on sick leave as due to increase compliance with OHS Act 	

2.6 Cost to government: Describe changes that the proposal will require and identify where the affected agencies will need additional resources:

a) Budgets, has it been included in the relevant Medium Term Expenditure Framework (MTEF)

- Restructuring the Directorate Labour Migration Services
- Strengthen or establish the necessary systems and operating procedures
- Training inspection force
- Amendments of legislation on inspectors' powers and functions
- Capacity-building of mediators and judges to labour migration issues and specific rights of migrant workers under South African legislation and jurisprudence
- Awareness campaigns on communicating how labour laws would protect migrant workers over and above the scope of operations of CCMA and the Labour Court
- Monitoring and evaluating implementation and reviews, e.g. on quotas and scarce skills

b) Staffing and organisation in the government agencies that have to implement it (including the courts and police, where relevant). Has it been included in the relevant Human Resource Plan (HRP):

Note: You MUST provide some estimate of the immediate fiscal and personnel implications of the proposal, although you can note where it might be offset by reduced costs in other areas or absorbed by existing budgets. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

N!!!!!!!!!!Staffing plan still to be developed post consultations.

2.7 Describe how the proposal minimises implementation and compliance costs for the affected groups both inside and outside of government.

For groups outside of government (add more lines if required)

Group	Nature of cost (from question 2.6)	What has been done to minimise the cost?
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<ul style="list-style-type: none"> ▪ Employers and employers' organizations 	<ul style="list-style-type: none"> ▪ Employers would incur implementation cost in ensuring safety of all, including migrant workers. ▪ Training concerning the rights of migrant workers ▪ Awareness campaigns for workers to get information about abuse, exploitation, and harassment ▪ Developing effective services to assist migrant workers e.g. prior to departure 	<ul style="list-style-type: none"> ▪ Ensuring safety, particularly PPE provision to employees had been a requirement by labour laws irrespective of their nationality ▪ Collaboration with government's awareness campaigns would minimize similar costs to employers ▪ Training and awareness campaigns could be done in the initial phase of policy implementation and deescalated going forward
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For government agencies and institutions:

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
<ul style="list-style-type: none"> ▪ Government 	<ul style="list-style-type: none"> ▪ Restructuring the Directorate Labour Migration Services ▪ Strengthen or establish the necessary systems and operating procedures ▪ Training inspection force ▪ Amendments of legislation on inspectors' powers and functions ▪ Capacity-building of mediators and judges to labour migration issues and specific rights of migrant workers under South African legislation and jurisprudence ▪ Awareness campaigns on communicating how labour laws would protect migrant workers over and above the scope of operations for the CCMA and the Labour Court ▪ Monitoring and evaluating implementation and 	<ul style="list-style-type: none"> ▪ Existing human resource would be retained and incur cost on newly identified positions ▪ Some systems are already in place e.g. for work and corporate permits application processes and cost would be incurred in improvements and additions where necessary ▪ DEL have several parallel systems (e.g. Employment System of South Africa, UIF and CF) systems that could be used to accommodate changes brought by the implementation of the NLMP ▪ Proper implementation plan would minimize cost of legislation amendments ▪ No recruitment of new inspectors and training is usually part of budget for capacity building and skills development/ enhancement ▪ No recruitment of new mediators and Judges and training is usually part of budget for capacity building and skills development/ enhancement which would minimise needed cost to accomplish this activity

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
	reviews, e.g. on quotas and scarce skills	<ul style="list-style-type: none"> ▪ Awareness campaigns cost would be minimized by implementation that includes entire labour law ▪ The use of social media is less costly than traditional campaigns ▪ Existing systems would minimize cost of monitoring.

2.8 Managing Risk and Potential Dispute

- a) Describe the main risks to the achievement of the desired outcomes of the proposal and/or to national aims that could arise from implementation of the proposal. Add more lines if required.

Note: It is inevitable that change will always come with risks. Risks may arise from (a) unanticipated costs; (b) opposition from stakeholders; and/or (c) ineffective implementation co-ordination between state agencies. Please consider each area of risk to identify potential challenges.

- b) Describe measures taken to manage the identified risks. Add more rows if necessary.

Mitigation measures means interventions designed to reduce the likelihood that the risk actually takes place.

Identified risk	Mitigation measures
<p>Unanticipated costs:</p> <ul style="list-style-type: none"> ▪ Availability of budget 	<ul style="list-style-type: none"> ▪ Staggered implementation plan would enable proper monitoring and adjustments ▪ Usage of existing platforms relevant to the different milestones of the policy implementation
<p>Opposition from stakeholders:</p> <ul style="list-style-type: none"> ▪ Resistance by Government role players with regard to developing and implementation of the National Labour Migration Policy ▪ Resistance by Employers with regard to the development and implementation of the 	<ul style="list-style-type: none"> ▪ Proper consultation from the beginning of the policy development ▪ Coordination to clarify roles and responsibilities ▪ Awareness campaigns to educate employers and their associations

Identified risk	Mitigation measures
National Labour migration Policy.	
Ineffective implementation co-ordination between state agencies: <ul style="list-style-type: none"> ▪ Resistance to collaborate in implementation 	<ul style="list-style-type: none"> ▪ Monitoring & evaluation framework for the implementation of the policy. ▪ Frequent Consultation and reporting

c) What kinds of dispute might arise in the course of implementing the proposal, whether (a) between government departments and government agencies/parastatals, (b) between government agencies/parastatals and non-state actors, or (c) between non-state actors? Please provide as complete a list as possible. What dispute-resolution mechanisms are expected to resolve the disputes? Please include all of the possible areas of dispute identified above. Add more lines if required.

Note: Disputes arising from regulations and legislation represent a risk to both government and non-state actors in terms of delays, capacity requirements and expenses. It is therefore important to anticipate the nature of disputes and, where possible, identify fast and low-cost mechanisms to address them.

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
<ul style="list-style-type: none"> ▪ Government agencies disagreement on implementation areas 	<ul style="list-style-type: none"> ▪ Government Agencies 	Internal government prescribed dispute resolution mechanisms
<ul style="list-style-type: none"> ▪ Imposition of quotas not accepted by employers 	<ul style="list-style-type: none"> ▪ Employers 	Labour Acts and Immigration Acts prescribed dispute resolution mechanisms
<ul style="list-style-type: none"> ▪ Identified scarce skills not accepted by employers 	<ul style="list-style-type: none"> ▪ Employers ▪ Workers organizations 	Labour Acts and Immigration Acts prescribed dispute resolution mechanisms
<ul style="list-style-type: none"> ▪ Declined work permits or company permits due to un-procedural recruitment 	<ul style="list-style-type: none"> ▪ Employers 	Labour Acts and Immigration Acts prescribed dispute resolution mechanisms
<ul style="list-style-type: none"> ▪ Resistance to the review of Bilateral of labour agreements 	<ul style="list-style-type: none"> ▪ Affected economic sectors 	Labour Acts and Immigration Acts prescribed dispute resolution mechanisms

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
<ul style="list-style-type: none"> ▪ Non-compliance orders given by inspectors 	<ul style="list-style-type: none"> ▪ Employers 	Labour Acts and Immigration Acts prescribed dispute resolution mechanisms

2.9 Monitoring and Evaluation

Note: Sound implementation of policy and legislation is due to seamless monitoring and evaluation integration during the policy development phase. Policies and legislation that are proficiently written yet unable to report on implementation outcomes are often a result of the absence of an M&E framework at the policy and legislative planning phase. It is therefore imperative to state what guides your policy or legislation implementation monitoring.

2.9.1 Develop a detailed Monitoring and Evaluation Plan, in collaboration with your departmental M&E unit which should include among others the following:

2.9.1.1 Provide clear and measurable policy or legislative objectives

- Relocation of policy design and decision-making to DEL on labour migration matters
- Managed and controlled flow on migrant workers
- Migrant workers' labour and social protection rights ensured,
- Effective inter-ministerial coordination leading to less turnaround times and miscommunication in the processing of work visas
- Reliable and frequent data and information
- Sensitization of migrant workers to fraudulent recruitment, induction to South African labour legislation,
- Management and monitoring of South Africans seeking employment abroad
- Well-coordinated consultation and inclusion of social partners

2.9.1.2 Provide a Theory of Change clearly describing the following components:

- Impact: the organisational, community, social and systemic changes that result from the policy or legislation:
The impact of the policy will be on improved economic impact of migrant contribution to the economy of South Africa as well as improved relations between South African nationals and migrant workers.

- Outcomes: the specific changes in participants (i.e. beneficiaries) behaviour, knowledge, skills, status and capacity:
The outcomes of the NLMP implementation would be improved governance and management of labour migration in the country as well as improved labour migration data.
- Outputs: the amount, type of degree of service(s) the policy or legislation provides to its beneficiaries:
Outputs of NLMP will produce the following outputs:
Improved Labour migration governance and management with all stakeholders involved; Accessible, reliable and quality Labour migration data; Well managed flow of Labour migration to South Africa and Labour migration from South Africa
- Activities: the identified actions to be implemented:
For the following problem areas: Labour migration governance and management; Labour migration data; Labour migration to South Africa and Labour migration from South Africa, activities are as follows:
 - Consultations aimed at bringing coordination of stakeholders for policy intervention through Department of Employment and Labour structures and organisation; Inter-ministerial coordination of labour migration; Social dialogue and tripartism.
 - Coordination of labour migration data production/ generation.
 - Coordination of management of labour migration to South Africa, including the recruitment, selection, placement, employment, visa issuance, access to benefits and return of migrant workers, whether low, semi or highly skilled, employed in the South African labour market and their protection.
 - Interventions aimed to protect and, where necessary and strategic, assist South African workers in search of employment experience abroad, while abroad and upon return.
- Input: departmental resources used in order to achieve policy or legislative goals i.e. personnel, time, funds, etc.
The policy proposed has much areas cutting across different departments and agencies, its main thrust actually emanated from that premises and the proposal stipulate different mechanism of coordinating different role players in implementation. Stakeholders are involved in the design phase of the policy as well. Resources as also going to be shared where roles and responsibilities cut across agencies.
- External conditions: the current environment in which there's an aspiration to achieve impact. This includes the factors beyond control of the policy or

legislation (economic, political, social, cultural, etc.) that will influence results and outcomes.

The policy proposed have high political, social, economic and legal impact as the subject of migration is very sensitive locally and internationally so possible impact from socio-economic and political levels are noted and hence highlighted in the risk part.

- Assumptions: the facts, state of affairs and situations that are assumed and will be necessary considerations in achieving success:
The Labour Market analysis was conducted to establish facts from assumption in the development of the NLMP and the proposal is based on facts. In addition, there were several research projects conducted leading to the development of the NLMP and this effort was directed towards gathering empirical evidence as much facts as possible.

2.9.1.3 Provide a comprehensive Logical Framework (LogFrame) aligned to the policy or legislative objectives and the Theory of Change. The LogFrame should contain the following components:

- Results (Impact, Outcomes and Output)
Improved economic impact of migrant contribution to the economy of South Africa as well as improved relations between South African nationals and migrant workers;
Improved governance and management of labour migration in the country as well as improved labour migration data; and
Improved Labour migration governance and management with all stakeholders involved; Accessible, reliable and quality Labour migration data; Well managed flow of Labour migration to South Africa and Labour migration from South Africa’.
- Activities and Input
 - Consultations aimed at bringing coordination of stakeholders for policy intervention through Department of Employment and Labour structures and organisation; Inter-ministerial coordination of labour migration; Social dialogue and tripartism.
 - Coordination of labour migration data production/ generation.
 - Coordination of management of labour migration to South Africa, including the recruitment, selection, placement, employment, visa issuance, access to benefits and return of migrant workers, whether low, semi or highly skilled, employed in the South African labour market and their protection.
 - Interventions aimed to protect and, where necessary and strategic, assist South African workers in search of employment experience abroad, while abroad and upon return.

- Indicators (A measure designed to assess the performance of an intervention. It is a quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a development actor):
Indicators still to be developed for monitoring,
- Baseline (the situation before the policy or legislation is implemented)
Baseline is documented through analysis of labour market and researches conducted prior the policy development.
- Targets (a specified objective that indicates the number, timing and location of that which is to be realised)
- Migrant workers seeking employment and those already employed in the country;
- South African work-seekers interested in taking employment abroad;
- All relevant Government ministries playing a part in the admission, selection, placement and information of migrant workers and in the placement and protection of and liaison with South African migrant workers abroad;
- Social partners;
- Private sector stakeholders either as employers of migrant workers or as private recruiting agents.

2.9.1.4 Provide an overview of the planned Evaluation, briefly describing the following:

- **Timeframe: when will the evaluation be conducted:**
Quantitative research would be conducted annually while continuous assessment of generated quantitative administrative data would be done on quarterly basis.
- **Type: What type of evaluation is planned (formative, implementation or summative) – the selection of evaluation type is informed by the policy owners objective (what it is you want to know about your policy or legislation):**
Implementation evaluation would be done as it allows for reviews and amendments in the course of implementation of the NLMP.

2.9.1.5 Provide a straightforward Communication Plan (Note: a common assumption is that the target group will be aware of, and understand how to comply with a policy or legislation come implementation. However, increases in the complexity and volume of new or amendment policy or

legislation render this assumption false. Hence, the need for a communication plan to guide information and awareness campaigns to ensure that all stakeholders (including beneficiaries) are informed:

Awareness campaigns would be done prior to implementation and continue through implementation process targeting external stakeholders, Inter-Ministerial committee would have scheduled meetings as an oversight to implementation,

The Department of Employment and Labour would do further consultations before finalization of the NLMP to make salient areas affecting resources outside the department.

2.10 Please identify areas where additional research would improve understanding of then costs, benefit and/or of the legislation.

There would be scheduled research on emerging trends which will complement information gathered from statistical and administrative data.

PART THREE: SUMMARY AND CONCLUSIONS

1. Briefly summarise the proposal in terms of (a) the problem being addressed and its main causes and (b) the measures proposed to resolve the problem.

The main problem is high rate of unemployment by both unskilled and semiskilled migrants and South Africans in an economy that is not growing as expected. This is resulting in increased poverty and conflicts between these groups as they live together. Governance of labour migration in South Africa is inadequate or lacking and resulting in negative impact on management of labour migration to and from South Africa, management of skills importation as well as impacting on collection and processing of labour migration data. The cause of the problem is implementation of labour migration interventions by different departments and lack of inter-departmental coordination. Implementation of NLMP would resolve the problem as it defines consultation, roles and responsibilities in coordination of the stakeholders.

2. Identify the social groups that would benefit and those that would bear a cost, and describe how they would be affected. Add rows if required.

Groups	How they would be affected
<i>Beneficiaries</i>	

Government	<ul style="list-style-type: none"> Government have to change the way it dealt with coordination of various inter-governmental responsibilities regarding labour migration such as recruitment, quotas, protection of migrants
Employers	<ul style="list-style-type: none"> They will have to change the way they deal with recruitment of migrant workers as well as ensuring decent working conditions for them. Employers would have to follow the NLMP requirements
Migrant Workers	<ul style="list-style-type: none"> Regulated recruitment would mean that migrant workers will be ensured of protection by labour laws
Cost bearers	
Government	<ul style="list-style-type: none"> Government will introduce new structures and systems, change operations related to labour migration to address gaps identified in the NLMP
Employers	<ul style="list-style-type: none"> Compliance expected from them would require that they handle different aspects of labour migration differently, viz, recruitment, social protection etc

3. What are the main risks from the proposal in terms of (a) undesired costs, (b) opposition by specified social groups, and (c) inadequate coordination between state agencies?

(a) Unanticipated costs:

- Availability of budget,

(b) Opposition from stakeholders:

- Resistance by Government role players with regard to the developing and implementation of the National Labour migration Policy.
- Resistance by Employers with regard to the developing and implementation of the National Labour migration Policy.

(c) Ineffective implementation co-ordination between state agencies:

- Resistance to collaborate in implementation

4. Summarise the cost to government in terms of (a) budgetary outlays and (b) institutional capacity.

- (a) All changes (systems, capacity, legislation) would be included in the MTEF budgeting processes.

(b) The implementation will bring restructuring within the DEL coupled with amendments and establishment of systems and procedures of processing labour migration according to the policy.

5. Given the assessment of the costs, benefits and risks in the proposal, why should it be adopted?

The benefits of implementing the proposal would outweigh the cost in the long run as the country had for a long time operated without labour migration policy and that resulted in much losses through conflicts in sectors such transport (trucks) and xenophobic attacks that are always perceived to be emanating from fighting for scarce resources and perceived jobs taken by migrants. Adoption of the NLMP would be a benefit to the economy as it aims to yield all the benefits to be drawn from well managed diverse labour force bringing in local and international skills together.

6. Please provide two other options for resolving the problems identified if this proposal were not adopted.

Option 1.	Special Dispensation Work Permit could be continued with amendments to close identified gaps such as introducing measures to avoid abuse of permits by those producing and issuing fake ones. As well as large scale costly deportations.
Option 2.	Work Visas could be continued with amendments to ensure well coordination between all role players

7. What measures are proposed to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation?

Cost would be reduced through using existing capacity and systems where possible, e.g. existing inspection force for enforcement of compliance; including the case management system, using Employment Service System of South Africa -ESSA, UIF and CF systems where possible for them to accommodate new processes brought by NLMP. Consultation that is well coordinated to include all stakeholders from the development of the policy through to implementation, frequent reporting, monitoring and evaluation would all work together to minimize or prevent risk occurrence.

8. Is the proposal (mark one; answer all questions)

	Yes	No
a. Constitutional?	x	
b. Necessary to achieve the priorities of the state?	x	
c. As cost-effective as possible?	x	
d. Agreed and supported by the affected departments?	x	

9. What is the impact of the Proposal to the following National Priorities?

National Priority	Impact
1. Building a capable, ethical and developmental state	<ul style="list-style-type: none"> ▪ The NMLP will bring about better coordination of labour migration policies and programmes that have potential to advance the country's human rights principles ▪ The policy has potential to build ethical communities where in tolerance and living together will result in development
2. Economic transformation and job creation	<ul style="list-style-type: none"> ▪ Well management of labour migration into the country will provide much needed international skills, provision of remittance by South Africans abroad, and revenue generated from migrant workers and their economic impact on GDP. The policy would also solve generation of reliable data which would benefit planning and South Africa would be in a better position economically and create more jobs, provide skills and have a better economy
3. Education, skills and health	<ul style="list-style-type: none"> ▪ More of South Africans with less education will benefit in the labour market as there would be proper framework on hiring migrants and also in ensuring that low and semiskilled migrants are sourced on the basis of complementing the labour market needs that cannot be met nationally ▪ Well-coordinated sourcing of scarce skills internationally will boost the country's economic output resulting in increased GDP, exports etc ▪ There will be proper skills transfer from migrant labourers to nationals in the labour markets ▪ Ensuring extension of protection of all workers by labour laws will ensure favourable working conditions for migrants including their health and safety, thereby

National Priority	Impact
	reducing their risk of contracting workplace related diseases and injuries
4. Consolidating the social wage through reliable and quality basic services	<ul style="list-style-type: none"> ▪ Less burden to health sector as less workers would contract workplace related diseases and injuries
5. Spatial integration, human settlements and local government	<ul style="list-style-type: none"> ▪ There would be reduced pressure on consumption of government services due to proper planning informed by reliable data ▪ Reduced mushrooming of informal settlements
6. Social cohesion and safe communities	<ul style="list-style-type: none"> ▪ The policy has the potential to bring communities together by ensuring that employment of migrant workers is done in accordance with policy prescripts and are understood by all ▪ Xenophobic attacks will be eradicated as communities get better understanding of how migration is managed with their constituencies represented in policy development and planning
7. A better Africa and world.	<ul style="list-style-type: none"> ▪ Harmonisation of policies within the region and globally as this policy is aimed at fulfilling that need

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