

stronger together

Detecting, Deterring and Dealing with Forced Labour in Businesses
A Toolkit for South African Agri-businesses



in partnership with



stronger2gether.org/za

May 2021

WE ARE WE ARE STRONGER TOGETHER

Stronger Together (www.stronger2gether.org) is a collaborative multi-stakeholder initiative supporting businesses and organisations in all sectors to address labour exploitation risks within their business and supply chains.

We develop and deliver expert guidance, training, resources and tools that equip and support businesses to deter, detect and deal with the risks of forced labour, labour trafficking and other hidden labour exploitation. We enable collaboration to achieve this at scale on a country-by-country, sector-by-sector basis.

Our Vision is supply chains free from hidden labour exploitation.

Our Mission is to work together to reduce forced and bonded labour, labour trafficking and other hidden third-party labour exploitation of workers in supply chains.

We are a not-for-profit organisation.

We use an internationally proven collaborative methodology, engaging stakeholders at an industry-wide level, based on the corporate responsibility to respect human rights within the framework of the UN Guiding Principles on Business and Human Rights.

OUR GUIDING PRINCIPLES:

- **Enabling** - removing barriers, engaging leaders and combining local expertise with high-level influence to enable positive behaviour change at scale in supply chains.
- **Supportive** - a safe platform and support network for businesses to share experience and drive good practice.
- **Collaborative** - working collaboratively and pre-competitively with businesses and stakeholders in all sectors across domestic and global supply chains.
- **Accessible** - providing high quality, free to download, open source resources and cost-effective interactive expert training and e-learning for business.
- **Practical** - step-by-step, pioneering, solutions-focused guidance and resources for businesses, tailored by country and sector.
- **Evolving** - continuously improving and developing best-practice tools, materials and programmes to support businesses.



STRONGER TOGETHER PARTNERS

STRATEGIC PARTNERS



SOUTH AFRICA BUSINESS SPONSORS



Stronger Together would like to acknowledge and thank the following businesses that engaged, supported and recommended the South Africa programme to their agricultural suppliers over the first four years of the programme: Alko, Backsberg, Berryworld, Ceres Cascade Farms, Co-op, Paul Cluver, DGB, Global Fruit Point Germany, Greenyard Fresh, Marks & Spencer, Massmart, Morrisons, Sainsbury's, Selfridges, SALBA, Spier, Systembolaget, Tesco, Vinmonopolet, Vinpro, Waitrose, Waitrose Foundation, and Woolworths.

Stronger Together is part of a group of collaborative initiatives driving systemic human rights improvements at scale in global supply chains.

Forced and bonded labour - [Stronger Together](#), a multi-stakeholder collaborative initiative supporting organisations to tackle modern slavery within their businesses and supply chains.

Labour standards - [Fast Forward](#), a next generation audit and improvement programme to uncover hidden exploitation and drive collaborative continuous improvement in all labour standards in supply chains.

Responsible Recruitment - [Responsible Recruitment Toolkit](#), a not-for-profit, global programme driving ethical and professional recruitment and labour supply. [Clearview](#), a global responsible recruitment certification scheme for labour providers. [Complyer](#), legal compliance consultancy and audits of UK labour providers. [Association of Labour Providers](#), a trade association promoting responsible recruitment in the UK consumer goods supply chain.

Please email infoza@stronger2gether.org if you would like to discuss becoming a sponsor or a partner.

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INTRODUCTION

FORCED AND BONDED LABOUR

Forced and bonded labour are by nature hidden crimes, and therefore they may seem like distant concepts that do not relate to you or your business. However, through this toolkit and the Stronger Together South Africa programme, we hope to demonstrate that in addition to the moral reason to prevent people from being exploited, there is a clear responsibility and reason for businesses to take proactive action, and we aim to support you to do so.

International legislative developments are indicative of a wider increased focus on forced and bonded labour. Businesses, investors and consumers are growing in awareness and concern about the scale and prevalence of this issue. The business case for action is clear, but there is also a moral imperative that cannot be ignored. Each case of forced or bonded labour or human trafficking relates to a man, woman or child with a face and a story. Responsible business has a vital and important role to play to help end this injustice.

As such, it is becoming increasingly important for South African agri-businesses to ensure that their labour management practices adequately deter, detect and deal with the different types of forced and bonded labour. This will not only secure market access and protect the livelihood of these sectors, but will also create a healthier, more productive work environment where exploitative labour practices are discouraged and workers are protected.

PARTNERING TO DEAL WITH FORCED AND BONDED LABOUR

Launched in 2017, Stronger Together South Africa partners with the Wine and Agricultural Ethical Trade Association (WIETA) and the Sustainability Initiative of South Africa (SIZA) to support South African agri-businesses to address forced and bonded labour risks within their operations and supply chain. This initiative provides expert training, guidance, resources and tools to equip agri-businesses with the knowledge, skills, and tools:

- To understand forced and bonded labour risks and vulnerabilities within their operations and supply chains
- To implement responsible labour management practices to address forced and bonded labour risks
- To implement a response plan should any form of forced or bonded labour be suspected or found.



Stronger Together South Africa facilitates dialogue between the different supply chain partners and is supported by South African and international retailers and buyers and supply chain partners such as importers, exporters and direct suppliers, as well as industry bodies across the agricultural industry. Stronger Together also collaborates with other local stakeholders including government departments, researchers, industry organisations and non-governmental organisations (NGOs).

In supporting South African agri-businesses to better understand and address forced and bonded labour risks within their sector and business operations, Stronger Together, WIETA and SIZA have partnered and consulted with South African producers and subject matter experts to develop this toolkit, which is periodically updated to reflect continuous learning.



Stronger Together

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WHO IS WIETA?

The Wine and Agricultural Ethical Trade Association (WIETA) represents the wine industry in actively promoting ethical trade in their value chain. They are a multi-stakeholder, non-profit membership organisation that supports producers through capacity building and audits to assess compliance with the WIETA code of good practices.



WIETA

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WHO IS SIZA?

The Sustainability Initiative of South Africa (SIZA) is a non-profit membership organisation aimed at enabling South African Agriculture to be a global leader in sustainable, ethical trade and environmental stewardship. It is a holistic programme that identifies problems that may exist, usually by way of an independent third-party audit, and responds with appropriate support and interventions, including awareness-raising and the facilitating of relevant capacity-building programmes.



SIZA

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HOW TO USE THIS TOOLKIT

This toolkit aims to equip South African agri-businesses to better understand and address forced and bonded labour and human trafficking risks within their sectors and business operations by:

- Creating a better understanding of market pressures to implement ethical trade practices pertaining to forced and bonded labour risks within global supply chains
- Creating a better understanding of how South African legislation addresses forced and bonded labour risks
- Creating a greater awareness regarding the impact of responsible labour practices on the overall wellbeing and productivity of agricultural workers
- Defining the terms 'forced labour', 'bonded labour' and 'human trafficking' and what they look like in the South African agricultural sector
- Identifying labour management practices that could potentially, and often unintentionally, put producers', businesses and workers at risk
- Supporting producers with the implementation of responsible labour management systems (i.e. policies, procedures, records, communication and training and monitoring) and immediate, medium- and long-term activities that adequately deter, detect and deal with the different types of forced and bonded labour

The toolkit is structured to be used as a practical reference guide and consists of the following sections:

- **Section A - Tools and Checklists** provides useful checklists to support agri-businesses to identify gaps in current labour management practices and ways to improve or update their existing labour management systems to meet the best practice examples highlighted in this toolkit.
- **Section B - Background and Context** highlights the scale of forced and bonded labour and human trafficking globally as well as in South Africa, and provides context for the role of global supply chains (including the South African agricultural sectors) in dealing with forced and bonded labour and human trafficking, and describes the business case for addressing these issues.
- **Section C - Appendices** includes template documents referred to in the guidance and toolkits.

Users are encouraged to refer to relevant sections based on their needs and level of awareness, and should not feel bound to read the toolkit from cover to cover. We encourage businesses to use the toolkit as a handbook during their journey in implementing good practice to deter, detect and deal with forced and bonded labour.

The 'Detect forced and bonded labour' checklist in Section A below provides a quick-scan overview of the recommended steps for businesses to take in the short, medium and long term to address the risk of forced and bonded labour. Dealing with forced labour requires a long-term commitment and collaboration, as no one can tackle this problem alone.

Stronger Together provides guidance and brings people together to work on collaborative solutions throughout that journey.

This toolkit will remain a work in progress, subject to continuous improvement based on learnings and experience, to be updated, improved and expanded. We therefore encourage any feedback that can contribute to the improvement of its content and encourage users to visit www.stronger2gether.org/za on a regular basis to download new or updated toolkits, guidance documents, templates and checklists.

Implementing the good practices in this toolkit:

- Demonstrates proactive measures taken by South African agri-businesses to implement responsible labour management practices that protect and enhance the businesses' and sectors' reputations and increases market confidence
- Reduces producers' business risks
- Protects workers from forced and bonded labour, labour trafficking and other hidden labour exploitation.



THE BUSINESS CASE FOR ADDRESSING FORCED AND BONDED LABOUR

THREE

There are clear benefits for South African agri-businesses to proactively address forced and bonded labour risks and vulnerabilities, including:

- Meeting global market requirements, securing market access and protecting the livelihood and sustainability of their businesses and their sectors
- Complying with relevant South African labour legislation, protecting businesses and their workers
- Enhancing the reputation of businesses and sectors
- Safeguarding workers against exploitation, which creates a healthier work environment and increases labour productivity.



BRAND PROTECTION

FOR SOUTH AFRICA'S AGRICULTURAL SECTOR

With an increase in global competitiveness in the agricultural sector and South Africa's dependence on export markets, it is critical to protect and enhance this sector's brands in order to secure market access and ensure their sustainability.

**stronger
together**



Stronger Together supports and collaborates with businesses across supply chains to reduce forced and bonded labour in supply chains.



It is our mandate to improve the working conditions of workers in the wine value chain.



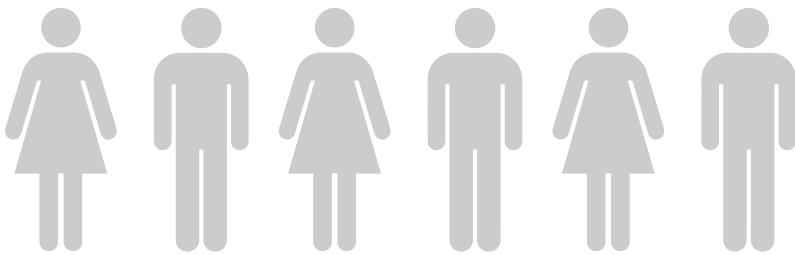
It is our vision to enable South African Agriculture to be a global leader. Ensuring sustainable, ethical trade and environmental stewardship.



The South African agricultural sector has already made great strides in proactively addressing human rights and labour practices by establishing the Wine and Agricultural Ethical Trade Association (WIETA) and the Sustainability Initiative of South Africa (SIZA). Both of these initiatives have developed sector-specific ethical codes and support initiatives to better equip producers to implement and continuously improve on-farm labour management practices. Their partnership with Stronger Together aims to facilitate dialogue between agri businesses and the markets they supply to, and to equip them to address forced and bonded labour risks and vulnerabilities in order to strengthen market confidence and protect producers' businesses and workers.

WHAT IS GOOD PRACTICE?

Potential workforce



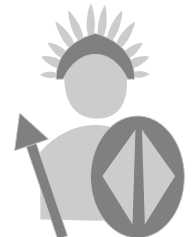
- Recruited by TES/Traditional Leader/Agricultural Producer
- Potential workers are accurately informed about work conditions and pay
- Potential workers choose work voluntarily
- No payment for work or recruitment fees at any stage of the process
- No handing in of employees' personal documents such as ID/passport



**Temporary
Employment
Services (TES)**



**Agricultural
Producer**



Tribal Leader



- Service-level agreement in place with TES if worker was outsourced
- Clear contract in place with worker
- Fair treatment of workers at place of employment
- Overtime is voluntary
- Decent on-farm accommodation (where applicable)
- Employment of family members is not required
- Regular wage payments made in line with contract
- Wage deductions are agreed and fair
- Personal documents not retained by employer
- Freedom of movement

- Buyer subscribes to regulatory industry requirements to protect workers in supply chain
- Information on labour practices is given to suppliers
- Buyer to support agricultural producer to implement good labour practices



SECTION A

TOOLS AND CHECKLISTS

This section provides you with the guidance and checklists to assess the forced and bonded labour risks within your business, identify specific gaps within your labour management system and develop plans to address these. This section also provides references to specific templates in the Appendices to support the development of your policies, procedures and response plans.



STEP 1

WHAT DO I NEED TO DO?

STEPS TO TAKE: IMMEDIATE, MEDIUM- AND LONG-TERM

As a first step, this checklist provides you with an overview of the immediate, medium- and long-term activities that you need to initiate and maintain in order to detect, deter and deal with forced and bonded labour in your business.

DETECT FORCED LABOUR - SIMPLIFIED IMPLEMENTATION CHECKLIST		TICK IF DONE
IMMEDIATE TERM		
Identify one or two colleagues within your business who you will approach to assist with:		
- The completion of the risk assessment started in the workshop, to determine vulnerabilities and risks within your business - Raising the issue of forced and bonded labour within your business.		
Engage with senior management on the issue and encourage them to make a commitment to tackle forced and bonded labour including appointing a representative to hold responsibility for taking it across the organisation and supply chain.		
Once there is buy-in from the top management, appoint a manager (preferably at each operational site) to be responsible for implementing processes and procedures for dealing with hidden labour exploitation within your business.		
Engage with and include employee representatives in your planned actions for preventing and dealing with hidden labour exploitation.		
Register on www.stronger2gether.org and download the free tools and resources.		
Read the guidance in this toolkit and develop a short-term, medium-term and long-term implementation plan based on the list of good practice processes and procedures to identify and deter hidden labour exploitation.		
Display the workplace posters and distribute the worker leaflets available from www.stronger2gether.org/za .		
Convene with other businesses in your area to discuss the issue of forced and bonded labour within your area and deal with it together on a regular basis. If there are no existing discussion or support forums/networks, i.e. farmers' associations etc. in your area, you could start with businesses that have already attended the Stronger Together workshops.		
Familiarise yourself with the relevant contact details for reporting suspicion of labour exploitation i.e. the Human Trafficking Hotline, Salvation Army, relevant industry bodies, Department of Employment and Labour.		

DETECT FORCED LABOUR - SIMPLIFIED IMPLEMENTATION CHECKLIST	TICK IF DONE
MEDIUM TERM	
Update the business' policies and processes to include references to prevent and respond to forced and bonded labour.	
Key managers should attend the "Detect, Deter and Deal with Forced Labour in the Agricultural Sector – South Africa" workshop. Visit www.stronger2gether.org/workshop/forced-labour-in-agri-businesses-south-africa/ for more information and to book.	
Update worker induction and training programmes to include dealing with forced labour, using the Stronger Together resources available at www.stronger2gether.org/za/ .	
Ensure that your supervisors and recruiters (both HR employees and HR consultants) are trained to spot the signs of forced labour, and that recruiters have read, understood and adhere to your business' responsible sourcing and recruitment policy which should include references to prevent and respond to forced labour (see Appendix: 'Template - Responsible sourcing and recruitment policy').	
Use the Template Temporary Employment Service (TES) Checklist (see Section 'Using Temporary Employment Services') to verify that the TES your business uses to source and supply workers is meeting national labour legislation requirements and is not exposing workers to forced and bonded labour.	
Put a response plan in place to ensure that you are prepared to respond to a potential situation of forced and bonded labour and provide access to remedy for victims (see Appendix: 'Template – Forced and bonded labour response plan').	
Identify possible risks with regards to forced and bonded labour within your area, focusing on recruitment practices in your area etc.	
Identify possible solutions to dealing with forced and bonded labour in your area. Identify other role-players who might be able to assist in the process of eradicating forced and bonded labour from your entire production area. These role-players could include social workers, local NGOs providing services to farms and farm workers, the victim support unit at your local SAPS office etc.	
Publicly demonstrate your organisation's commitment to detect, deter and deal with forced labour on your website and annual reports.	
Within your business, regularly review your actions against this toolkit guidance and monitor progress and identify improvements and next steps.	
LONGER TERM	
Identify and build a relationship with local organisations that are able to provide victim support to address forced and bonded labour in your area, in order to ensure that survivors have the opportunity to be re-integrated into the mainstream farming community, subsequent to reporting a forced or bonded labour abuse.	

STEP 2

SHOW COMMITMENT

TWO

A first, important step in deterring forced labour is to show commitment to proactively address forced and bonded labour and human trafficking. This requires that South African agri-businesses:

- **Participate** in Stronger Together South Africa
- **Appoint** a member of senior management to assume responsibility for addressing forced and bonded risks and vulnerabilities
- **Define** a forced and bonded labour policy.

Use the following checklist to access information and get informed about the risks of forced and bonded labour for your business, appoint a senior management representative and develop a forced and bonded labour policy. Within the checklists there are references to templates included in the Appendices which can assist you to develop your own policies and plans.

PARTICIPATE IN THE STRONGER TOGETHER PROGRAMME

WAYS TO PARTICIPATE IN STRONGER TOGETHER		TICK IF DONE
1	Register on www.stronger2gether.org/za and download, review and use the free tools and resources.	
2	Attend the "Detecting, Deterring and Dealing with Forced Labour in Agri-Businesses – South Africa" and "Taking Your Next Steps: A Follow-up Workshop for Agri-Businesses, South Africa" training workshops. See www.stronger2gether.org/workshops	
3	Publicly demonstrate the business' commitment to address forced labour risk and vulnerabilities by becoming a Stronger Together Business Partner at www.stronger2gether.org/business-partners	

APPOINT A MEMBER OF SENIOR MANAGEMENT

APPOINT A MEMBER OF SENIOR MANAGEMENT		TICK IF DONE
1	Appoint, in writing, a senior management representative for each operational site (i.e. farm/packhouse/cellar/mill) to assume responsibility for addressing forced labour risks and vulnerabilities.	
	Refer to Appendix: Template – Appointment letter: Tackling forced and bonded labour management representative.	

DEFINE A FORCED AND BONDED LABOUR POLICY

DEFINE A FORCED AND BONDED LABOUR POLICY		TICK IF DONE
1	Define and document the business' policy on forced and bonded labour and human trafficking that states the business' firm commitment and approach to developing and adopting labour management practices to deter, detect and deal with any form of labour exploitation, i.e. forced, bonded and human trafficking on its farms and production facilities (such as packhouses/cellars/processing facilities).	
2	Communicate and engage members of management on the policy and its implementation (this could entail communicating the policy at a monthly meeting, sharing the policy via email etc.).	
3	Communicate the policy to workers through: - Clearly displaying the policy in a language that the workers understand - Including the policy during worker induction training.	
4	Implement the policy through addressing relevant labour management practices (refer to Section A, 13: Implement the Forced and Bonded Labour policy) in the business' labour management system.	
5	Review the policy on an annual basis and update if required.	
Refer to Appendix: Template – Forced and Bonded Labour Policy		



IMPLEMENT

THE FORCED AND BONDED LABOUR POLICY

THREE

The implementation of the forced and bonded labour policy must be supported by a responsible, non-exploitative labour management system. This section will guide you to assess the different aspects of your labour management system according to international norms and national legislation, as well as sector-specific requirements, e.g. the Sectoral Determination 13 - Farm Worker Sector.

Due to the specific risks associated with the use of Temporary Employment Services (TES), there is further guidance on the selection, contracting, managing and monitoring of the TES that you use in your business.

This section includes textboxes which offer explanation and guidance on the specifics of legislation or implementation. Each topic or labour practice covered in this section includes a checklist which will enable you to assess what your business already has in place and what needs to be updated, e.g. policies and procedures, training, records and monitoring.

ASSESSING AND UPDATING A LABOUR MANAGEMENT SYSTEM

What is a labour management system?

A business owner can ensure legal and responsible labour practices through the implementation of an effective labour management system. A labour management system enables a business owner to operate with responsibility and accountability, be more effective, protect workers and improve labour productivity. It also creates credibility and serves as a form of proof that the business is meeting labour law and market requirements.

In short, a labour management system allows a business to “Say what you do. Do what you say. Prove that you have done it!”

A labour management system consists of five components, namely:

- » **Policies:** These are written statements that define a business’ commitment and approach to its management practices. Policies should be clear and available in a language understood by workers. They should also:
 - Indicate to which business sites (farms/packhouses) the policy applies
 - Identify the person who assumes responsibility for the policy and its implementation
- » **Procedures:** These are written documents that describe ‘how’ the policies will be implemented, including processes, roles and responsibilities
- » **Records:** These provide written evidence that the business is meeting requirements stipulated in the policies and procedures
- » **Communication and training:** Management and workers must be aware of and understand policies and procedures. As such, relevant policies and procedures must form part of training and awareness sessions and/or be visibly displayed
- » **Monitoring:** Policies and procedures should be reviewed regularly to ensure the effectiveness of implementation and compliance to legal and market requirements. This can take the form of self assessments or checklists that can be completed on a regular basis.

There are several labour management practices which, if not managed responsibly through the labour management system, could make a business and workers vulnerable to forced and bonded labour abuses. As such, it is important to address these practices within the business' policies, procedures, records, communication and monitoring. These practices include:

- Sourcing and recruitment of workers
- Termination of service
- Overtime
- Wage payments
- Wage deductions and debt bondage
- On-farm accommodation
- Employment of family members
- Freedom of movement
- Using Temporary Employment Services (TES).

Use the checklists below to:

- o **Assess** if the existing labour management system meets best practices as stipulated in this toolkit and online resources available at www.stronger2gether.org/za
- o **Update** the existing labour management system if it does not meet the toolkit requirements.



SOURCING AND RECRUITMENT OF WORKERS

To ensure that workers are not exposed to forced labour abuses through sourcing and recruitment practices, businesses need to implement procedures that ensure that:

- Sourcing and recruitment practices are not misleading or deceptive
- Sourcing and recruitment practices protect vulnerable groups (such as seasonal, temporary and migrant labour, as well as workers recruited through third-party labour providers)
- Workers are not coerced into employment through some form of bond, violence or intimidation.

RESPONSIBLE SOURCING AND RECRUITMENT OF WORKERS POLICY		TICK IF DONE
1	Define and document the business' policy on sourcing and recruitment of workers that states the business' firm commitment and approach to responsible sourcing and recruitment practices that protect workers against all forms of labour exploitation (i.e. forced and bonded labour and human trafficking).	
2	Communicate and engage members of management on the policy (this could entail communicating the policy at a monthly meeting, sharing the policy via email etc.).	
3	Communicate the policy to workers through: • Clearly displaying the policy in a language that the workers understand • Including the policy during worker induction training.	
4	Implement the policy through addressing relevant labour management practices in the business' labour management system.	
5	Review the policy on an annual basis and update if required.	
Refer to Appendix – Template: Responsible sourcing and recruitment policy		

LABOUR SOURCING AND RECRUITMENT STAFF TRAINING		TICK IF DONE
The employer will ensure and demonstrate that:		
1	Its recruiting staff are trained in the organisation's processes to recognise, prevent and report forced and bonded labour.	
2	During the worker selection process, the recruiter asks and records: • How the worker found out about the work • Whether the worker has paid anyone, or will have to pay anyone, to obtain the work in question • Whether the worker has paid anyone to get into South Africa if a newly arrived migrant.	

LABOUR SOURCING AND RECRUITMENT PRACTICES ARE NOT MISLEADING**TICK IF
DONE**

The employer must ensure and be able to demonstrate that:

- 1 The terms and conditions of employment agreed upon at the time of recruitment are similar to those contained in the employment contract.
- 2 If changes to the terms and conditions of employment were made between the time of recruitment and the time of employment, they were made with the knowledge and consent of the worker.
- 3 The terms and conditions of employment indicated in the employment contract are similar to the actual employment conditions at the place of work.
- 4 The terms and conditions of employment meet legal requirements (i.e. the Basic Conditions of Employment Act, 75 of 1997 and The Sectoral Determination 13 – Farm Worker Sector).
- 5 Terms and conditions of employment are documented and made available in a language understood by workers.
- 6 The terms and conditions of employment are communicated to workers before commencement of employment (this is also relevant when using tribal leaders and supervisors when sourcing and recruiting workers).
- 7 Workers are free to leave their employment within the terms of their contract.

LABOUR SOURCING AND RECRUITMENT PRACTICES MUST PROTECT VULNERABLE GROUPS**TICK IF
DONE**

The employer must ensure and be able to demonstrate that:

- 1 No prison labour is recruited or employed.
- 2 No child labour (persons younger than 15) is recruited or employed.
- 3 Young workers (aged 15 to 17) are only employed with the written consent from their parents or legal guardians.
- 4 Foreign nationals are only employed if they have legally required documentation (i.e. work permits).
- 5 In instances where foreign nationals do not have the legally required documentation, the business will support these workers in obtaining these documents.
- 6 Temporary, seasonal and migrant workers benefit from conditions of work no less favourable than those of permanent workers or stipulated in national legislation.
- 7 When sourcing migrant workers and transport is provided to their place of work, workers will not be expected to pay their own costs to return to their country or place of origin when leaving the employment before the end of their contracted term.

WORKERS ARE NOT COERCED INTO EMPLOYMENT THROUGH SOME FORM OF BOND, VIOLENCE OR INTIMIDATION**TICK IF
DONE**

Employers must ensure and be able to demonstrate that:

- 1 Workers are not required to pay recruitment fees.
- 2 Workers are not required to pay any form of deposit on entering employment.
- 3 Workers' identity documents are not retained (i.e. ID cards, work permits).
- 4 If workers request that the business retains ID documents for safekeeping:
 - There is some form of signed agreement that shows that the ID documents are kept by the employer on request of the worker
 - Workers are allowed to access their documents at any time.
- 5 Workers enter employment out of their own free will without any form of threat, violence or intimidation.

TERMINATION OF EMPLOYMENT

Workers must be free to leave their employment within the terms of their contract.

In order to mitigate any forced and bonded labour risks and vulnerabilities associated with termination of service, it is recommended that the labour management system:

- Defines and implements a termination policy that meets requirements as stipulated by The Basic Conditions of Employment Act, 75 of 1997 and The Sectoral Determination 13 – Farm Worker Sector Immigration and Nationality Act (INA)
- Issues a Certificate of Service for workers leaving the company's employ.

CERTIFICATE OF SERVICE

The Basic Conditions of Employment Act, No. 75 of 1997, requires that the employer must supply a Certificate of Service if the employee asks for this when leaving their employment. Whether this is requested by the worker or not, it is a good practice and demonstrates that an employee has freely left his employment and that there are no further obligations either way. These records are also useful if queries ever arise later on as to the reason for termination of employment.¹

TERMINATION OF SERVICE

TICK IF
DONE

The employer will:

- 1 Define and include a termination policy in the terms of workers' contracts, i.e.:
 - The minimum notice periods as stipulated in the Sectoral Determination 13 – Farm Worker Sector, i.e.: Payment of all outstanding monies owed to the worker at termination of employment, for example:
 - One week if the farm worker has been employed for six months or less
 - Four weeks if the farm worker has been employed for more than six months.
 - Payment of all outstanding monies owed to the worker at termination of employment, including:
 - Any wages that have not been paid
 - Any payment owing in respect of extended ordinary hours of work
 - Any paid time off that the employee is entitled to but has not taken
 - Outstanding leave pay.
- 2 Communicate the termination policy to workers during induction training.
- 3 Ensure that on termination of employment, workers are issued with a Certificate of Service that states:
 - The name of the company and its address
 - The full name of the worker and his/her ID number
 - The period of employment
 - The wage the worker was earning during the employment period
 - The type of employment (i.e. type of work conducted)
 - Reason for termination of employment
 - The signatures of the employee and employer.

1. Fruit South Africa (FSA). 2011. Ethical Trading Handbook. [Online]. Available at: https://www.siza.co.za/handbook/pdf/FSA_Ethical_Trade_Handbook_English.pdf Accessed: 22 October 2017.

TERMINATION OF SERVICE		TICK IF DONE
4	Ensure that on termination of employment, workers are paid all outstanding monies.	
5	Ensure that on termination of employment, the final payment package is put in writing, signed by the employee and kept on record.	
6	Ensure that workers are not prevented from terminating their employment through means such as requiring deposits, withholding employee documentation, threats or use of violence, imposing financial penalties, requiring payment of recruitment or training fees.	
7	Ensure that workers on contracts of fixed duration are not required to serve beyond the expiry of their contract.	
	Refer to Department of Employment and Labour's website for an example of a Certificate of Service: www.labour.gov.za/DocumentCenter/Forms/Basic%20Conditions%20of%20Employment/Form%20BCEA5%20-%20Certificate%20of%20Service.pdf	

OVERTIME

Due to the seasonality of the agricultural sector, it is not unrealistic to expect workers to work overtime. To ensure that overtime is not exploitative or perceived as a form of forced labour, it is recommended that the labour management system:

- Defines the company's policy on overtime
- Implements procedures to ensure that overtime is voluntary and compensated for.

What is overtime?

The Sectoral Determination 13 – Farm Worker Sector stipulates ordinary hours of work as 45 hours a week i.e.:

- Nine hours on any day if the farm worker works for five days or less in a week; or
- Eight hours in any day if the farm worker works for more than five days in any week.

Any work in excess of these hours is considered to be overtime.

Overtime may not exceed more than 15 hours a week and workers may not work more than 12 hours, including overtime, on any day.²

It is important to note that overtime is not exclusively payable, only AFTER the 45 hours of "ordinary hours" have been completed. Overtime is applicable whenever a worker works longer than the contracted hours - even on a daily basis. For example, a worker who is contracted to work from 08h00 to 17h00 is entitled to overtime pay on any day where work is performed outside of these hours (before 08h00 or after 17h00). The worker therefore does not have to complete the 45 hours for the week in order to qualify for overtime pay.³

Overtime must be compensated for at a premium. This is stipulated by the Sectoral Determination 13 – Farm Worker Sector, i.e.:

- 1.5 times the normal wage rate; or
- 2 times the normal wage rate for work performed on Sundays and/or Public Holidays.⁴

Young workers (aged 15 to 17) are not allowed to work overtime.

2. The Department of Labour. 1997. Basic Conditions of Employment Act No 75 of 1997 Sectoral Determination 13 - Farm Worker Sector, South Africa. [Online]. Available at: http://www.saflii.org/za/legis/consol_reg/sd13fwssa521.pdf, Accessed: 10 August 2020.

3. SIZA. 2016. SIZA standard version 5. [Online]. Available at: <https://siza.co.za/wp-content/uploads/2018/11/SIZA-Standard-Sept-2016-V5.0.pdf>, Accessed: 7 January 2021.

4. ibid

DEFINE THE COMPANY'S POLICY ON OVERTIME

TICK IF
DONE

The employer commits to and will act to ensure that they will:

- 1 Define and include the policy on overtime in the terms of workers' contracts, i.e.:
 - That overtime could be required as term of employment
 - That the rate of pay for overtime is as stipulated by the Sectoral Determination 13 – Farm Worker Sector.
- 2 Ensure that workers are informed that overtime is a condition of employment before starting work (i.e. communicated during induction training).
- 3 Where overtime is required, ensure that:
 - Workers receive at least 48 hours' notice through:
 - Placing a notice on a notice board, or
 - Supervisors informing workers verbally.
 - Workers indicate in writing that they are willing to work overtime
 - Overtime is recorded through timesheets or a clocking system
 - Overtime is compensated for at 1.5 times the wage amount or 2 times the wage amount on Sundays and Public Holidays
 - Compensation for overtime is indicated on workers' payslips.
- 4 Ensure that workers (aged 15 to 17) are not required to work overtime.



WAGE PAYMENTS

Wage payments that do not meet legislative requirements can potentially put a business and workers at risk of debt induced bonded labour.

WAGE PAYMENTS		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	Wages are paid directly to workers.	
2	"In kind" payments and payment in the form of vouchers, coupons or promissory notes are prohibited.	
3	Pay intervals are not more than one month and wage payments are not delayed or withheld.	
4	Workers must be issued with a payslip that reflects the following information: • Employer's name and address • Worker's name and occupation • Period for which payment is made • Total salary or wages • Any deductions • The actual amount paid • Employer's registration number with the Unemployment Insurance Fund and the contribution to the fund • The calculation of pay: • Employee's pay and overtime rates • Number of ordinary and overtime hours worked • Number of hours worked on a Sunday or public holiday • The total number of ordinary and overtime hours worked in the period of averaging, if an agreement to average working time has been concluded.	
5	Payslips are explained to workers during induction training to ensure that they understand its content.	
6	Wages meet or exceed minimum wages as stipulated by the Department of Labour.	
7	Workers who earn wages calculated on a performance-related or piece-rate basis shall not earn less than the legally mandated minimum wage.	

WAGE DEDUCTIONS AND DEBT BONDAGE

Workers may not be held in debt bondage or forced to work for an employer in order to pay off an actually incurred or inherited debt. As such, any deductions made from workers' wages must meet legislative requirements.

Statutory and non-statutory wage deductions

Deductions from workers' wages are only allowed if it is a requirement by law, such as Unemployment Insurance Fund (UIF) and pay-as-you-earn tax (PAYE). Under certain circumstances (refer to below checklist), however, non statutory deductions are allowed.

Non-statutory deductions can include:

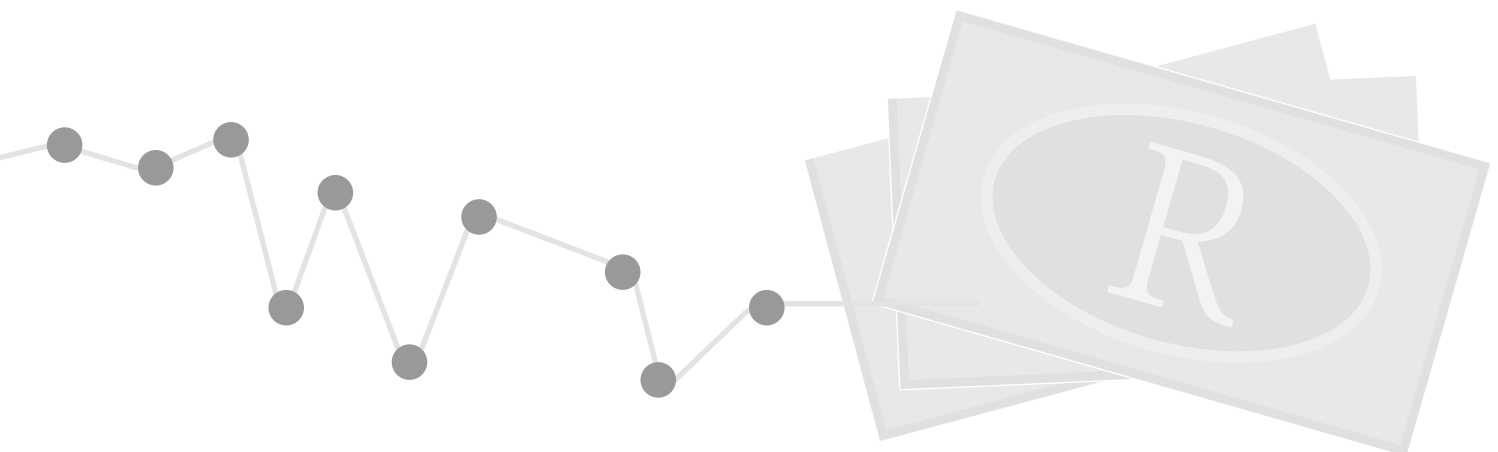
- **Loans:** In some instances, producers make loans to workers to support them during time of hardship
- **Saving Schemes:** To support workers with savings, money is deducted from workers' wages and later paid back to them as a form of saving
- **On-farm shops:** This practice often serves to assist workers who are employed on farms in remote locations as well as to ensure that workers do not incur travel expenses to buy certain goods
- **Accommodation and food**
- **Payment to third-parties:** This can include trade union membership, provident funds, medical aid, retirement plans, external saving schemes, funeral policies, insurance or repayment of loans granted for a dwelling or accommodation to any bank, building society, insurance business, registered financial institution or local authority.

Employers may deduct no more than 10% of a worker's wage for each of the above non-statutory deductions, and only when agreed with the worker in advance.

Wage deductions are not allowed for:

- Any form of deposit (i.e. for equipment used during period of employment)
- Fines as disciplinary measure
- Recruitment fees
- Training, workers' clothes and equipment.

Employers must take care to ensure that all deductions are made in line with SD13.



DEDUCTIONS		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	Deductions shall only be made as required by the law (refer to Sectoral Determination 13 – Farm Worker Sector, clause 8) i.e. UIF and PAYE.	
2	Non-statutory deductions shall only be made if: - Workers provide written consent through a signed agreement - Workers receive a copy of this agreement - Deductions do not exceed the amount stipulated by law (i.e. 10% of the wage amount for that period for each of the non-statutory wage deductions).	
3	Wage deductions may not be made for: - Any form of deposit (i.e. for equipment used during the period of employment) - Fines as a disciplinary measure - Recruitment fees - Training, worker clothes and equipment.	

LOANS		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	There is a consistent loan policy documented that: - Determines the circumstances where loans will be allowed - States the repayment terms - Ensures that the loan policy is applied consistently, i.e. there is no 'favouritism'.	
2	There is a written repayment agreement between the employer and worker that states: - How much has been loaned - The interest rate - The monthly repayments - How many payments must be made.	
3	Deductions made for loans are indicated on workers' payslips.	
4	Deductions for loans do not exceed the amount as stipulated by law (i.e. 10% of the wage amount for that period).	

SAVING SCHEMES

TICK IF
DONE

The employer will ensure and be able to demonstrate that:

- 1 Saving schemes are only allowed if:
 - Requested by workers in writing (and signed)
 - Deductions for saving schemes do not exceed 10% of the wage amount for that period.
- 2 Deductions made for saving schemes are indicated on workers' payslips.
- 3 Deductions for saving schemes do not exceed the amount as stipulated by law (i.e. 10% of the wage amount for that period).
- 4 The saving scheme is paid out in full to the worker on termination of employment.

ON-FARM SHOPS

TICK IF
DONE

The employer will ensure and be able to demonstrate that:

- 1 Workers are not forced to make use of on-farm shops.
- 2 The cost of goods sold at on-farm shops is not exorbitant or exploitative.
- 3 There is an agreement in place with the workers around the limits to loans made for goods bought at on-farm shops to ensure that they do not incur too much debt.
- 4 Workers must receive "proof of payment" when purchasing goods from the on-farm shop.
- 5 Workers MUST sign for each and every purchase.
- 6 Deductions for purchases made at on-farm shops are indicated on workers' payslips.
- 7 Deductions for the total cost of purchases made during a pay period, at on-farm shops, may not exceed 10% of the workers' wage for that period.

FOOD AND ACCOMMODATION

TICK IF
DONE

The employer will ensure and be able to demonstrate that:

- 1 Deductions for accommodation may only be made if:
 - The worker is at least 18 years old
 - Water, electricity and other services are not also deducted
 - The amount deducted is not more than the cost to the employer
 - Accommodation meets the following requirements:
 - » It has a roof that is durable and waterproof
 - » It has glass windows that can be opened
 - » It has electricity available inside the house (if the infrastructure exists on the farm)
 - » Water is available inside the house (or within 100m from the house)
 - » It has a flush toilet or pit latrine available in or in close proximity to it; and
 - » A size of not less than 30m².
- 2 Deductions made for food and accommodation are indicated on workers' payslips.
- 3 Deductions for food and accommodation do not exceed 10% of the wage amount for that pay period.



PAYMENT TO THIRD PARTIES

TICK IF
DONE

The employer will ensure and be able to demonstrate that:

- 1 Deductions for third-party payments are only allowed when workers provide written consent.
- 2 Employers must pay deductions and employer contributions to benefit funds (pension, provident, retirement, medical aid etc.) to the fund within 7 days.
- 3 Deductions made for third-party payments are indicated on workers' payslips.
- 4 Deductions for third-party payments do not exceed 10% of the wage amount for that pay period.

ON-FARM ACCOMMODATION

Workers or their families are subjected to forced labour if they are coerced into working on the farm due to fear of eviction. Family members who share on-farm accommodation with the worker must be allowed to seek alternative employment. The provision of accommodation by employers as a payment for work is prohibited.

The checklist below provides guidance on best practices on debt and wage deductions:

It is important to note that the Extension of Security of Tenure Act (ESTA) is directly linked to the labour rights of the worker since employment is a primary means by which a worker gains consent to reside on a farm.

ON-FARM ACCOMMODATION

TICK IF
DONE

The employer will ensure and be able to demonstrate that:

- 1 A commitment to protect workers from unlawful evictions is included in the housing policy as stipulated by the Extension of Security of Tenure Act 62 of 1997 (ESTA).
- 2 Family members of farm workers who share on-farm accommodation are not forced to work on the farm as terms of their residency.
- 3 The provision of accommodation is not used as a form of payment.

EMPLOYMENT OF FAMILY MEMBERS

Family members or spouses employed by the same employer must have separate terms and conditions of employment and must be paid separately to ensure that employment of one family member is not a condition of employment of another family member.

EMPLOYMENT OF FAMILY MEMBERS

TICK IF
DONE

The employer will ensure and be able to demonstrate that:

- 1 Where family members or spouses are employed at the same employer, each worker must:
 - Have signed their own terms and conditions of employment
 - Be paid separately.

FREEDOM OF MOVEMENT

The labour management system must ensure that there is no unreasonable restriction on leaving or re-entering work premises or accommodation. Workers must be free to leave the workplace and accommodation provided and/or move about freely at the end of their shift. Workers may not be locked in during production hours or locked in their accommodation.

FREEDOM OF MOVEMENT		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	Workers are free to leave the workplace and accommodation	
2	Workers are not locked in during production hours.	
3	Workers are not locked into their accommodation.	

TRAINING TO BUILD CAPACITY AND CAPABILITY		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	The employer's senior managers responsible for leading the organisation's/region's/site's "Dealing with Forced Labour" programme have attended training in recognising, preventing and dealing with forced and bonded labour.	
2	The employer's recruiters have undertaken training in recognising, preventing and dealing with forced and bonded labour.	
3	The employer's supervisors and managers are trained and instructed to whistleblow where they have a concern over another manager, supervisor or labour provider.	
4	The employer's induction programme for all new workers includes a section on how to recognise and report forced and bonded labour.	

WORKER ENGAGEMENT GOOD PRACTICE		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	The Stronger Together posters are displayed in the workplace where they can be viewed by all workers.	
2	The Stronger Together leaflets have been issued to its workers to raise awareness of how to recognise and report forced and bonded labour.	
3	Supervisors and managers are encouraged to regularly talk informally to workers to seek to gently uncover whether there are any experiencing issues such as harassment, coercion, bullying, control or exploitation.	
4	The employer uses worker committees, independent NGOs, migrant worker support groups or other worker welfare organisations to speak to workers on a regular basis in their native language in a supportive manner to identify if there are any issues.	
5	Regular staff briefings are conducted, with the topic of forced and bonded labour on the agenda.	

PROVIDING ACCESS TO REMEDY GOOD PRACTICE		TICK IF DONE
1	Have you established a process for receiving and responding to complaints?	☐
2	Have you established a process for handling complaints from the public?	☐
3	Have you established a process for handling complaints from staff?	☐
4	Have you established a process for handling complaints from suppliers?	☐
5	Have you established a process for handling complaints from the media?	☐
6	Have you established a process for handling complaints from the community?	☐
7	Have you established a process for handling complaints from the environment?	☐
8	Have you established a process for handling complaints from the government?	☐
9	Have you established a process for handling complaints from the courts?	☐
10	Have you established a process for handling complaints from the public?	☐

TICK IF DONE

:The employer will ensure and be able to demonstrate that: :

- | | |
|---|--|
| 1 | The business has a complaints/grievance process in place which has been issued to each worker and is operated fairly. |
| 2 | The TES the employer works with has a complaints/grievance process in place which has been issued to each worker and is operated fairly. |
| 3 | The business has a multi-language confidential helpline process through which issues can be raised confidentially by phone, email or in writing to either: the labour user workforce helpline; an independent specialist helpline service; or a senior manager/HR manager who is separate to the direct supervision of the worker. |
| 4 | The business has a whistleblowing procedure whereby supervisors and managers can confidentially raise issues of concern to a member of the senior team without fear of retribution. |

USING TEMPORARY EMPLOYMENT SERVICES (TES)

Unfortunately, irresponsible and exploitative practices of certain TES (such as private employment agencies, independent contractors and informal labour brokers) have created a bad reputation for these labour providers. As such, it is critical to incorporate practices to ensure that TES do not put workers and your business at risk of forced or bonded labour abuses.

The first checklist in this section will help you to develop criteria for selecting a TES. An important aspect is concluding a service-level agreement with a TES, including documentation that they should submit and an agreement on methods of recruitment and labour practice. The second checklist can be used to assess or monitor any TES that you would like to use in your business.

Guidelines for using a TES

To help you to develop criteria for selecting a TES.

USING TES		TICK IF DONE
The employer will:		
1	Define and document the business procedure for using TES when sourcing and recruiting workers.	
2	Communicate the procedure to personnel responsible for sourcing and recruiting of workers through TES.	
3	Review the procedure on an annual basis and update if required.	
4	Define and document criteria (see checklist below) for selecting and monitoring TES that ensure that: - The TES is a registered legal entity - The TES is aware of, and provides workers access to, relevant labour legislation - The TES is committed to implementing responsible labour management practices - The TES incorporates responsible practices in the sourcing and recruiting of workers - The TES does not charge fees for recruitment to workers, directly or indirectly - The TES respects workers' right to freedom of association and collective bargaining - The TES does not tolerate any form of discrimination, harassment or abuse - The TES protects workers' health and safety - The TES meets legal requirements in terms of wages, benefits and terms of employment - The TES ensures that working hours meet legislative requirements - The TES is willing to collaborate to address labour management risks - The TES has a documented response plan for addressing forced and bonded labour abuses.	
5	Engage potential TES on the selection criteria (i.e. personal consultation, sharing criteria with them via e-mail or hard copy) and provide good business practice in the due diligence checks carried out in the appointment of a TES to establish their credibility and legitimacy.	
6	Use the criteria in the checklist below to select a TES.	
7	Document and sign a service-level agreement between the company and the TES.	
8	Reference the criteria in the TES service-level agreement.	

USING TES	TICK IF DONE
9 Discuss and agree the labour sourcing methods and channels used by the TES. The employer is clear about the labour sourcing supply chain.	
10 Discuss and agree the TES's recruitment selection criteria and a fair and non discriminatory process used by its TES.	
11 Monitor TES's compliance to the criteria through: • Completing a TES criteria checklist and requesting appropriate documents as proof of compliance • Ensuring that workers employed by the TES form part of the group interviewed during labour inspections or third-party ethical audits.	
12 Engage the TES on criteria that are not being met and require that the TES implements improvements and provides proof of corrective actions.	
13 The criteria are reviewed annually and updated if required.	
14 Implement the response plan, should there be suspicion of/or forced or bonded labour abuse of workers sourced and recruited through the TES.	
Refer to: • Temporary Employment Services (TES) checklist for examples of detailed criteria, see checklist below • Appendix: Template – Labour sourcing and recruitment through temporary employment services (TES) procedure • Appendix: Template – Forced and bonded labour response plan • The SIZA website for an example of a service agreement between a company and labour broker: www.siza.co.za/documents/FSA_Labour_Broker_Service_Agreement_V1.doc	



TES CHECKLIST

This checklist can be used as part of TES selection and monitoring process to verify that the TES is meeting national labour legislation and not exposing workers to forced and bonded labour.

CRITERIA ⁵	DOES TES COMPLY?
THE TES IS A REGISTERED LEGAL ENTITY	
The TES is a registered legal entity and has a company, close corporation, partnership or sole proprietor registration number.	
The TES is registered with the South African Revenue Services (SARS) and has registered workers for Unemployment Insurance Fund (UIF), Skills Development Levy (SDL) and Value Added Tax (VAT).	
The TES is registered with the Compensation for Occupational Injuries and Diseases Act (COIDA) and all dues have been paid.	
THE TES IS AWARE OF, AND PROVIDES WORKERS ACCESS TO, RELEVANT LABOUR LEGISLATION	
The TES can demonstrate awareness of applicable legislation and that it provides workers with access to legislation, for example:	
- The TES displays summaries of relevant labour legislation⁶ in a place accessible to workers. - The TES is subscribed to a credible service provider who provides labour advice, e.g. labour consultant, membership of labour service providers association and/or the TES can show training records that demonstrate attendance at relevant training.	
THE TES IS COMMITTED TO IMPLEMENTING RESPONSIBLE LABOUR MANAGEMENT PRACTICES	
The TES has a documented Ethical Trade Policy in place that states its commitment and approach to meet the WIETA and/or SIZA ethical code requirements.	
The TES has a documented policy that states its commitment and approach to responsible sourcing and recruitment of workers, including:	
- Workers will be employed out of their free will without fear of coercion - Workers will not be required to lodge deposits or pay a recruitment fee - Workers will be informed of terms of employment before commencing work - Child labour will not be employed - Foreign nationals without legal work permits will not be employed	
The TES conducts regular assessments/checks to ensure that it meets labour legislation and does not expose workers to any form of forced or bonded labour, or human trafficking.	
THE TES INCORPORATES RESPONSIBLE PRACTICES IN THE SOURCING AND RECRUITMENT OF WORKERS	
The TES has signed worker contracts in place that meet legal requirements (including a termination clause).	
The TES can show (through training records) that it explains the terms of employment to workers before commencing work.	

5. Most of these recommendations are prescribed by Fruit South Africa (FSA). Labour Service Provider Checklist. [Online]. Available at: https://www.siza.co.za/documents/Labour_Service_Provider_Checklist_Oct_2012.pdf. Accessed: 17 October 2017.

6. Basic Conditions of Employment Act, Sectoral Determination 13 – Farm Worker Sector, Occupational Health and Safety Act, Employment Equity Act.

CRITERIA ⁵	DOES TES COMPLY?
The TES does not retain any form of worker identity documents (ID card, passport or work permit) but has copies of these documents on record to show the workers' right to work.	
The TES does not require workers to pay recruitment fees.	
The TES does not require workers to pay any deposits on employment.	
The TES does not employ any child labour.	
The TES only employs foreign labour with legal work permits.	
If employing young workers (15 to 17 years of age), contracts of young workers are signed by legal guardians and the working conditions in the contracts comply with law.	
The TES has a record-keeping system in place that maintains employee records for a minimum of 5 years	
THE TES RESPECTS FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING	
The TES respects Freedom of Association and Collective Bargaining	
The TES has a policy in place that states its position in terms of the workers' right to associate and bargain collectively.	
There is documentary evidence (for example a training record) to show that the TES has informed workers of their right to freedom of association and collective bargaining.	
There are records that demonstrate that some/all workers are members of trade unions.	
If no unions are represented, there is a form of worker representation that facilitates communication between workers and management.	
THE TES DOES NOT TOLERATE ANY DISCRIMINATION, HARASSMENT OR ABUSE	
The TES has a documented policy that states its commitment and approach to protect workers against discrimination, harassment and abuse.	
There is documented evidence (such as training records) that the TES has communicated the above policy to workers.	
The TES has a written grievance mechanism in place through which workers are able to raise a complaint.	
There are training records and/or attendance registers that show that workers have been informed about the grievance procedure and how to use it.	
The TES has a documented disciplinary procedure.	
There are training records and/or attendance registers that show that workers have been informed about the disciplinary procedure.	
The TES keeps documented records of ALL disciplinary cases.	
The TES does not incorporate fines as a form of disciplinary penalty.	
The TES respects workers' freedom of movement at the place of work and accommodation (if provided). Workers are never locked up.	

CRITERIA ⁵	DOES TES COMPLY?
THE TES PROTECTS WORKERS' HEALTH AND SAFETY	
The TES has a policy in place that states its position in terms of workers' health and safety.	
There is a documented risk assessment that covers ALL activities undertaken by workers employed by the TES.	
There is recorded evidence that procedures have been implemented to manage risks identified through the risk assessment (for example spray operators have received adequate training).	
There are training records available to demonstrate that all workers have received health and safety training.	
The TES has appointed health and safety representatives (through a documented appointment letter) and first aiders (with valid certificates) as required by law, i.e. if the labour service provider has more than 20 employees, he must have 1 Health and Safety Representative for every 50 employees.	
Workers receive protective clothing and equipment (if applicable) free of charge.	
There are reports available showing that health checks have been provided for affected workers, for example, blood tests for spray operators.	
The TES trains workers to perform their work and training records are available for formal training (e.g. forklift drivers) and informal training (e.g. fruit picker).	
The TES ensures that machinery and equipment used are in good working order and there are maintenance records and pre-service check records available.	
The TES ensures that vehicles used to transport workers are in good condition and are safe.	
The TES ensures that drivers of transport vehicles are legally allowed to drive and transport people; for example, there is a PDP licence.	
THE TES MEETS LEGAL REQUIREMENTS IN TERMS OF WAGES, BENEFITS AND TERMS OF EMPLOYMENT	
Payslips are available for each worker and for each pay period that contain all relevant information as laid out in Sectoral Determination 13 – Farm Worker Sector, Section 6.	
Pay intervals are not more than one month and wage payments are not delayed or withheld.	
Workers receive pay directly, and if workers are paid in cash or by cheque, they receive such payment during working hours, at the workplace, in a sealed envelope.	
Payslips show that the minimum wage is paid to each worker.	
Payslips show that deductions are legally done according to the Sectoral Determination 13 – Farm Worker Sector, Section 8.	
Payslips show that payment for overtime – including Sundays and Public Holidays – is done in accordance with legal requirements.	

CRITERIA ⁵	DOES TES COMPLY?
Wage records show that workers receive paid leave.	
Wage records show that workers are paid for sick leave.	
Workers receive maternity leave.	
THE TES ENSURES THAT WORKING HOURS MEET LEGISLATIVE REQUIREMENTS	
There are time and attendance registers to show what hours are worked as well as overtime.	
There are records to show that workers engage in overtime voluntarily (workers sign that they agree to overtime).	
Workers are informed that overtime could be expected before commencing work, through: • A clause in their contract • Induction training.	
Payslips and time sheets show overtime hours worked.	
Payslips show that overtime is paid at a premium.	
Time sheets show that hours worked comply for BOTH time periods – i.e. shorter hours worked and longer hours worked.	
COLLABORATING WITH THE TES TO ADDRESS LABOUR MANAGEMENT RISKS	
The TES has, or is willing to sign, a service-level agreement that makes it accountable for meeting labour legislation and implementing labour management practices that do not subject workers to forced or bonded labour.	
The TES is transparent about its labour management practices (for example it is happy to provide access to records and shares information).	
The TES shows willingness to collaborate to address and improve any labour management practices that can lead to worker exploitation (i.e. change/adapt management practices, attend training etc.).	
FORCED AND BONDED LABOUR RESPONSE PLAN	
The TES has a documented response plan to address suspicion of/forced or bonded labour abuses.	
The response plan is communicated to workers (i.e. through training and/or visibly displaying information).	

SPOTTING THE SIGNS OF EXPLOITATION IN VICTIMS

This section will provide you with guidance on the signs for spotting potential victims, which will be followed in the following section by the steps to respond appropriately, as well as policies and checklists to ensure that your business is prepared to deal with a potential victim.

There is no set number of signs that will indicate that a person is a victim of trafficking or subject to forced labour. One or a combination of factors could suggest a person is a potential victim; some may be more prevalent than others and each case should be considered on an individual basis.

Victims may be reluctant to tell their story for fear of reprisal or not being believed, through a feeling of shame about letting themselves be treated in this way, or because they do not know their rights and the treatment they are entitled to receive.

The following are signs of exploitation and should be considered within the context of the other evidence. If you identify one or more signs and are suspicious that someone is at risk, refer to Section A, 5.

RESTRICTED FREEDOM

Victims may:

- ☐ Not be in possession of their passports or other travel or identity documents, as those documents are being held by someone else
- ☐ Be unable to leave their work environment
- ☐ Show signs that their movements are being controlled
- ☐ Be unable to move freely
- ☐ Be threatened with being handed over to the authorities
- ☐ Be subject to security measures and controls to keep them on the work premises
- ☐ Depend on their employer for work, transport and accommodation without any choice
- ☐ Have limited contact with their families or with people outside of their immediate environment
- ☐ Be unable to communicate freely with others
- ☐ Be forced to shop at a place they would not choose
- ☐ Have no access to medical care
- ☐ Be in a situation of dependence
- ☐ Come from a place known to be a source of human trafficking
- ☐ Be subjected to violence or threats of violence against themselves or against their family members and loved ones
- ☐ Be found in or connected to a type of location likely to be used for exploiting people
- ☐ Have false identity documents.



BEHAVIOUR

Victims may:

- ☐ Be unfamiliar with the local language
 - ☐ Act as if they were instructed by someone else
 - ☐ Allow others to speak for them when addressed directly
 - ☐ Be distrustful of the authorities
 - ☐ Be afraid of revealing their immigration status
 - ☐ Have limited or no social interaction either in the workplace or at their accommodation
 - ☐ Believe that they must work against their will
 - ☐ Never leave the workplace without their employer
 - ☐ Show fear or anxiety
 - ☐ Feel that they cannot leave
 - ☐ Have to resort to crime in order to get food or money for food
 - ☐ Need to scavenge for food
 - ☐ Be forced to commit crime if there is no work available for them
 - ☐ Have acted on the basis of false promises.
-

WORKING CONDITIONS

Victims may:

- ☐ Have no contract
- ☐ Be unable to negotiate working conditions
- ☐ Be unable to choose when or where they work
- ☐ Be forced to work under certain conditions
- ☐ Work excessively long hours over long periods
- ☐ Not have any days off
- ☐ Not be dressed adequately for the work they do; for example, they may lack protective equipment or correct clothing such as freezer jackets, if working in cold storage
- ☐ Lack basic training or professional licences.



ACCOMMODATION

Victims may:

- ☐ Not know their home or work address
 - ☐ Not have been able to give their address to friends or relatives
 - ☐ Live in poor or substandard accommodation
 - ☐ Have no choice where they live or who they live with
 - ☐ Live in groups in the same place where they work and leave those places infrequently, if at all
 - ☐ Live in degrading, unsuitable places, such as agricultural or industrial buildings.
-

FINANCES

Victims may:

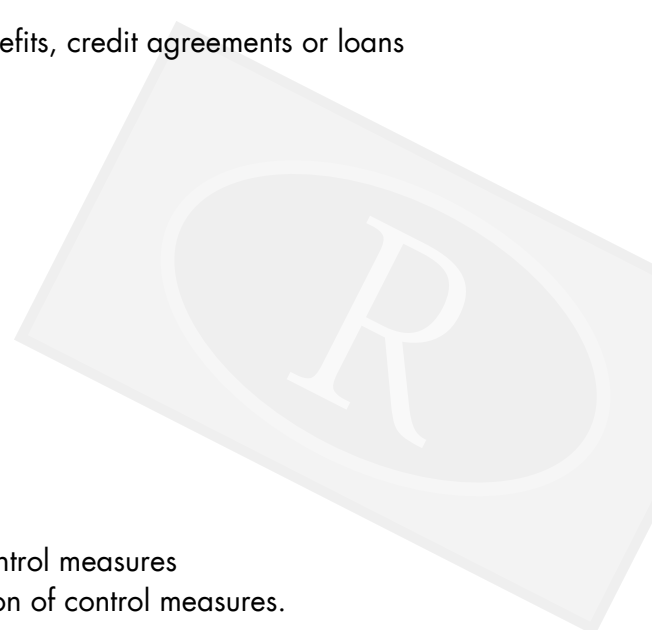
- ☐ Receive little or no payment
 - ☐ Have no access to their earnings
 - ☐ Be disciplined through punishment or fines
 - ☐ Be under the perception that they are bonded by debt
 - ☐ Have had the fees for their transport to the country of destination paid for by facilitators, who they must pay back by working or providing services in the destination country
 - ☐ Be told that they can pay debts for transport or accommodation when they have found work
 - ☐ Be charged for services they do not want or need
 - ☐ Be forced by exploiters to open bank accounts in their names, but which are then accessed by their exploiters (e.g. by confiscating bank cards)
 - ☐ Be forced to sign documents to receive social security benefits, credit agreements or loans that are subsequently accessed/used by exploiters.
-

APPEARANCE

Victims may:

- ☐ Suffer injuries that appear to be the result of an assault
- ☐ Suffer injuries or impairments typical of certain jobs or control measures
- ☐ Suffer injuries that appear to be the result of the application of control measures.

It is important that managers and supervisors are aware of these in order to be able to identify potential victims of forced or bonded labour.



STEP 3

RESPONDING TO POTENTIAL INCIDENTS OF FORCED AND BONDED LABOUR

This section provides best practice examples of what to do if you suspect forced or bonded labour, and guidance on developing and implementing a response plan in your business to consistently and compassionately address suspicion of/or forced or bonded labour abuses.

Stronger Together South Africa supports South African agri-businesses to respond to potential forced or bonded labour abuses. As such, the programme engages with enforcement agencies, victim support organisations (such as the South African National Human Trafficking Hotline* and The Salvation Army**), and other relevant stakeholders within the agricultural sector as well as experts to develop a sector response plan. Producers are therefore encouraged to visit www.stronger2gether.org/za on a regular basis to download new or updated toolkits, guidance documents, templates and checklists, as well as the contact details of enforcement agencies and victim support organisations.

***South African National Human Trafficking Hotline**

0800 222 777 is the South African National Human Trafficking Hotline, operated by A21 South Africa in partnership with other service providers.

The Hotline takes calls 24/7. Call Specialists are specially-trained professionals who follow international procedures, ensuring the fastest response to each case. The Hotline works in close partnership with many stakeholders to ensure rapid response and effectiveness.

The Hotline is free to call from a Telkom landline or mobile device. If you call from another service provider you will be charged according to your local mobile or landline operator plan. Callers are welcome to ask the Call Specialist to contact them back.

Suspicion of/or forced or bonded labour exploitation can also be reported anonymously online via: www.0800222777.org.za.

****The Salvation Army**

The Salvation Army provides protection and support to workers who are victims of forced or bonded labour, or human trafficking.

Toll free: 08000 RESCU(73728)

For more information refer to: www.salvationarmy.org.za/anti-human-trafficking/

FORCED AND BONDED LABOUR RESPONSE PLAN

A business should have an adequate response plan in place, as part of the forced and bonded labour policy, to address suspicion of/or forced or bonded labour.

It is essential to take immediate action in cases of suspected forced labour or other hidden labour exploitation, as ignoring such situations allows exploitation to flourish or to be hidden. It also prevents future identification, potentially increasing the control of, and threats to, workers.

In all situations it should be borne in mind that job applicants, workers and their families may be in real and serious danger from violent, exploitative individuals or organised criminal gangs. The protection of these at-risk individuals is paramount and must take precedence over all other considerations.

The action to take will depend on the nature of the exploitation discovered, but should follow the business' "Response Plan". Each business should prepare and publish a "Response Plan", which details, in accordance with recommended best practice in the relevant region(s), how managers, supervisors and workers should handle, report and record suspected cases of labour trafficking, forced labour and other hidden labour exploitation, when discovered within their own business.

The first step in defining a forced and bonded labour response plan is to identify and select the most appropriate local and/or national enforcement agencies (for reporting of worker exploitation), as well as victim support organisations (to protect victims of forced and bonded labour, and human trafficking).

The appropriate framework for dealing with potential victims puts the needs of the victim at the centre of processes to be followed. This "victim-centred approach" ensures that the needs of the individual are put at the forefront of any action that is taken. This takes immediate precedence over any consideration of a criminal or civil investigation. Victims are classed as vulnerable and may be in a highly traumatised state.

It is therefore essential to have determined the most appropriate organisation and method to provide immediate support to victims to ensure their safety and security.



IDENTIFY ENFORCEMENT AGENCIES AS WELL AS VICTIM SUPPORT ORGANISATIONS		TICK IF DONE
1	Identify local enforcement agencies to report forced and bonded labour abuses (such as the Department of Employment and Labour (DEL) or local police).	
2	Select the most appropriate enforcement agency(s) based on their location, the type of services and availability (i.e. 24-hour hotlines/contact details).	
3	Identify victim support organisations to support and protect victims of forced and bonded labour.	
4	Select the most appropriate support organisations based on their location, the type of service (i.e. particular group of victims supported based on gender, age, type of exploitation) and availability (i.e. 24-hour hotlines/contact details).	

DEFINE A RESPONSE PLAN		TICK IF DONE
1	Define and document a response plan that states: • The persons in the organisation who are responsible for managing forced and bonded labour risks • The process for reporting suspicion of/or forced and bonded labour abuses, to include:.. » The different on-farm channels to be used to report potential forced and bonded labour abuses, i.e. worker representative, management, anonymously through a suggestion box, whistleblowing channels etc. » A formal written process for supervisors, workers and other staff members on how to record suspected cases and capture and protect evidence » External authorities to be contacted, i.e. enforcement agencies and victim support organisations and their contact details » The procedure to follow to protect and support at-risk individuals and victims » The procedure to follow to ensure that prevention on farm takes place, possibly through collaboration with WIETA/SIZA and/or the Department of Agriculture/Employment and Labour » The procedure to follow to ensure that the victim has access to services that s/he needs and access to employment opportunities, whether on the same farm or elsewhere (depending on what is appropriate, i.e. they may be at risk by staying in the same place).	
2	Communicate the "Response Plan" to managers, supervisors and workers across the business (all sites), so that they know how to handle, report and record suspected cases within the country and region.	
3	Clearly display the response plan on the work premises (i.e. canteen, office).	
4	Share the response plan with the business' TES, suppliers and extended supply chain.	
5	Develop and implement a "Remediation Policy".	
6	Review the response plan and its appropriate use on a regular basis, and (if required) update the response plan and/or provide more communication or training.	
Refer to Appendix: Template – Forced and bonded labour response plan		

DEVELOP AND IMPLEMENT A "REMEDATION POLICY" AS PART OF THE FORCED AND BONDED LABOUR POLICY

TICK IF DONE

Businesses should develop a "Remediation Policy" for human rights abuses and particularly forced labour found within their business for all their operating sites. The "Remediation Policy" should include:

- 1 A process to gather information from those affected on what it would take to remedy the wrongs.
- 2 Correction of the situation for the victim(s) which may involve restitution, compensation, rehabilitation and satisfaction.
- 3 Contribution to programmes and projects to assist victims through vocational training and other appropriate measures.
- 4 Statements clearly acknowledging the victims' rights to pursue other forms of remedial action, at any stage in the process, beyond company grievance or other internal remedy mechanisms.
- 5 A review of the "Remediation Policy" internally at least annually, which includes feedback from within the business and from third parties.

The policy should be scenario-tested and accepted as a best-practice approach by relevant stakeholders such as customers, business associations, unions, public authorities and NGOs.

PROTECT AND SUPPORT

As mentioned previously, the primary responsibility when dealing with a potential victim of forced labour is to ensure his/her safety and welfare, and is fundamental to the approach taken by any organisation involved in the support of potential victims.

Where criminal exploitation is believed to be involved and/or the worker is in real and immediate danger, notification must be made to the police/law enforcement agency and/or relevant NGO/ Governmental departments and initial protection provided by the employer for the worker until law enforcement arrives.

The action to be taken will depend upon the circumstances that prevail, however:

- Remain with the potential victim in a place in which you feel safe. Where possible, have a colleague present. Do not draw attention to the fact that s/he has sought assistance; for example, do not keep the potential victim in view of those who may be controlling him/her or even those working alongside that person
- Where there is more than one potential victim it is advisable to put them in separate rooms. It may not be possible to know who is being exploited and who is an exploiter. Where the exploitation of one job applicant or worker is discovered, due consideration must be given to the risk of other job applicants or members of the workforce also being in an exploitative situation
- Remember that your key role is to protect the victim, not to conduct an investigation. Reassure potential victims that their confidentiality will be protected. Offer support and reassurance, recognising that these individuals may be psychologically traumatised
- Seek advice from the identified enforcement agency and/or support organisation on how to proceed. Determine whether, and if so at what stage, support should be sourced for the affected individuals.

Employers or TES who uncover signs of trafficking or forced labour within their organisations may, with the individual's approval, refer potential victims to organisations with the appropriate skills and authority to provide victim support services.

The victim support organisation will ensure that the potential victim understands the support that they are able to offer, which should include safe accommodation and access to a range of support services tailored to their individual needs, for example, counselling. Interpreters will be used to ensure that information is provided to the potential victim in a language that they understand. This helps to avoid any further harm and builds trust between the victim and the investigating body.

- Where possible, remain with the potential victim until they can be "handed over" to the police/ law enforcement agency or other victim support organisation. If that is not possible, make sure that the individual has received and understood any advice given about attending a meeting elsewhere with the police/relevant organisation
- Consider whether an interpreter is needed; use only trusted or independent interpreters or a telephone interpreting service. Do not use other workers who speak the same language. Make a record of any concerns and information which may be useful at a later stage, should an investigation be appropriate.

REPORT

If you have any suspicion regarding the potential presence of forced labour and/or human trafficking, you should contact the police or other identified relevant enforcement organisations immediately. To continue thereafter without informing the authorities is to run the risk that any necessary criminal investigation will be undermined. The offenders may be tipped off, and the evidence trampled over.

It is preferable to report concerns that do not meet the threshold for a person to be considered a victim of forced labour than miss an opportunity to do so.

When contacting the appropriate organisation, you will need to be clear about the circumstances and why you consider that it is a case of forced labour or human trafficking. This will enable law enforcement agencies to make an assessment of what steps to take next and the advice to give you.



CAPTURING AND PROTECTING EVIDENCE

Human trafficking and forced labour are criminal offences. The circumstances of any offence will need to be investigated and evidence will need to be obtained by law enforcement agencies where appropriate. This will include establishing the circumstances around the identification that someone may be a potential victim, and the steps taken at that point.

Each business should have an internal lead manager who will direct matters relating to human trafficking and forced labour when they are suspected within a business.

This should be a competent, trusted manager who:

- Is knowledgeable about internal procedures
- Understands indicators of forced labour
- Knows how and when to refer matters to the appropriate authorities.

All supervisors, and particularly those managers who undertake grievance or disciplinary hearing investigations, should:

- Have knowledge of the general indicators of forced labour
- Know to halt the internal investigation and the procedure to follow when they identify such indicators during such investigations
- Understand that incorrectly deciding to continue with an internal investigation can undermine the ability to secure an effective criminal investigation and prosecution outcome
- Understand that they may become a witness in any criminal investigation
- Ensure appropriate confidentiality to ensure that the exploiters are not alerted to the fact that their activities have been identified
- Ensure appropriate measures are implemented to protect the identity of any job applicants or workers who may be victims of exploitation.



If it is suspected that there is a case of human trafficking, forced labour or related worker exploitation, interviews with potential victims should be conducted by someone from the police or another relevant organisation that has the requisite skills and powers/authority. In the past, investigations into serious cases of exploitation have not been able to be taken forward because of the way that initial internal enquiries have been undertaken.

It is therefore essential to:

- Keep a file with all documents and records of conversations relevant to the enquiry. This is particularly important when a case is considered for legal proceedings. In order to meet the requirements of legislation in relation to both criminal and civil proceedings, a law enforcement agency needs to demonstrate that all factors have been taken into account when taking proceedings. They are also bound by legislation to report any facts or information that could assist the defence of any person accused of committing an offence. Therefore, early engagement with law enforcement in cases where you have an initial suspicion will allow them to guide and support you, along with advising you with regard to what records should be made. Any material obtained at this early stage is likely to be of significant value further down the process
- Seek advice from law enforcement or other expert organisations, if in any doubt
- Work in partnership; the TES and hiring employer should work in partnership where appropriate, and after due consideration of the risk to the worker and all parties involved
- Identify any indicators of potential worker exploitation (respecting confidentiality) and complete a “Record of Potential Third-Party Exploitation” (template available at www.stronger2gether.org/). This will help to organise known information and prepare it for referral to the relevant law enforcement organisation.



PREVENT FURTHER EXPLOITATION

Work with farm management, SIZA/WIETA, the Department of Employment and Labour and/or Agriculture to prevent further exploitation.



The Stronger Together programme, as well as WIETA and SIZA, aims to strengthen businesses' capacity to prevent, respond to and monitor forced and bonded labour and human trafficking. When a case of potential exploitation is discovered, it is not only important to assist the victim, but also for the farm/farm management to assess and understand how this exploitation could have taken place, and what steps they can take to prevent this from happening again. This could include:

- Improving communication and trust between farm management and farm workers, both permanent and temporary, to ensure that they can safely report concerns to a trusted manager/worker representative/anonymously
- Working with external agencies, including WIETA and SIZA, as well as others including Procure (www.procure.co.za/employee-wellness/) to improve the management's capacity to develop and implement policies and procedures that protect workers from exploitation
- Working with external agencies, including WIETA and SIZA, as well as others including NORSA (norsacommunitycare.org/) to help improve social and human rights issues that affect temporary and permanent farm workers, including, for instance, access to education, water or healthcare.

Communicate clearly to managers, supervisors and workers

The "Response Plan" should be clearly communicated to managers, supervisors and permanent and temporary workers, in the relevant local and workers' languages, so they know how to handle, report and record suspected cases within the country and region.

Share with those working on your business' behalf

Businesses should share the "Response Plan" with those working on their behalf or in any of their operating sites, including first-tier suppliers, TES, the extended supply chain, relevant auditors etc., so it can be adopted and implemented for their use in line with the business' policy.

Businesses should require those working on their behalf or in their business to undergo an ethical/social compliance audit, which specifies how auditors and other third parties should respond when they discover a potential or actual case of forced labour within that business. The process should be tested to ensure that it functions well and is effective.

SECTION B

BACKGROUND AND CONTEXT

This section provides relevant background information and context to give a picture of the global and local scale for forced and bonded labour, relevant legislation and standards, and further explanation as to why agriculture is a high risk sector.



THE GLOBAL SCALE OF FORCED AND BONDED LABOUR AND HUMAN TRAFFICKING



In 2017, the International Labour Organization (ILO) and Walk Free Foundation, in partnership with the International Organization for Migration, estimated that 40.3 million men, women and children around the world are trapped in some form of exploitation, whether through human trafficking, forced labour, debt bondage, forced or servile marriage, or commercial sexual exploitation. According to the 2018 Global Slavery Index they published, labour exploitation is most prevalent on the African continent (estimated appx. 2.80 per 1000 people).⁷

Forced labour is the most widespread form of labour exploitation, and 24.9 million people are estimated to be exploited in this way, including 16 million in the private economy sectors such as agriculture, construction, manufacturing, mining, utilities, forestry, fishing and domestic work.

The International Labour Organisation
estimates that there are

**24.9
MILLION**

people in forced labour globally

A number of products and services produced using exploitative labour practices can end up in seemingly legitimate commercial channels. As such, many products and services we buy indirectly contribute to forced labour abuses.⁸

Globally, agriculture is viewed as a high-risk sector for forced and bonded labour. This is in large part due to its seasonal nature, which necessitates producers to employ labour vulnerable to exploitation (i.e. seasonal and migrant workers) as well as labour employed by temporary employment services (TES). Globally, 11% of adults who are exploited for forced labour are in the agriculture and fishing sectors.⁹

Human trafficking is regarded as the fastest growing criminal industry in the world, second in profitability only to the drug trade. The ILO reports that human trafficking has an annual trade value of around US\$150 billion. Two thirds (or US\$99 billion) of this trade is commercial sexual exploitation, while another US\$51 billion results from forced economic exploitation.¹⁰

Not a vast amount of research has been conducted on the scale of forced and bonded labour and human trafficking in South Africa. The following section focusses on forced and bonded labour and human trafficking in South Africa.

7. Walk Free, Minderoo Foundation, Global Slavery Index, 2018 [Online]. Available at: <https://www.globalslaveryindex.org/2018/findings/regional-analysis/africa/>. Accessed: 20 January 2021.

8. *ibid*

9. *ibid*

10. ILO. 2014. ILO says forced labour generates annual profits of US\$ 150 billion. [Online]. Available at: http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201. Accessed: 18 October 2017.

THE ROLE OF GLOBAL SUPPLY CHAINS

AND THE SOUTH AFRICAN AGRICULTURAL SECTOR IN DEALING WITH FORCED LABOUR

Across the world, organisations are increasingly held accountable to ensure the implementation of ethical trade. This implies that organisations proactively address and implement responsible human rights and labour practices within their own operations and their supply chains. In response, national and international businesses, including major retailers, have specified human rights and labour practice requirements for suppliers, and require third-party ethical audits. These requirements are critical to secure market access for suppliers and have become a licence to trade. They also contribute to improved working environments and labour productivity.

The South African agricultural sector is a critical role-player in the South African economy, employment landscape and global supply chains. Agriculture contributes 2.5% to the country's gross domestic product (GDP)¹¹, with the country being a top exporter of commodities such as fruit, wine, sugar and nuts. The agricultural industry employs around 885,000 individuals and is an important sector for job creation.

With the introduction of regulatory requirements such as the UK Modern Slavery Act (2015), the Modern Slavery Act (2018) in Australia, the French Duty of Vigilance Act (2017) and the California Transparency in Supply Chains Act (2010), there is an enhanced focus on businesses across global supply chains to protect labour from exploitation such as forced and bonded labour and human trafficking. As such, the forced and bonded labour risks and vulnerabilities in South African supply chains will increasingly be scrutinised. It is therefore critical for South African producers to understand and address direct and third-party labour practices that are, or could be perceived to be, exploitative to their workers and make their businesses complicit to forced and bonded labour.

Forced and bonded labour is an unfortunate reality in South Africa and the agricultural sector. The US Department of State Trafficking in Persons report states that, as reported over the past five years, South Africa is a source, transit and destination country for men, women and children subjected to forced labour and sex trafficking¹². Forced labour is a hidden form of exploitation, and a limited amount of research has been conducted on the scale and nature of the issue. There are no official government figures of the scale of the problem in South Africa. However, the 2018 Global Slavery Index (GSI) estimates that in South Africa, around 155,000 people (or 0.28% of the total population) live in conditions of exploitation. An estimated 5% of these victims are exploited within the agricultural sector.¹³



11. Fruit SA. 2017. Overview of the South African Fruit Industry. [Online]. Available at: https://fruitsa.co.za/wp-content/uploads/2019/09/A5-Fruit-SA-Stats-Booklet_2018.pdf. Accessed 17 November 2020.

12. United States Department of State. 2020. Trafficking in Persons Report 2020. [Online]. Available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>. Accessed: 27 January 2021.

13. The Modern Slavery Index. 2018. Modern Slavery Index 2018: South Africa. [Online]. Available at: <https://www.modernslaveryindex.org/2018/data/country-data/south-africa/>. Accessed: 27 January 2021.

These estimates could be just the tip of the iceberg. We would welcome more reliable data and research on the scale of forced and bonded labour and human trafficking in South Africa, but every person in a situation of forced and bonded labour is one too many.

In some cases producers might not be aware or directly complicit in acts of forced and bonded labour, but it is the responsibility of businesses within the South African agricultural sector to implement and continuously improve responsible labour practices that demonstrate proactive measures to address forced and bonded labour risks and vulnerabilities. This will not only ensure labour practices that safeguard workers, but will enhance the reputation of the business and the sector, increase market confidence and ultimately secure market access that will protect the livelihood and sustainability of these businesses and sectors.

MEETING GLOBAL MARKET REQUIREMENTS

Most large organisations subscribe to apply international human rights standards and best practices. Organisations are also required to abide by the labour legislation of the countries in which they operate. Further to this, organisations are increasingly held accountable by civil society, investors, governments and other stakeholders to ensure responsible human rights and labour practices within their own operations and supply chains.

In response, major retailers have adopted or developed their own ethical trade codes of conduct that specify human rights and labour practice commitments for their own operations, and that forms part of their supplier requirements. These include the Ethical Trade Initiative (ETI) Base Code, the Business Social Compliance Initiative (BSCI) Code, the Social Accountability International (SAI) SA8000 standard and retailer-specific codes.

Some retailers also require that suppliers participate in third-party ethical audits. These requirements have become a key determining factor for retailer purchasing decision-making and therefore are a market access (or licence to trade) requirement for suppliers.

Many retailers value building trust and transparency across their supply chain, including to address forced and bonded labour collaboratively. When that is in place, all have an opportunity to work together on identifying and dealing with risks and vulnerabilities. They are open to learning, continuous improvement and working together across the supply chain and cross-industry on implementing good practice to detect, deter and deal with forced and bonded labour.

“It is important that clear standards are upheld around issues such as: working hours, health and safety, no child or forced labour, freedom of association and ensuring that discrimination does not take place. Where we do find evidence of human rights abuses occurring we ensure they are addressed and those affected receive redress.”

Tesco, Statement on Human Rights on company website¹⁴

14. Tesco. 2020. Our approach to human rights in our supply chain. [Online]. Available at: <https://www.tescopl.com/sustainability/people/human-rights/>. Accessed 2 June 2020.

LEGAL COMPLIANCE - WHAT IS REQUIRED BY SOUTH AFRICAN LABOUR LEGISLATION?

South African legislation addresses forced and bonded labour and human trafficking risks and vulnerabilities in the following laws:

- **The Bill of Rights and the South African Constitution:**

The Bill of Rights forms part of the South African Constitution. It prohibits forced labour and provides that no one may be subjected to slavery, servitude or forced labour. The Constitution further regulates labour relations and states that everyone has the right to fair labour practices and aims to uphold the obligations that South Africa incurs as a member of the International Labour Organization (ILO).¹⁵ These include ILO conventions pertaining to human trafficking and forced labour, including the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105) in 1997. South Africa has also signed and ratified the United Nations Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol), which both came into force in 2003.¹⁶

- **Basic Conditions of Employment Act (BCEA), Act 75 of 1997 and The Sectoral Determination 13 – Farm Worker Sector:**

These Acts prohibit forced labour and make various provisions requiring responsible labour management practices that reduce business risks and vulnerabilities to forced and bonded labour.^{17&18}

- **Employment Services Act, Act 4 of 2014:**

This Act provides for the registration of private employment agencies, which includes recruitment agencies and temporary employment services, more commonly known as labour brokers.¹⁹

- **Extension of Security of Tenure Act, Act 62 of 1997:**

This Act requires that employers respect the occupational rights of farm dwellers, and comply with the provisions of the legislation where these regulate the eviction of people living on the farm.²⁰

- **Correctional Services Act, Act 111 of 1998:**

This Act prohibits prison labour as a form of punishment or disciplinary measure.²¹

15. The Constitution of the Republic of South Africa. 1996. [Online]. Available at: <https://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf>. Accessed: 21 October 2016.

16. Muwoki. K. 2017. Forced labour and the South African fruit and wine industries – a scoping research report for Stronger Together.

17. The Department of Labour. 1997. Basic Conditions of Employment Act No 75 of 1997 Sectoral determination 13 farm worker sector, South Africa. [Online]. Available at: http://www.saflii.org/za/legis/consol_reg/sd13fwssa521.pdf. Accessed: 21 August 2020.

18. The Department of Labour. 1997. Basic Conditions of Employment Act No 75 of 1997 Sectoral determination 13 farm worker sector, South Africa. [Online]. Available at: http://www.saflii.org/za/legis/consol_reg/sd13fwssa521.pdf, Accessed 10 August 2020

19. ibid

20. The Department of Justice. 1997. The Extension of Security of Tenure Act, 1997. [Online]. Available at: <https://www.justice.gov.za/lcc/docs/1997-062.pdf>. Accessed: 21 October 2017.

21. The Department of Labour. 1998. The Correctional Services Act, 1998. [Online]. Available at: <http://www.dcs.gov.za/wp-content/uploads/2016/08/DCS-Act-111-of-2008.pdf>. Accessed: 21 October 2017.

22. The Department of Justice. 2013. The Preventing and Combating of Trafficking in Persons Act, 2013. [Online]. Available at: Accessed: 2 October 2017.

- **Prevention and Combating of Trafficking in Persons Act (PACOTIP), Act 7 of 2013:**

This Act stipulates the National Policy Framework to ensure a uniform, coordinated and cooperative approach by all organs of state and institutions in dealing with matters relating to human trafficking.²² The Act uses the following definition of human trafficking: a person will be guilty of human trafficking if he or she delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of South Africa, through various means, including the use of force, deception and coercion, aimed at the person or an immediate family member for the purpose of exploitation.

- **Labour Relations Act (LRA), Act 66 of 1995:**

The purpose of this Act is to advance economic development, social justice, labour peace and the democratisation of the workplace. It includes the right that “Every person shall have the right to fair labour practices”.²³ The Labour Court in South Africa has accepted that the definition of “unfair labour practice” is not necessarily exhaustive. The Commission for Conciliation, Mediation and Arbitration (CCMA) is a dispute resolution body established in terms of the LRA.



23. The Department of Labour, 1995, *Labour Relations Act and Amendments*. [Online]. Available at: <http://www.labour.gov.za/DocumentCenter/Acts/Labour%20Relations/Labour%20Relations%20Amendment%20Act,%2027%20November%202018.pdf#search=Labour%20Relations%20Act>. Accessed: 10 August 2020.

INTERNATIONAL HUMAN RIGHTS STANDARDS AND PRINCIPLES

There are numerous international human rights standards and requirements that global retailers support. These include:

- **The United Nations Guiding Principles (UNGP) on Business and Human Rights**²⁴

The UNGP on Business and Human Rights is the first global (voluntary) standard for preventing and addressing human rights infringements linked to business activity. It provides a framework and principles for businesses to enhance and protect human rights within their business operations and also addresses forced labour.

- **The Sustainable Development Goals (SDG)**²⁵

In September 2015, the United Nations' (UN) member states agreed on 17 global goals - the Sustainable Development Goals (SDG) to guide development policy worldwide until 2030. One of the targets for Goal 8 (Decent work and economic growth) includes the eradication of modern slavery, i.e. "Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms."²⁶

- **The International Labour Organization's (ILO) core Conventions and labour standards**²⁷

The ILO's eight core Conventions concern forced labour, freedom of association and collective bargaining, equal remuneration, non-discrimination, minimum age of employment and the worst forms of child labour. ILO member states (including South Africa) who have ratified these Conventions thereby commit to meet Convention requirements and to incorporate them into their national legislation.²⁸ Conventions that address modern slavery include Conventions 29 and 105 on forced or compulsory labour.

- In 2014, a new Protocol to the existing ILO Convention 29 on Forced Labour from 1930 was adopted. This legally binding Protocol requires member states to take measures and apply due diligence in both the public and private sectors to prevent and respond to risks of forced labour, providing victims with protection and access to effective remedies.²⁹

24. UN 2011. *Guiding Principles on Business and Human Rights*. [Online]. Available at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf . Accessed: 15 December 2017.

25. UN. 2017. *The Sustainable Development Goals*. [Online]. Available at: <http://www.un.org/sustainabledevelopment/sustainable-development-goals/> . Accessed: 12 December 2017.

26. UN. 2017. *Goal 8 targets*. [online]. Available at: <http://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-8-decent-work-and-economic-growth/targets/> . Accessed: 15 December 2017.

27. ILO. 2003. *The International Labour Organization's Fundamental Conventions*. [Online]. Available at: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_095895.pdf. Accessed: 15 December 2017.

28. ILO. 2017. *Conventions and Recommendations*. [Online]. Available at: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/collective-bargaining/lang-en/index.htm>. Accessed: 15 December 2017.

29. Stronger Together. 2017. *A toolkit for tackling modern slavery in the construction sector*. [Online]. Available at: <http://stronger2gether.org/construction/> . Accessed: 30 October 2017.

- **The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy** ³⁰

The declaration provides direct guidance to enterprises on social policy and inclusive, responsible and sustainable workplace practices.

- **The Organisation for Economic Co-operation and Development (OECD) Guidelines for multinational enterprises** ³¹

The OECD Guidelines provide recommendations to companies on addressing any adverse impacts that they may have, including human rights and forced labour.



30. ILO. 2017. Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. [Online]. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf. Accessed: 15 December 2017.

31. OECD. 2008. The OECD Guidelines for Multinational Enterprises. [Online]. Available at: <http://www.oecd.org/corporate/mne/1922428.pdf>. Accessed: 15 December 2017.

RELEVANT LEGISLATION IN EXPORT MARKETS

Several countries have implemented, or are in the process of implementing forced and bonded labour or business and human rights global supply chain legislation that makes organisations accountable for addressing forced and bonded labour risks within their operations and their global supply chains. Some of these include:

The UK Modern Slavery Act (2015)

The UK Modern Slavery Act (2015) requires UK businesses with an annual global turnover of GBP36 million or more to disclose steps taken during the financial year to ensure that their business and supply chains are free from forced and bonded labour and human trafficking abuses.

“We will not tolerate or condone abuse of human rights anywhere in our business, our supply chain, or partnerships. We support the goals of the UK Modern Slavery Act and we would take seriously any allegations that human rights are not properly respected.”

– Marks & Spencer, Human Rights Report, 2017³²

“We are proud to continue our commitment and duty to respect human rights, identify vulnerable workers and we will not tolerate any form of slavery or servitude in our own operations or supply chains..”

– Sainsbury’s, Modern Slavery Statement 2019/20³³

The French Duty of Vigilance Act (2017)

This Act requires French companies of a certain size to establish mechanisms to prevent human rights violations and environmental impacts throughout their chain of production, including for their subsidiaries and companies under their control. These mechanisms must be reported on each year as part of a “vigilance plan”.

The California Transparency in Supply Chains Act (2010)

The Act requires large retailers and manufacturers doing business in California that meet certain threshold requirements to publicly disclose their efforts to eradicate slavery and human trafficking from their supply chains.

The Australia Modern Slavery Act (2018)

This Act requires entities based or operating in Australia that meet certain threshold requirements to report annually on the risks of modern slavery in their operations and supply chains, and actions to ameliorate those risks.

THE IMPACT ON LABOUR PRODUCTIVITY

Proactively addressing forced and bonded labour risks not only secures market access and the livelihood and sustainability of these sectors, but also positively impacts labour productivity.

The implementation of responsible labour management practices in sourcing, recruiting and employing workers ultimately leads to better worker relations, a healthier working environment and increased worker productivity. Responsible labour management practices are crucial in safeguarding producers’ most important asset - their workforce.

32. Marks and Spencer. 2017. Human Rights report 2017. [Online]. Available at: <https://corporate.marksandspencer.com/documents/plan-a-our-approach/mns-human-rights-report-june2017.pdf>. Accessed: 8 January 2018.

33. J Sainsbury PLC. 2016. Modern Slavery Statement 2019/20. [Online]. Available at: https://www.about.sainsburys.co.uk/~/_media/Files/S/Sainsburys/CRS%20Policies%20and%20Reports/Sainsburys%20Modern%20Slavery%20Statement%20FY1920.pdf. Accessed: 27 January 2021.

WHAT MAKES

THE SOUTH AFRICAN AGRICULTURAL SECTOR VULNERABLE TO FORCED AND BONDED LABOUR?

There are several factors that make South African agricultural producers and workers vulnerable to forced and bonded labour. These include:

HIGH LEVELS OF UNEMPLOYMENT AND LOW EDUCATION AND SKILL LEVELS

Workers who have limited employment options and a limited understanding of their rights are vulnerable to exploitation

SECTOR SEASONALITY

Increased labour demand during peak seasons creates a reliance from producers on using temporary workers who form part of vulnerable groups such as migrant workers and workers recruited by third party labour providers, for example temporary employment services (TES) supervisors and tribal chiefs ³⁴

LOW LEVELS OF WORKER UNIONISATION

Fewer than 6% of farm workers nationally belong to trade unions, and unions active in the agricultural sector have largely been unable to organise seasonal workers who constitute the growing majority of workers. Workers in agriculture therefore do not have strong representation to bargain collectively or address labour related issues ³⁵

LACK OF APPROPRIATELY TRAINED LABOUR BROKERS AND APPROPRIATELY TRAINED HR CONSULTANTS

A study found that the majority of labour brokers lack adequate training and support on labour law requirements so as to ensure responsible labour practices. Further to this, the lack of a labour broker association reduces their bargaining power with employers to ensure payment of the minimum wage.³⁶ Also, hiring HR consultants can pose a risk to businesses as not all HR consultants are appropriately trained on labour legislation and issues, including forced labour or the legislative framework surrounding labour in South Africa.

LACK OF WORKER EMPOWERMENT

Workers often do not have sufficient awareness and knowledge of South African labour legislation and support services to empower them to avoid and expose exploitation.



34. Muwoki, K. 2017. Forced labour and the South African fruit and wine industries. A scoping research report developed for Stronger Together. Available at: <https://www.stronger2gether.org/product/scoping-research-report-for-stronger-together-south-africa-forced-labour-and-the-south-african-fruit-and-wine-industries/>.

35. Human Rights Watch. 2011. [Online]. Available at: <https://www.hrw.org/sites/default/files/reports/safarm0811webwcover.pdf>. Accessed: 18 October 2017.

36. Centre for Rural Legal Studies and Women on Farms Project. 2008. Going for Broke: Case Study of Labour Brokerage on fruit farms in Grabouw.[Online]. Available at: <https://www.ifwea.org/resources/title-going-for-broke-a-case-study-of-labour-brokerage-on-fruit-farms-in-grabouw-2008/>. Accessed: 10 August 2020.

CONCEPTS: FORCED LABOUR, BONDED LABOUR, HUMAN TRAFFICKING AND HOW THEY MANIFEST IN THE AGRICULTURAL SECTOR

Forced labour, bonded labour and human trafficking are extreme forms of labour exploitation often described under the umbrella term modern slavery. Certain customary or antiquated labour practices could make producers vulnerable or inadvertently complicit to forced and bonded labour. As such, it is important to understand what these terms entail and how they manifest themselves within the South African agricultural sector, sometimes without the producers being aware.

Stronger Together South Africa has produced a short film to support producers in better understanding labour management practices that could make producers vulnerable or complicit to forced and bonded labour. It can be viewed at: www.stronger2gether.org/za.

FORCED LABOUR

As per the ILO Forced Labour Convention 1930 (No. 29), forced labour is defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” The South African Prevention and Combating of Trafficking in Persons Act (2013) defines forced labour as follows:

“Forced labour means labour or services of a person obtained or maintained – (a) without the consent of that person; and (b) through threats or perceived threats of harm, the use of force, intimidation or other forms of coercion, or physical restraint to that person or another person.”

Coercion could include physical or sexual violence or intimidation, or subtler means such as:

» **Deception.** Workers in forced labour are often deceived by their exploiters about their working terms and conditions. The exploiters make false promises; they misinform or do not inform their victims to lure them into exploitative employment. This can be verbally, and where no form of employment contract is provided to the worker, or in writing, for example by letting workers who do not have sufficient reading skills sign contracts, or in a language they do not understand.

False promises can be related to wages or the working environment, for example, but also to conditions of the workers’ accommodation.

» **Retention of identity papers.** If seasonal or temporary workers request that the employer retains ID documents for safekeeping, it is recommended that:

- There is some form of signed agreement that shows that the ID documents are kept by the employer on request of the worker
- Workers are allowed to access their documents at any time.



Threats. Threats of denunciation of foreign workers to immigration authorities. It is illegal to employ foreign workers without the correct work permits. This practice makes producers and workers vulnerable to forced labour as these workers are often more prone to exploitation under the threat of denunciation to authorities.

It is recommended to refer foreign nationals who do not hold the necessary legal documentation allowing them to work to the nearest Home Affairs office for support and advice. In some cases, businesses assist their foreign workers with renewal of work permits etc.



Restriction of movement. This implies that workers are restricted from leaving or re-entering work premises and worker accommodation. Practices such as locking workers inside the packhouse during working hours, locking workers inside hostels at night time or only allowing packhouse workers comfort toilet breaks at certain times of the day could be perceived as forms of forced labour.



Termination. Not allowing workers to terminate their employment after reasonable notice. The Basic Conditions of Employment Act, 75 of 1997 provides guidance on 'reasonable notice' periods, which are dependent on the period that the worker has been in the producer's employ, i.e.:

- One week if the farm worker has been employed for six months or less
- Four weeks if the farm worker has been employed for more than six months.

It is illegal to restrict a worker from terminating their employment contract until after a specified period has passed or after training or other benefits have been paid by the employer.





Forcing workers to work overtime. Forcing workers to work overtime for fear of being unfairly penalised through dismissal, reduced future work, pay cuts or demotion. Due to the seasonal nature of agriculture, workers may be expected to work overtime. Overtime is applicable whenever a worker works longer than the contracted hours - even on a daily basis. So overtime is not exclusively payable, only AFTER the maximum normal 45 working hours per week as by law have been worked. For example, a worker who is contracted to work from 08h00 to 17h00 is entitled to overtime pay on any day where work is performed outside of these hours (before 08h00 or after 17h00). The worker therefore does not have to complete the 45 hours for the week in order to qualify for overtime pay.³⁷

In such instances it is important that:

- Overtime complies with what is stipulated by the Sectoral Determination 13 - Farm Worker Sector, i.e. workers are not permitted to work more than 15 hours' overtime a week, or more than 12 hours, including overtime, on any given day
- Overtime is paid at a premium. The Sectoral Determination 13 - Farm Worker Sector stipulates that an employer must pay a farm worker at least one and a half times the farm worker's wage for overtime worked, and double the farm worker's wage for work on Sundays and Public Holidays³⁸
- The farm's labour management system provides adequate processes to ensure and provide proof that workers are working overtime voluntarily and that overtime is paid for at a premium rate. This can include:
 - A consent record being signed by workers before commencing overtime
 - Workers' contracts indicating the requirement for possible overtime
 - Time records/clocking systems that record overtime
- Worker payslips state payments made for overtime.

37. Sustainability Initiative of South Africa. 2016. SIZA Standard. [Online]. Available at: <https://siza.co.za/standard/social-standard/>. Accessed: 10 August 2020, and Wine and Agricultural Ethical Trading Association. 2016. The WIETA ethical code of best practice. [Online]. Available at: <http://wieta.org.za/wp-content/uploads/2019/03/WIETA-Code-Version-3-2016.pdf>. Accessed: 10 August 2020

38. The Department of Labour. 1997. Basic Conditions of Employment Act No 75 of 1997 Sectoral Determination 13 - Farm Worker Sector, South Africa. [Online]. Available at http://www.saflii.org/za/legis/consol_reg/sd13fwssa521.pdf, Accessed 10 August 2020



Abuse of vulnerability. Abuse of vulnerability of workers who are more susceptible to exploitation, i.e.:

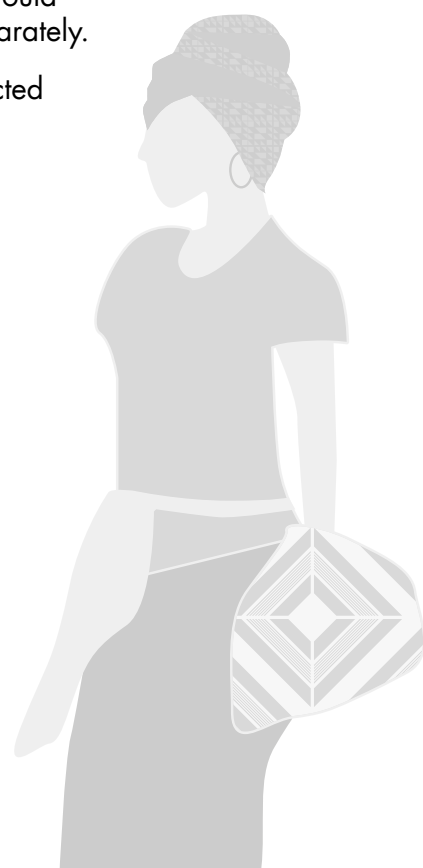
- Workers who are employed in remote, isolated locations. Often, seasonal workers (and also permanent workers) are recruited to farms in remote locations, and transport to and from the farm is only provided at the beginning and end of the season. These workers can be vulnerable to exploitation as they:
 - Cannot freely leave their employment or the farm
 - Are often reliant on the employer for food and goods through an on-farm shop or transport to shops. Workers can be exploited through payment of exorbitant amounts for food and goods or transport to shops. Workers are also at risk of becoming so indebted that they are exposed to bonded labour.

Where producers source migrant workers directly (both local and foreign) and provide transport to their farms, it can be perceived as forced labour if these workers have to pay their own costs to return to their country or place of origin before completing their contracted term.

- Workers with no alternative livelihood options or who are dependent on the employer not only for his or her job but also for housing, food and for employment of his or her relatives; these workers can easily be coerced and exploited to work excessive overtime, work for meagre wages or perform duties detrimental to their health and safety.
- Workers or their family members who are forced to work due to fear of eviction from their on-farm residence.

This is a form of forced labour. It is not considered forced labour if the unemployed family members who are living on the farm are given first option on the available seasonal jobs, given that they have the right to decline the opportunity should they wish to do so.

- Employment is linked to the employment of a spouse. Spouses should each have a contract with the employer and should be paid separately.
- Workers are unfairly treated and not socially respected or protected





Overcrowding. The International Labour Organization (ILO) states that work may not be performed under conditions that are degrading (humiliating or dirty) or hazardous (difficult or dangerous without adequate protective gear, or without the appropriate training on when and how to use it), and in severe breach of labour laws. Workers may also not be subjected to substandard living conditions, nor made to live in overcrowded and unhealthy, unhygienic or unsafe conditions without any privacy. There is adequate space for workers living in rooms/communal accommodation if:

- There is a minimum of 4 square metres per person
- There is a minimum ceiling height of 2.1 metres
- In rooms where workers share space, a reasonable number of workers share the same room (standards range from 2 to 8).

Accommodation should be separated according to sexes, and hostels and rooms must be single sex. Where employees are staying with their partners, such employees should be provided with rooms that offer privacy.

A housing premises shall be deemed to be overcrowded if:

- A bedroom in it has less than 3m² of total floor area for each adult sleeping in the bedroom
- In the case of a dormitory, the sleeping area in the dormitory has:
 - Less than 4m² of floor space for each adult sleeping in the sleeping area, or
 - A habitable room in it that is not a bedroom but is used for sleeping

For the purposes of calculating overcrowding, a person who is more than 1 year of age but not more than 10 years of age shall be considered as a ½ (one half) adult, and a person who is more than 10 years of age shall be considered as 1 adult.³⁹

Workers should have access to clean drinking water and sanitary facilities. Also, workers should not be subjected to verbal abuse during working hours.



Withholding of wages. Exploiters may systemically and deliberately underpay wages, withhold them or purposefully delay payment as a means to control their victims and prevent them from leaving. Workers might also be subjected to excessive or illegal wage deductions for items such as transport, rent and food. Also see the next section on bonded labour.



39. Wine and Agricultural Ethical Trading Association. 2014. WIETA housing guidelines. [Online]. Available at: <http://wieta.org.za/wp-content/uploads/2019/03/WIETA-Housing-Guidelines-2016.pdf> Accessed: 11 August 2020

BONDED LABOUR

Globally, bonded labour is the most widespread form of slavery.⁴⁰ It is also referred to as debt-induced forced labour or debt bondage. Bonded labour is when a worker is forced to work as a means of repayment of a debt such as a loan, recruitment fee, deposit or fine. The worker is then coerced into working for very little or no pay or forced to work to repay the debt demanded by their employer and is unable to leave at their will. Debts may also be passed onto the next generation or family members back home.⁴¹ Debt bondage is also considered a crime under the South Africa Prevention and Combating of Trafficking in Persons Act and is defined as follows: “any person who intentionally engages in conduct that causes another person to enter into debt bondage is guilty of an offence”.

Producers should manage the following practices responsibly and with caution:

» **Payment terms.** Payment terms that are in contravention of the Sectoral Determination 13 – Farm Worker Sector could put a worker at risk of forced and bonded labour. Wage payments being delayed or paid “in kind” could create a bond between the worker and the employer and force a worker to stay employed until receiving payment. Similarly, if wages are not paid to workers directly, they could be forced to work by the person who has been paid on their behalf.

» **Loans.** Loans can put a worker at risk of becoming indebted. Workers unable to repay a loan could result in them continuously taking out loans for repayment of the initial loan. Eventually, the worker is unable to pay their way out of debt and forced to remain employed until the loan is repaid – this is a form of bonded labour.

In some instances, producers provide loans to workers to support them during times of hardship. It is recommended that:

- When allowing loans, producers define and implement a consistent policy that determines the circumstances where loans will be allowed
- There is a written repayment agreement between the producer and worker
- Deductions made for loans must be indicated on the worker’s payslip
- Deductions made for loans must comply to the Sectoral Determination 13 – Farm Worker Sector, i.e. the deductions for the loan may not exceed 10% of the wage earned for that period. So if an employee earns R1,500 per month and your maximum period for repayment is 6 months then the formula would be: 10% of R1,500 x 6 months = R900. In this case you would only be allowed to loan the employee R900 to be repaid in equal portions over 6 months.⁴²

40. Anti-Slavery International. 2017. Debt Bondage. [Online]. Available at: <https://www.antislavery.org/slavery-today/debt-bondage/>. Accessed: 18 October 2017.

41. Stronger Together. 2017. Tackling modern slavery in business – A Toolkit for UK employers and labour providers.. [Online]. Available at: www.stronger2gether.org/resources. Accessed: 17 October 2017.

42. Fruit South Africa (FSA). 2011. Ethical Trading Handbook. [Online]. Available at: https://www.siza.co.za/handbook/pdf/FSA_Ethical_Trade_Handbook_English.pdf. Accessed: 22 October 2017.



Saving schemes. Producers should be cautious of saving schemes, whereby money is deducted from workers' wages and later paid back to them as a form of saving. Unless carefully managed, saving schemes can appear to be a form of bond, especially where the worker can only get his or her own savings back at the end of the contract or season.⁴³

Saving schemes should only be allowed if:

- They are requested by workers in writing (and signed)
- The percentage of the wage deductions for saving schemes is not stipulated by law and is to be agreed between the employer and employee with a signed agreement
- Deductions made for saving schemes are indicated on workers' payslips.
- The saving scheme is paid out in full to the worker on termination of employment or partially during employment on request of the worker.



On-farm shops. Workers can become indebted when purchasing goods from the employer or an on-farm shop. It is therefore important that workers do not get into too much debt when buying from the employer or farm shop. Also, there must be sufficient 'proof of purchase' and it is recommended that workers sign for each purchase.⁴⁴

It is common practice to write everything up in a book, total it up at the end of the month for that pay period and then deduct the amount owing from the employee's wages. This, however, is not compliant with the principle of a "proof of purchase".⁴⁵



Accommodation and food. Deductions for accommodation and food may only be made if:

- Provided on a consistent and regular basis as a condition of employment
- No additional deduction is made for food or accommodation
- The deduction is not more than the cost to the employer of supplying food and accommodation.⁴⁶
- The provision of accommodation by employers as a payment for work is prohibited.



Payment to third parties. Producers may only deduct money from workers' wages to pay third parties if workers request this from the employer and provide written consent. Payment to third parties can include trade union membership, provident funds, medical aid, retirement plans, external saving schemes, funeral policies, insurance or repayment of loans granted for a dwelling and accommodation to any bank, building society, insurance business, registered financial institution, or local authority.

43. Fruit South Africa (FSA). 2011. *Ethical Trading Handbook*. [Online]. Available at: https://www.siza.co.za/handbook/pdf/FSA_Ethical_Trade_Handbook_English.pdf. Accessed: 22 October 2017.

44. *ibid*

45. *ibid*

46. *ibid*



Deposits. Workers should not have to pay any deposits when they start work. Deposits are a form of bonded labour. It is not allowed to deduct money from a worker's first wage payment as a deposit for equipment (for example pruning shears or protective gear) issued for the season or contract period.⁴⁷



Fines. Fines should not be levied against a worker for any wrongdoing.



Training, work clothes/PPE and equipment. No wage deductions can be made for working clothes that the employer insists must be worn (PPE), or for training and equipment required by employers for workers to do their jobs.



Recruitment fees. It is illegal to require workers to pay recruitment fees. Recruitment fees are a business cost and not a cost for the worker.

WHAT ARE RECRUITMENT FEES?

Recruitment fees include all costs associated with providing the range of services integral to sourcing and recruitment. These include costs incurred to process applications, conduct interviews, prepare worker documentation, worker assessments, placements, orientation, transportation to the country of work and training on arrival.

Temporary employment services (TES) that source workers often require recruitment fees. These fees must, however, be paid by the employer that requested the workers to be sourced or recruited and not the workers themselves.

Often, vulnerable workers, such as seasonal or migrant workers, accept paying recruitment fees to TES for the promise of a job. Workers may be expected to pay these fees up front and at short notice, resulting in them borrowing money from family, a local moneylender or the recruitment agent, who often charge exorbitant rates of interest on the loans. Ultimately, this can leave workers in situations of debt bondage where they are essentially trapped in their job in order to pay off the loan. They cannot leave the job until these loans are repaid, which can take months or even years.⁴⁸

For more information on recruitment fees and responsible recruitment, visit: www.responsiblerecruitmenttoolkit.org.



47. Fruit South Africa (FSA). 2011. Ethical Trading Handbook. [Online]. Available at: https://www.siza.co.za/handbook/pdf/FSA_Ethical_Trade_Handbook_English.pdf. Accessed: 22 October 2017.

48. Newcomb, H. and Camp, D. 2017. Eliminating recruitment and employment fees charged to workers in supply chains. [Online]. Available at <https://responsiblerecruitmenttoolkit.org/new-guidance-on-eliminating-recruitment-fees/>. Accessed: 11 August 2020

HUMAN TRAFFICKING

Human trafficking entails the act of “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.⁴⁹

The Prevention and Combating of Trafficking in Persons Act (PACOTIP) defines that a person will be guilty of human trafficking if he or she delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of SA, through various means, including the use of force, deception and coercion, aimed at the person or an immediate family member for the purpose of exploitation.



CASE STUDY: Free State producer who was arrested for flouting labour laws, human trafficking and treating workers as slaves

Although human trafficking sounds like a far-fetched concept and something that does not occur in the South African agricultural sector, it takes many forms and does happen. An example is a Free State producer who was arrested for flouting labour laws, human trafficking and treating workers as slaves. The farmer recruited labour from an unregistered labour broker. The labour broker sourced workers from the North West province to work as seasonal farm labourers in Wesselsbron, in the Free State. Workers were recruited under false pretences of decent work, minimum wage and the offer of accommodation and food. When they arrived at the farm, they were however subjected to inhumane and exploitative treatment, including working without pay, accommodation consisting of plastic structures and being offered rotten meat for food. The workers were unable to leave the farm due to its remote location and their inability to pay for transport. Authorities rescued at least 21 adults and children from the farm, but it is alleged that the labour broker in question has trafficked around 2,000 workers to Wesselsbron and its surrounds.

From this case study, it is clear that the producer exploited the workers, but it is also important to note that the use of labour brokers could potentially make businesses and workers vulnerable to forced and bonded labour. Good practices in terms of using temporary employment services (TES) such as labour brokers are discussed in section 3.10. Using Temporary Employment Services (TES).

49. UN. 2014. Human Rights and Human Trafficking. [Online]. Available at: http://www.ohchr.org/Documents/Publications/FS36_en.pdf. Accessed: 30 October 2017.

EXAMPLES OF

ENTITIES THAT SUBJECT WORKERS TO FORCED AND BONDED LABOUR

A number of forced and bonded labour and human trafficking risks and vulnerabilities exist within worker sourcing, recruitment and employment practices. Entities responsible for these practices, intentionally or unintentionally, include employers (i.e. producers) and third-party labour providers such as temporary employment services (i.e. private employment agencies, independent contractors and labour brokers), tribal leaders and supervisors employed on farms and packhouses/cellars. By understanding the risks and vulnerabilities, businesses can start addressing them, one step at a time.

EMPLOYERS

Producers who directly employ workers are complicit to forced and bonded labour when they:

- Coerce workers into working against their will through:
 - Deception
 - Retention of ID documents, worker permits and passports
 - Threats of denunciation of foreign workers to immigration authorities
 - Restriction of movement of workers at work and/or worker accommodation
 - Not allowing workers to terminate their employment after reasonable notice
 - Forcing workers to work overtime for fear of being unfairly penalised through dismissal, reduced future work, pay cuts or demotions
 - Abuse of vulnerability of workers (e.g. workers employed in remote locations that are isolated, migrant workers, temporary/seasonal workers, young workers and workers who have no alternative livelihood)
 - Abusive working and/or living conditions
 - Withholding of wages
 - Physical or sexual abuse or threats of abuse.
- Enforce bonded labour, i.e. workers are forced to work as a means of repayment of a debt such as a loan, recruitment fee, deposit or fine
- Use labour sourcing and recruitment practices or Temporary Employment Services (TES) that exploit workers.

THIRD-PARTY LABOUR PROVIDERS

Hidden third-party labour exploitation can occur within all types of business, including decent and responsible organisations. Essentially, there are four methods that producers use to source and recruit labour through third-party labour providers, namely the use of Temporary Employment Services (TES), HR consultants, tribal leaders and supervisors employed on their farm or packhouse/cellar. It remains, however, the responsibility of the producer to ensure that workers sourced and recruited through third-party labour providers are not exploited and that their wages and conditions of their work meet labour legislation and ethical trade standards.

TEMPORARY EMPLOYMENT SERVICES (TES)

TES include private employment agencies, independent contractors (that provide teams of workers to the producer to undertake particular tasks such as pruning) and informal labour brokers.⁵⁰

Informal labour providers are often referred to as the “bakkie brigade” and consist of an individual with a bakkie (truck), cell phone and extensive contacts in townships/informal settlements and rural areas who routinely recruit and transport willing workers to farms.⁵¹

The reputation of TES has unfortunately been tarnished by opportunists who make use of exploitative labour management practices such as charging workers recruitment fees, not paying workers a minimum wage, retaining worker identity documents and holding back workers’ wages to ensure that they stay in their employment.

HR CONSULTANTS

HR consultants are not always appropriately trained on labour legislation and issues, including forced labour. When a business hires independent HR consultants, the business is responsible for ensuring that they are well trained and are adhering to and implementing good practice labour sourcing and recruitment procedures.

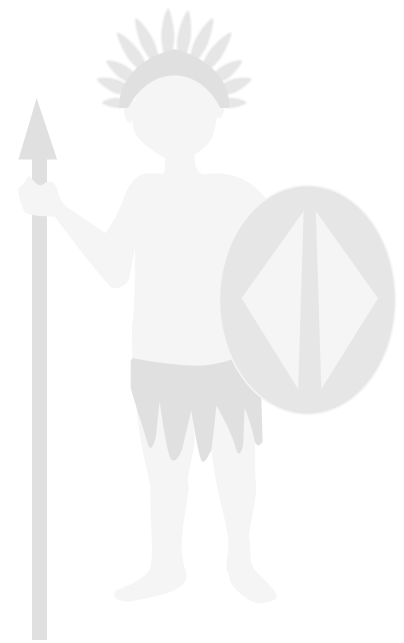
50. Visser, M and Ferrer, S. 2015. *Farm Workers’ Living and Working Conditions in South Africa*. [Online]. Available at: http://www.ilo.org/wcmsp5/groups/public/---africa/documents/publication/wcms_385959.pdf. Accessed: 20 October 2017.

51. Budlender D, [2013] *Private Employment Agencies in South Africa*, Working paper no. 291. [Online]. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_231438.pdf. Accessed: 20 October 2017.

TRIBAL LEADERS

In some parts of South Africa it is customary practice to engage tribal leaders in order to source and recruit their members as seasonal or temporary labour. Often, producers pay tribal leaders a fee and provide workers with free transport to and from the farm at the beginning and the end of the season. Workers are usually contracted and paid directly by the producer (and not via the tribal leader). The challenge for producers remains that they have limited transparency or control over the tribal leader's conduct. Tribal leaders could exploit workers through:

- Using deceptive or misleading recruitment practices that include false promises regarding working conditions and wages, the type of work, housing and living conditions, job location or the identity of the employer
- Recruitment of child labour
- Coercing people to work through the use of violence or intimidation
- Forcing labourers to pay them a part of their earnings upon return to their original area of residence
- Making workers vulnerable to exploitation and restriction of movement as they are isolated on farms with little or no means to return home before the contract ends.



SUPERVISORS

Producers often rely on their supervisors to source workers from nearby settlements or engage tribal leaders to source and recruit labour. Exploitative practices in this regard can include:

- Deceptive recruitment practices
- Coercion through intimidation and threats of violence
- Instances where supervisors require sexual favours, cash bribes or kickbacks from workers in exchange for employment, overtime or promotions
- Retaining identity documents from workers to ensure that they cannot leave their employment before a specified time.

THE FACE

OF FORCED AND BONDED LABOUR

WHO IS VULNERABLE?

Essentially the most vulnerable groups to forced and bonded labour include seasonal or temporary workers, migrant workers, workers recruited through third parties and young workers.

SEASONAL OR TEMPORARY LABOUR

The agricultural sector is dependent on employing a large number of temporary or seasonal labour to meet peak season demand. As such, these seasonal workers constitute the majority of the workforce on farms. These workers are often considered vulnerable to labour exploitation as:

- They may be unskilled and therefore have limited employment options
- They may not be aware of their rights
- They may not belong to a union and therefore do not have strong representation to bargain collectively and address labour-related issues
- They often rely on third-party labour providers for employment.

MIGRANT WORKERS

More often than not, seasonal or temporary workers are domestic migrants or immigrants from neighbouring countries such as Zimbabwe, Mozambique and Lesotho. Foreign migrant workers are often considered to be more vulnerable than their counterparts as they are largely undocumented, isolated from their families and support, might have language barriers, and are therefore more prone to accepting harsh working conditions due to a fear of deportation.⁵²

A number of migrant workers enter South Africa as asylum seekers. The visas that allow them to work and live in South Africa need to be renewed on a regular basis. This also applies for the work permits of foreign migrant workers.

Unfortunately, asylum seekers and foreign migrant workers often do not renew their visas and work permits as the areas they work in may not have Department of Home Affairs (DHA) offices which offer these services, and workers often do not want to lose days off work to re-apply for work permits or visas.

52. Human Rights Watch. 2011. [Online]. Available at: <https://www.hrw.org/sites/default/files/reports/safarm0811webwcover.pdf>. Accessed: 18 October 2017.

WORKERS RECRUITED BY THIRD-PARTY LABOUR PROVIDERS

Producers are often reliant on TES, HR consultants, supervisors or tribal leaders to source or provide labour during peak season. The recruitment and labour management practices of third-party labour providers can be exploitative.

The legacy of South Africa's political past and the resulting disempowerment of farm workers have left some farm workers vulnerable to exploitation. This includes workers who have lived on farms their entire lives and are dependent on producers for accommodation and loans. Low earnings and the lack of a residential address make it difficult for these workers to apply for credit outside the farm.

The legacy of apartheid has also created an institutional memory that influences how producers and workers engage with each other. It is often challenging to change deep-rooted practices, despite the best intentions of both parties. As such, workers are often hesitant to address issues with their employers, which can result in pent-up frustration and resentment.



SECTION C

APPENDICES OF USEFUL TEMPLATES



APPENDIX 1

WHAT DO I NEED TO DO? STEPS TO TAKE: IMMEDIATE, MEDIUM AND LONG TERM

N.B. All detailed guidance and steps are provided in the toolkit "Detecting, Deterring and Dealing with Forced Labour - A Toolkit for Agri-Businesses, South Africa".

TACKLING FORCED LABOUR – SIMPLIFIED IMPLEMENTATION CHECKLIST		TICK IF DONE
IMMEDIATE TERM	1 Identify one or two colleagues within your business whom you will approach to assist with: - The completion of the risk assessment started in the workshop, to determine vulnerabilities and risks within your business - Raising the issue of modern slavery within your business.	
	2 Engage with senior management on the issue and encourage them to make a commitment to tackle modern slavery including appointing a representative to hold responsibility for taking it across the organisation and supply chain.	
	3 Once there is buy-in from the top management; appoint a manager (preferably at each operational site) to be responsible for implementing processes and procedures for tackling hidden labour exploitation within your business.	
	4 Engage with and include employee representatives in your planned actions for preventing and tackling hidden labour exploitation.	
	5 Register on www.stronger2gether.org and download the free tools and resources.	
	6 Read the guidance in this toolkit and develop a short term, medium term and long-term implementation plan based on the list of good practice processes and procedures to identify and deter hidden labour exploitation.	
	7 Display the workplace posters and distribute the worker leaflets available from www.stronger2gether.org/za .	
MEDIUM TERM	8 Convene other businesses in your area to discuss the issue of modern slavery within your area and tackling it together on a regular basis. (If there are no existing discussion or support forums/networks i.e. farmers associations, etc. in your area, you could start with businesses which have already attended the Stronger Together modern slavery workshops).	
	9 Update business' policies and processes to include references to prevent and respond to modern slavery.	
	10 Key managers should attend the "Tackling Forced Labour in the Fruit and Wine Industries – South Africa" workshop. Visit www.stronger2gether.org/workshop/tackling-modern-slavery-in-the-fruit-and-wine-industries-south-africa/ for more information and to book.	
	11 Update worker induction and training programmes to include tackling forced labour, using the Stronger Together resources available at www.stronger2gether.org/za .	
	12 Ensure that your supervisors and recruiters (both HR employees and HR consultants) are trained to spot the signs of forced labour, and recruiters have read, understood and adhere to your business' responsible sourcing and recruitment policy which should include references to prevent and respond to forced labour (see Appendix: 'Template - Responsible sourcing and recruitment policy').	
	13 Use the Template Temporary Employment Service (TES) Checklist (see Appendix: 'Template-Temporary employment service (TES) checklist') to verify that the TES your business uses to source and supply workers are meeting national labour legislation requirements and are not exposing workers to modern slavery.	
	14 Put a response plan in place to ensure you are prepared to respond to a potential situation of modern slavery and provide access to remedy for victims. (see Appendix 8).	
	15 Identify possible risks with regards to modern slavery within your area focusing on recruitment practices in your area, etc..	
	16 Identify possible solutions to tackling modern slavery in your area. Identify other role-players who might be able to assist in the process of eradicating modern slavery from your entire production area. These role-players could include social workers, Local NGOs providing services to farms and farm workers, the victim support unit at your local SAPS office, etc.	
	17 Publicly demonstrate your organisation's commitment to tackling forced labour on your website and annual reports.	
LONG TERM	18 Within your business, regularly review your actions against this toolkit guidance and monitor progress and identify improvements and next steps.	
	19 Identify and build a relation with local organisations that are able to provide victim support to address modern slavery in your area, in order to ensure that survivors have the opportunity to be re-integrated into the mainstream farming community, subsequent to reporting a modern slavery abuse.	
	20 Put a response plan in place to ensure you are prepared to respond to a potential situation of modern slavery and provide access to remedy for victims. (see Appendix: 'Template – Modern slavery response plan procedure'). 8).	

APPENDIX 2

RISK ASSESSMENT

Individual exercise

Answer these 4 questions for each of the areas in your business

Own Business risk assessment

Where are the possible areas of risks for my own business

- Q1** Which **business practices** in this film could you relate to? What did you recognise with regards to your own agricultural business practises?
- Q2** Which **parties** in our agri-businesses could **potentially contribute to creating these vulnerabilities** within our businesses?
- Q3** **Who in our agri-businesses could be potential victims** of forced and bonded labour, given the victims exposed in the film?
- Q4** What could be **possible physical and/or behavioural signs of worker exploitation** in our agri-businesses?

The office

- | | |
|---|---|
| 1 | Business practices |
| 2 | Parties contributing to vulnerabilities |
| 3 | Potential victims |
| 4 | Physical and/or Behavioural Signs |

Sourcing and recruitment

- | | |
|---|---|
| 1 | Business practices |
| 2 | Parties contributing to vulnerabilities |
| 3 | Potential victims |
| 4 | Physical and/or Behavioural Signs |

Pruning	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	
Harvesting	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	
Pack-house	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	

Management	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	
On-farm accommodation	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	
Other risk area	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	

Other risk area	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	
Other risk area	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	
Other risk area	1	Business practices	
	2	Parties contributing to vulnerabilities	
	3	Potential victims	
	4	Physical and/or Behavioural Signs	

Thank you for completing this exercise. Please feel free to discuss it with your facilitator during one of the breaks! You are well on your way to an ethically sound supply chain free from forced and bonded labour.

APPENDIX 3

TEMPLATE – APPOINTMENT LETTER: TACKLING FORCED AND BONDED LABOUR MANAGEMENT REPRESENTATIVE

[This template should be tailored to ensure that it is relevant and applicable to the business. It should form part of the business' wider labour management system.]

Hereby, **[Company]** appoints **[name of management representative]** as the 'Tackling forced and bonded labour' management representative for **[insert operational unit i.e farm/packhouse/cellar]** from the period **[insert date]** to **[insert date]**.

In terms of this appointment the following functions should be performed:

1. To represent **[company]** interests in terms of addressing any forced and bonded labour risks and vulnerabilities (including forced and bonded labour and human trafficking).
2. To represent **[company]** as the business representative when participating in the Stronger Together South Africa initiative and training.
3. To lead the development, implementation and review of policies and procedures to address forced and bonded labour risks and vulnerabilities.
4. To ensure that the policies and procedures pertaining to the prevention of forced and bonded labour are communicated to management, supervisors, workers and external stakeholders such as temporary employment services (TES), suppliers etc..
5. To remain updated on international and national labour standards/ and legislation and best practices to address forced and bonded labour risk and vulnerabilities and to ensure the implementation of these within the labour management system.

Signature:

[Business owner name]

Signature:

[Management representative name]

Date:

APPENDIX 4

TEMPLATE - FORCED AND BONDED LABOUR POLICY

[This template should be tailored to ensure that it is relevant and applicable to the business. It should form part of the business' wider labour management system.]

POLICY STATEMENT

[Company] commits to developing and adopting labour management practices to deter, detect and deal with any form of exploitation, i.e. forced, bonded and human trafficking, on its farms and production facilities (such as packhouses/wine cellars).

COVERAGE

This policy applies to **[Name of business]**

RESPONSIBILITY

[Name of person responsible and job title] responsible for implementing and overseeing the policy.

POLICY COMMITMENT

[Company] shall:

- Provide the human and financial resources required to implement, manage, maintain and review all systems required to pro-actively address forced and bonded labour risks and vulnerabilities.
- Comply to relevant South African labour legislation pertaining to the prevention of forced and bonded labour.
- Apply international best practices and standards pertaining to the prevention of forced and bonded labour within business operations.
- Comply to SIZA standard and WIETA Code requirements pertaining to the prevention of forced and bonded labour as well as applicable retailer ethical trade codes of conduct **[insert ethical codes of retail clients]**.
- Participate in the Stronger Together South Africa initiative.
- Designate a member of senior management to take responsibility for implementing, developing and overseeing labour management practices that serve to protect the business and workers against any form of exploitation (including forced labour, bonded labour and human trafficking).
- Provide information on forced and bonded labour to management, supervisors and workers through (list formats e.g. in a variety of formats such as workplace posters, worker leaflets, induction, other training).
- Engage external stakeholder (such as suppliers, temporary employment services etc.) on forced and bonded labour risks and vulnerabilities through (list formats e.g. in a variety of formats such as workplace posters, worker leaflets, induction, other training).

Responsible sourcing and recruitment of labour:

- There is a documented responsible sourcing and recruitment policy in place that states the business' commitment and approach to developing and adopting responsible sourcing and recruitment practices that protect workers against all forms of exploitation (i.e. forced and bonded labour and human trafficking).
- Workers have the right to enter into employment voluntarily and freely, without the threat of a penalty.

Using temporary employment services (TES):

- There is a documented procedure in place that defines how TES shall be managed responsibly to: ensure that TES do not engage in fraudulent practices that place workers at risk of bonded and forced labour and human trafficking.

Termination of Employment:

- Workers shall have the freedom to leave their employment within the terms of their contract and may not be prevented from doing so.
- Workers on contracts of fixed duration shall not be required to serve beyond the expiry of their contract.
- Workers' ability to terminate employment, shall not be restricted for example by requiring deposits, withholding employee documentation, threats or use of violence, imposing financial penalties or requiring payment of recruitment or training fees.
- Workers shall be issued with a Certificate of Service when leaving their employment.

Overtime

- Workers shall not be forced to work overtime above the limits permitted in national law and collective agreements under the menace of a penalty, for example the threat of dismissal.
- Work or service outside normal daily working hours shall not be imposed by exploiting a worker's vulnerability under the menace of a penalty. For example, employers shall not set performance targets that result in an obligation to work beyond normal working hours because of the worker's need to be able to earn the minimum wage.

Wage payments:

- Wages shall be paid directly to the worker.
- Payments "in-kind" in the form of goods shall not be used to create a state of dependency of the worker on the employer.
- Wages shall be paid regularly and wage payments shall not be delayed or deferred such that wage arrears accumulate.
- Wages must meet or exceed minimum wages as stipulated by the Department of Labour.
- Workers shall be issued with a payslip that meet legislative requirements and payslips are explained to workers during induction training to ensure that they understand its content.
- Deception in wage payment, wage advances, and loans to employees shall not be used as a means to bind workers to employment.

Wage deductions and debt bondage

- Workers shall not be held in debt bondage or forced to work for an employer in order to pay off an actually incurred or inherited debt.
- No deductions from wages shall be made with the aim of indebting a worker and binding him or her to employment, and measures should be taken to limit wage deductions to prevent such conditions.
- Only deductions required by law shall be made.
- Non-statutory deductions shall only be allowed if:
 - Workers provide written consent through a signed agreement.
 - Workers receive a copy of this agreement.
 - Deductions do not exceed the amount stipulated by law (i.e. 10% of the wage amount for that period for each of the non-statutory wage deductions)
 - Deductions are indicated on worker payslips

- Deductions shall not be made for:
 - Any form of deposit (i.e. for equipment used during period of employment).
 - Fines as disciplinary measure.
 - Recruitment fees.
 - Training, worker clothes and equipment.
- Workers shall not be compelled to make use of on-farm shops. Where access to other stores is not possible, employers shall ensure that goods or services are sold or provided at fair and reasonable prices, without the aim of indebting or otherwise coercing the workers concerned.

On-farm accommodation

- Workers shall be protected against unlawful evictions as stipulated by the Extension of Security of Tenure Act 62 of 1997 (ESTA).
- Family members of farm workers who share on-farm accommodation shall not be forced to work on the farm as terms of their residency.
- The provision of accommodation shall be used as a form of payment.

Freedom of Movement:

- Coercion shall not be used to physically confine or imprison workers to the workplace, accommodating or related premises.

Employment of family members:

- When employing family members, all workers shall have their own contracts and be paid separately.

Response plan:

- There is a documented response plan in place that defines business practices to report any suspicion of/ or exploitation (i.e. forced and bonded labour and human trafficking).

APPLICABLE ETHICAL CODES

- SIZA standard
- WIETA Code

APPLICABLE INTERNATIONAL BEST PRACTICES AND STANDARDS

- ILO Forced Labour Convention, 1930 (No. 29)
- ILO Abolition of Forced Labour Convention, 1957 (No. 105)
- ILO Protocol of 2014 to the Forced Labour Convention, 1930
- ILO Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)

APPLICABLE NATIONAL LEGISLATION

- The Prevention and Combating of Trafficking in Person Act, 7 of 2013
- The Basic Condition of Employment Act, 75 of 1997
- The Sectoral Determination 13 – Farm worker sector
- The Employment Services Act, 4 of 2014
- The Extension of Security of Tenure Act, 62 of 1997
- The Correctional Services Act, 111 of 1998

APPENDIX 5

TEMPLATE – RESPONSIBLE SOURCING AND RECRUITMENT POLICY

[This template should be tailored to ensure that it is relevant and applicable to the business and should form part of the business' wider labour management system.]

POLICY STATEMENT

[Company] commits to developing and adopting responsible labour sourcing and recruitment practices that protect workers against forced and bonded labour and human trafficking. This includes sourcing and recruiting workers directly and indirectly through third-party labour providers such as temporary employment services (i.e. employment agencies, labour brokers and contractors), using supervisors and engaging tribal leaders.

COVERAGE

This policy applies to **[Name of business]**

RESPONSIBILITY

[Name of person responsible and job title] is responsible for implementing and overseeing the policy

POLICY COMMITMENT

[Company] shall:

- Comply to relevant South African labour legislation pertaining to sourcing and recruitment of workers.
- Apply international best practices and standards pertaining to sourcing and recruitment of workers. Comply to SIZA standard and WIETA Code requirements pertaining to the sourcing and recruitment of workers as well as applicable retailer codes **[insert ethical codes of retail clients]**.
- Ensure that sourcing and recruitment practices are not misleading.
- Ensures that sourcing and recruitment practices protect vulnerable groups.
- Ensure that workers are not coerced into employment through some form of bond, violence or intimidation.

SOURCING AND RECRUITMENT PRACTICES ARE NOT MISLEADING OR DECEPTIVE.

- Terms and conditions indicated on the job ad and during the recruitment process are not misleading i.e:
 - The terms and conditions of employment agreed upon at the time of recruitment are similar to those contained in the employment contract.
 - If changes have been made, they were made with the knowledge and consent of the worker.
 - The terms and conditions of employment indicated in the employment contract are similar to the actual employment conditions at the place of work.
- The terms and conditions of employment meets legal requirements (i.e. the Basic Conditions of Employment Act, 75 of 1997 and The Sectoral Determination 13 – Farm worker sector).
- Terms and conditions of employment are documented and made available in a language understood by workers.
- Terms and conditions of employment are communicated to workers before commencement of employment.
- Workers are free to leave their employment within the terms of their contract.

SOURCING AND RECRUITMENT PRACTICES SHALL PROTECT VULNERABLE GROUPS

- The business shall not recruit or employ prison labour.
- The business shall not recruit or employ child labour (persons younger than 15).
- The business shall only employ young workers (aged 15 to 17) with the consent from their parents or legal guardians.
- The business shall only employ foreign nationals who have the legally required documentation, in instances where foreign nationals do not have the legally required documentation, the business will support these workers in obtaining these documents.
- When using third-party labour providers (such as temporary employment services, tribal leaders and supervisors) the business shall do everything within its sphere of influence and to the best of its ability to ensure that their sourcing and recruitment practices do not exploit workers.
- Temporary, seasonal and migrant workers shall benefit from conditions of work no less favorable than those of permanent workers and stipulated by national legislation.
- When sourcing migrant workers and transport is provided to their farms, workers will not be expected to pay their own costs to return to country or place of origin when leaving the employment before the end of their contracted term.

WORKERS SHALL NOT BE COERCED INTO EMPLOYMENT THROUGH SOME FORM OF BOND, THREAT, VIOLENCE OR INTIMIDATION.

- Workers shall not be required to pay recruitment fees.
- Workers shall not be required to pay any form of deposit on entering employment.
- Identity documents shall not be retained by the employer.
- If workers request that the business retain ID document for safekeeping:
 - There is some form of signed agreement that shows the ID documents are kept by the employer by request of the worker.
 - Workers are allowed to access their documents at any time.
- Workers enter employment out of their own free will without any form of threat, violence or intimidation.

APPLICABLE ETHICAL CODES

- SIZA standard
 - WIETA Code
- [Insert retailer ethical codes as applicable]**

APPLICABLE INTERNATIONAL BEST PRACTICES AND STANDARDS

- ILO Forced Labour Convention, 1930 (No. 29)
- ILO Abolition of Forced Labour Convention, 1957 (No. 105)
- ILO Protocol of 2014 to the Forced Labour Convention, 1930
- ILO Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)

RELEVANT LABOUR LEGISLATION

- Basic Condition of Employment Act, 7 of 2013
- The Sectoral Determination 13 – Farm worker sector
- The Employment Equity Act, 55 of 1998
- Labour Relations Act, 6 of 1995
- The Employment Services Act, 4 of 2014
- The Correctional Services Act, 111 of 1998

APPENDIX 6

TEMPLATE – LABOUR SOURCING AND RECRUITMENT THROUGH TEMPORARY EMPLOYMENT SERVICES (TES) PROCEDURE

[This template should be tailored to ensure that it is relevant and applicable to the business and should form part of the business' wider labour management system.]

PURPOSE OF PROCEDURE

This procedure defines business practices to ensure that Temporary Employment Services (TES) such as labour brokers and contractors used by [Company] do not subject workers to any form of exploitation (i.e. forced and bonded labour and human trafficking).

COVERAGE

This policy applies to [Name of business]

RESPONSIBILITY

[Name of person responsible and job title] is responsible for implementing and overseeing the procedure

SELECTING AND CONTRACTING A TEMPORARY EMPLOYMENT SERVICES (TES)

- [Company] shall only use TES for sourcing and recruitment of labour if agreed to by management.
- [Company] shall select and employ a TES based on clearly defined selection criteria.
- When contracting a TES, [Company] shall have a Service-Level Agreement in place to ensure accountability of the TES to meet relevant labour law, selection criteria and protect workers against exploitation.

MONITORING LABOUR MANAGEMENT PRACTICES OF THE CONTRACTED TES

- [Company] shall regularly monitor that the contracted TES is not subjecting workers to forced or bonded labour through:
 - Conducting regular verification checks using the TES checklist.
 - Ensuring that workers employed by the TES form part of the group interviewed during labour inspections or third-party ethical audits.

IMPLEMENTING A RESPONSE PLAN SHOULD FORCED AND BONDED LABOUR BE SUSPECTED OR FOUND

- Any suspicion of or actual abuses by the TES shall be reported to appropriate authorities as defined in the forced and bonded labour response plan.
- [Company] shall not tolerate the exploitation of workers by a TES. If it is found that workers are subjected to forced labour, bonded labour or human trafficking, [Company] will immediately terminate the contract/ Service Level Agreement with the TES and report the TES to the relevant authorities.

RELEVANT LABOUR LEGISLATION

- Basic Condition of Employment Act, 7 of 2013
- The Sectoral Determination 13 – Farm worker sector
- Employment Equity Act, 4 of 2014
- Labour Relations Act, 6 of 1995
- The Employment Services Act, 4 of 2014
- The Correctional Services Act, 111 of 1998

APPENDIX 7

TEMPLATE – FORCED AND BONDED LABOUR RESPONSE PLAN

This template should be tailored to ensure that it is relevant and applicable to the business and should form part of the business' wider labour management system

PURPOSE OF PROCEDURE

This procedure defines business practices to report any suspicion of/or modern slavery exploitation (i.e. forced and bonded labour and human trafficking).

COVERAGE

This policy applies to **[Name of business]**

RESPONSIBILITY

[Name of person responsible and job title] is responsible for implementing and overseeing the procedure.

CREATING AWARENESS - REPORTING FORCED AND BONDED LABOUR:

- Awareness of forced and bonded labour (what it is and how it can be reported) will form part of induction training.
- This procedure will be visibly displayed at the place of work (i.e. canteen, office etc..).

WORKERS: REPORTING SUSPICION OF/OR FORCED OR BONDED LABOUR ABUSE:

Workers can report suspicion of/or forced or bonded labour to:

- The worker representative **[Name of worker representative]**, who will then inform management.
- Management **[Name of designated management representative]**.
- Anonymously by putting a written note in the suggestion box.
- Authorities:
 - + Police **[insert number]**
 - + Department of Labour **[insert number]**
- Workers being exposed to forced or bonded labour or human trafficking can find help and support from:
 - The South African National Human Trafficking Hotline - 0800 222 777 / www.0800222777.org.za.
 - The Salvation Army - 08000 RESCU (73728).

MANAGEMENT: ADDRESSING FORCED AND BONDED LABOUR ABUSES:

- Management shall address any suspicion of/or forced or bonded labour with the necessary urgency and sensitivity to the worker involved.
- Management shall immediately report suspicion of/or forced or bonded labour to the relevant authorities:
 - Police **[insert number]**
 - Department of Labour **[insert number]**
- Management shall ensure that the victim(s) can access referral services and the required support by contacting:
 - The Salvation Army - 08000 RESCU (73728).
 - The South African National Human Trafficking Resource Line on 0800 222 777 / www.0800222777.org.za (operated by A21). They are able to assist with any queries from either the producer or farm management as well as from potential victims of forced and bonded labour.

PROTECTING THE VICTIM

- Where criminal exploitation is believed to be involved and/or the worker is in real and immediate danger, notification must be made to the enforcement agency and/or relevant victim support organisation and initial protection provided by the employer for the victim until law enforcement and support arrive, i.e.:
 - Remain with the potential victim in a safe area (such as the office).
 - Do not draw attention to the fact that s/he has sought assistance; for example, do not keep the potential victim in view of those who have exposed the potential victim to forced or bonded labour abuses.
 - Where there is more than one potential victim, it is advisable to put them in separate rooms. It may not be possible to know who is being exploited and who is an exploiter.
 - Reassure potential victim(s) that their confidentiality will be protected.
- Where the exploitation of one job applicant or worker is discovered, due consideration must be given to the risk of other job applicants or members of the workforce also being in an exploitative situation.



APPENDIX 8

PATHWAY - RESPONSE AND REMEDY PATHWAY DIAGRAM

What happens if forced labour is found or suspected?

PATHWAY DIAGRAM

to show who is involved in the various stages of response and remedy of forced labour in South Africa

Response

PRODUCER / AGRI-BUSINESS



Initial key steps are:

- Report the situation/suspicion
- Protect and support at-risk individuals (Human Trafficking Hotline and Salvation Army can provide advice)
- Protect evidence

Please refer to the *'Tackling Forced Labour for Agri-Businesses, South Africa' toolkit** for more detail on the above steps.

Remedy

- Take steps to rectify the situation and prevent re-occurrence e.g., reviewing procedures and supervisors training (if a certified farm this could be in partnership with WIETA/SIZA)
- Remediation (action taken to 'remedy' the wrongs) might include:
 - restitution, compensation, rehabilitation (eg repaying recruitment fees)
 - contributing to programmes to assist victims eg through vocational training
- If farm workers belong to a union, the union is a key stakeholder to work with to ensure protection and appropriate remedy for workers.

START HERE ↓

A case of forced labour is known about or suspected

Forced labour is a type of trafficking, see Note 3 overleaf. It's important to note that trafficking doesn't have to include physical movement of people, it could be recruiting people, using deception for the purpose of forced labour for example. See the Stronger Together 'Tackling Forced Labour in Agri-Business, South Africa' * toolkit for indicators of forced labour to look out for.

- Anyone can call the National Human Trafficking Hotline for advice as well as for reporting incidences.
- Calls can be made anonymously (see confidentiality details in Note 2).
- Remember if someone has a reasonable suspicion that people are in situations of forced labour/trafficking but doesn't report it - they could be liable themselves.

Call the Human Trafficking Hotline
(run by the NPO 'A21')
0800 222 777

or

Call Crime Stop Hotline
08600 10111
(or local SAPS Dept)

Conducts basic screening/assessment as to whether it is a case of forced labour or trafficking in persons (TIP) – See Note 3 for method.

if no

FARM LEVEL RESOLUTION



- Referring NPO/organisation deems the situation not to involve trafficking/ forced labour but involves some level of labour exploitation that can be resolved at the farm level without further victim support.
- Case referred to appropriate assistance through the Dept of Employment and Labour, Dept of Agric and if applicable through SIZA and WIETA helplines.

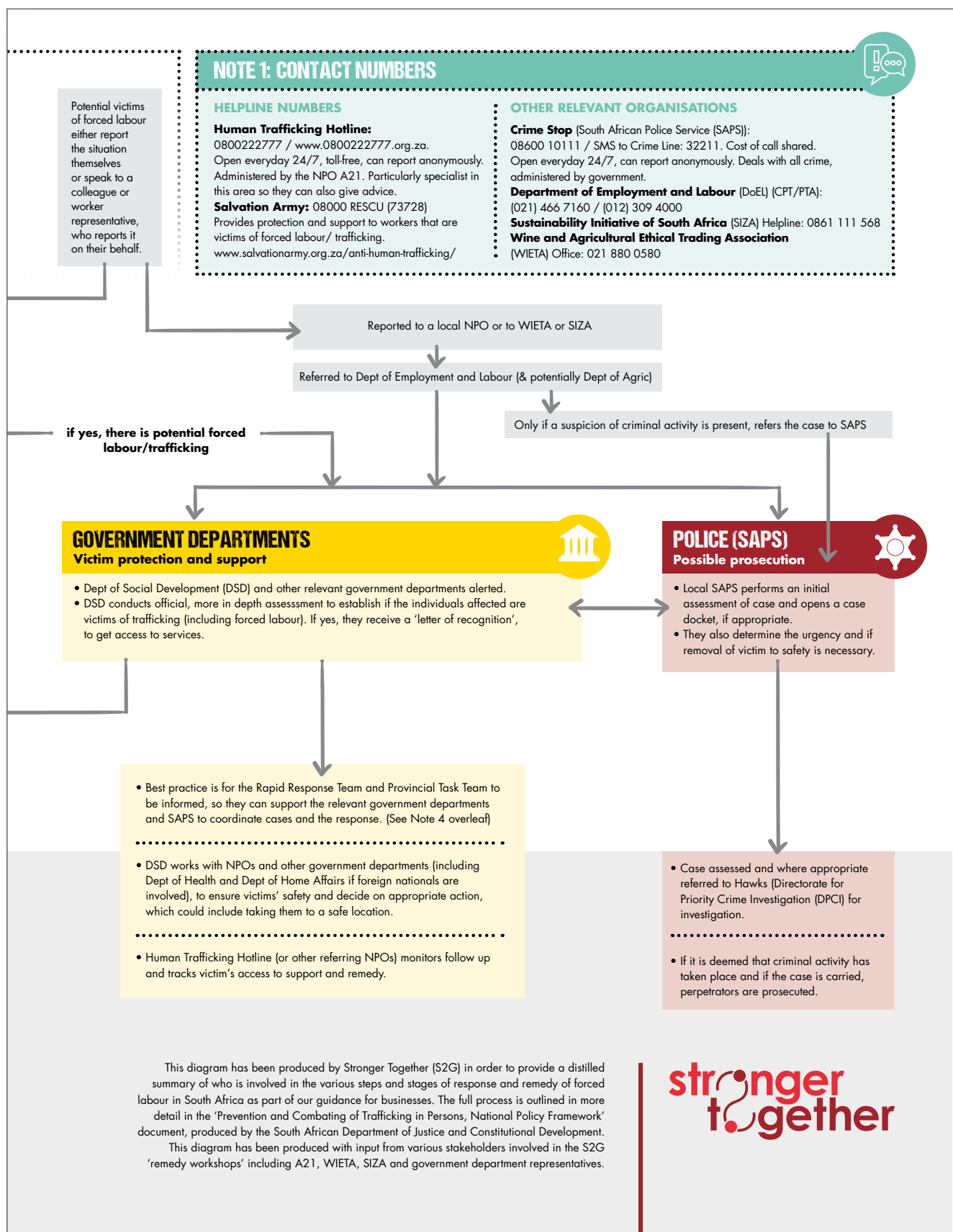
If the case is not forced labour/ trafficking but involves labour exploitation, it is referred to the DoEL.

Department of Employment and Labour (DoEL) establishes next steps (this may involve a site visit)

- If no violation is found, case is dismissed.
- If a violation is found, DoEL and Dept of Agric works with farm management and victim(s) to rectify the situation, develop an improvement plan and take steps to prevent further similar cases. If the farm is certified, this would be in partnership with WIETA/SIZA or AgriSA, as appropriate.
- If a crime has been committed that is labour exploitation but not trafficking, the individual has to press charges/open a case (it is a civil suit, where as trafficking is a crime against the state).
- DoEL/ Dept of Agric (or WIETA/ SIZA if relevant) follows up and monitors progress.

- Situation rectified where possible
- Stakeholders implement systems to prevent recurrence

*Download the free toolkit for agri-businesses providing guidance for responding to suspicions/situations of forced labour: <https://www.stronger2gether.org/za/>



PATHWAY DIAGRAM

Notes

NOTE 2: HUMAN TRAFFICKING HOTLINE CONFIDENTIALITY

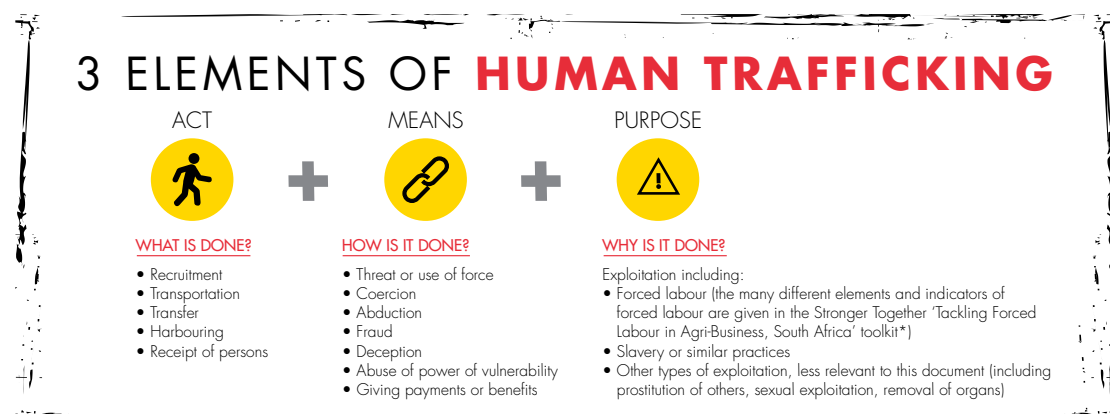
Callers to the National Human Trafficking Hotline can choose to remain anonymous or can choose to provide their name and contact information and authorise the use of the information. In limited circumstances, the Hotline may be required by law to inform certain authorities of information.

NOTE 3: HUMAN TRAFFICKING HOTLINE – method for assessing if situation is trafficking

Every call to the Human Trafficking Hotline goes through an initial screening process to assess if it is trafficking (including forced labour). If yes, it is passed on to the Department of Social Development (DSD) and the South African Police Service (SAPS).

The method for assessment is ACT, MEANS, PURPOSE (AMP), as detailed in the Prevention and Combating of Trafficking in Persons Act and the National Policy Framework document.* This definition and method in South African legislation is in line with the United Nations 'Protocol to Prevent, Suppress and Punish Trafficking in Persons'. To be classed as trafficking the situation needs to include an Act, Means and Purpose as summarised in the diagram below.

It is important to note that trafficking does not have to include the transportation or movement of people, that is only one of the 'Acts' listed. It could be recruiting people, using deception or an abuse of vulnerability for the purpose of forced labour.



NOTE 4: HUMAN TRAFFICKING TEAMS – established by SA Government

Provincial Task Teams (PTTs) on Trafficking in Persons and Provincial Rapid Response Teams (RRTs) have been established by the South African Government to attend to operational matters relating to suspected complaints and pending cases and providing support to the victims. Their official remit is outlined in the 'Prevention and Combating of Trafficking in Persons, National Policy Framework' document, produced by the South African Department of Justice and Constitutional Development* and is summarised below.

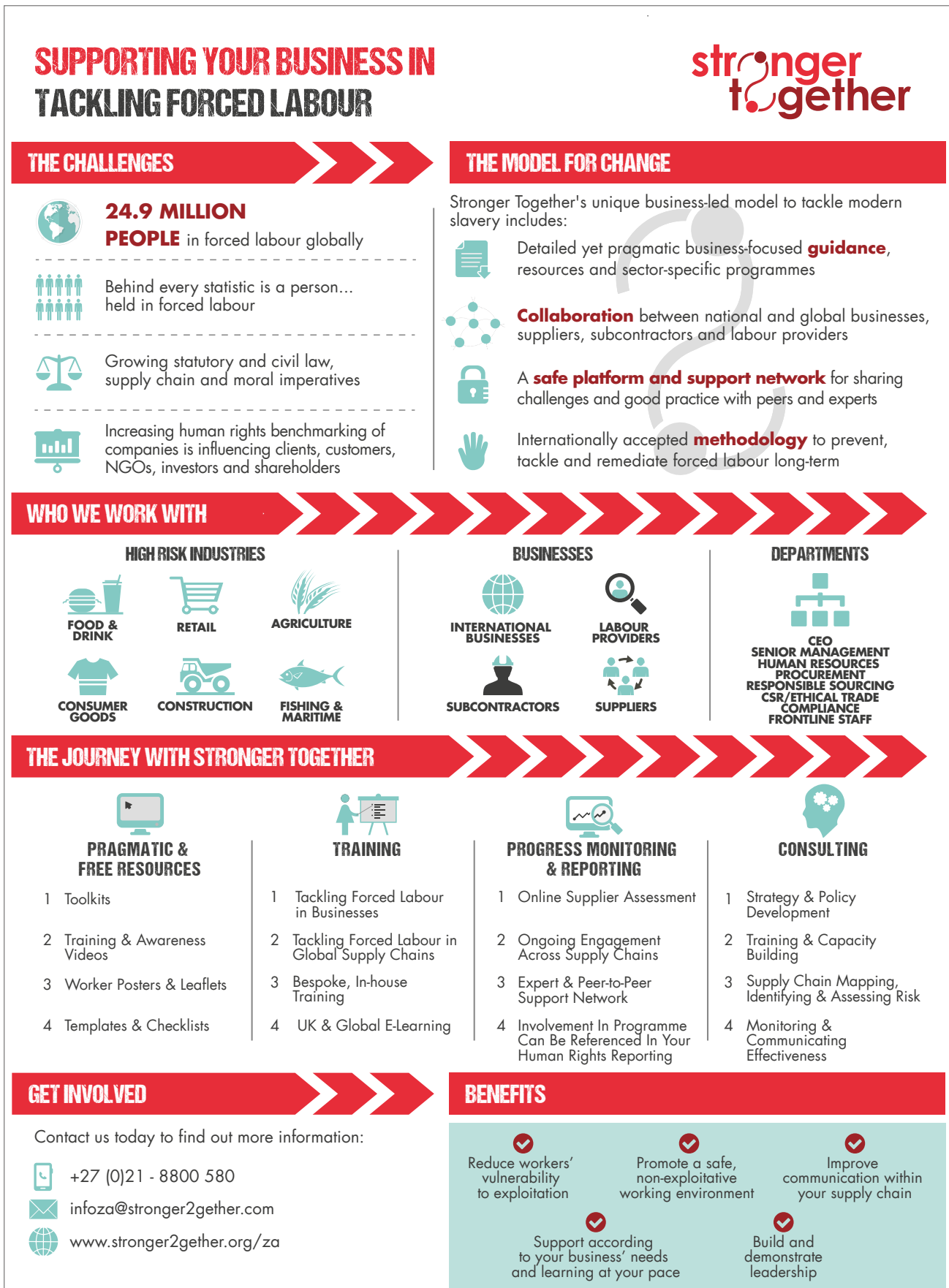
Provincial Task Teams (PTTs) are responsible for contributing to the development of a coordinated anti-trafficking response in South Africa at the provincial level. This includes establishing RRTs; ensuring coordination of responsibilities, duties and functions for effective implementation of the National Policy Framework and the Act; developing and executing provincial anti-trafficking action plans including training and capacity building, research, public awareness and outreach initiatives. In practice they are general forums where the challenges of human trafficking in South Africa are discussed in each region, to strategise, coordinate progress and improve response. These teams include representatives of different relevant government departments and representatives of civil society/ NPOs, appointed by the Dept of Social Development in each province.

The Rapid Response Teams (RRTs) are the operational anti-trafficking frontliners at the provincial level providing a coordinated and rapid response when suspected cases of trafficking in persons are reported or are pending in the criminal justice system. They are responsible for swiftly setting into motion the coordinated and multi-disciplinary management of the trafficking case throughout all steps of the identification, support, protection of the victims and prosecution of traffickers and are responsible for managing the case flow process. A lead from the PTTs sit on this team and it also includes representatives from the Hawks (the police group that would investigate cases of trafficking). They are focused on action on the ground and discuss cases under investigation.

*<https://www.justice.gov.za/docs/other-docs/2019-TIP-NPF-10April2019.pdf>

APPENDIX 9

POSTER: SUPPORTING YOUR BUSINESS IN TACKLING FORCED LABOUR



APPENDIX 10

CONTACT DETAILS FOR REPORTING FORCED AND BONDED LABOUR ABUSES AND SUPPORT FOR VICTIMS

THE SOUTH AFRICAN NATIONAL HUMAN TRAFFICKING RESOURCE LINE

Contact: 0800 222 777

www.0800222777.org.za



0800 222 777

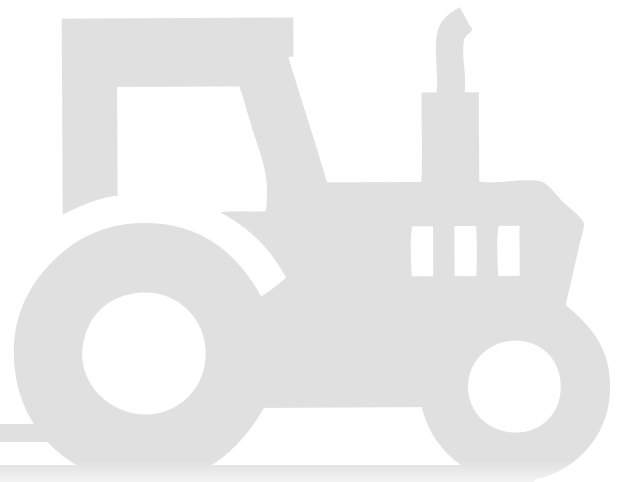
The SA Human Trafficking Resource Line is able to assist with any queries from either producer or farm management as well as from potential victims of forced and bonded labour and human trafficking themselves.

THE SALVATION ARMY

Toll free number: 08000 RESCU (73728)

www.salvationarmy.org.za/anti-human-trafficking

Always call the police in an emergency.



MORE INFO

FREE RESOURCES AVAILABLE TO DOWNLOAD

The following resources are available for free and can be downloaded from www.stronger2gether.org/za:

- A 'Toolkit for South African Wine Agri-Businesses' providing comprehensive guidance on detecting, deterring and dealing with forced labour (available in Afrikaans and in English)
- All templates available in this toolkit (available in Afrikaans and in English)
- Short awareness raising film "Eyes Wide Open" which can be used in for example, induction and training (available in Afrikaans, English, Xhosa, Zulu)
- Workplace awareness raising posters (available in Afrikaans, English, Tswana, Xhosa, Zulu, Sesotho)
- Worker information leaflets (available in Afrikaans, English, Tswana, Xhosa, Zulu, Sesotho).
- A Stronger Together Champions Manual - Stronger Together Champions speak to people within their own businesses and communities, and to other businesses and industry groups and platforms about the program.

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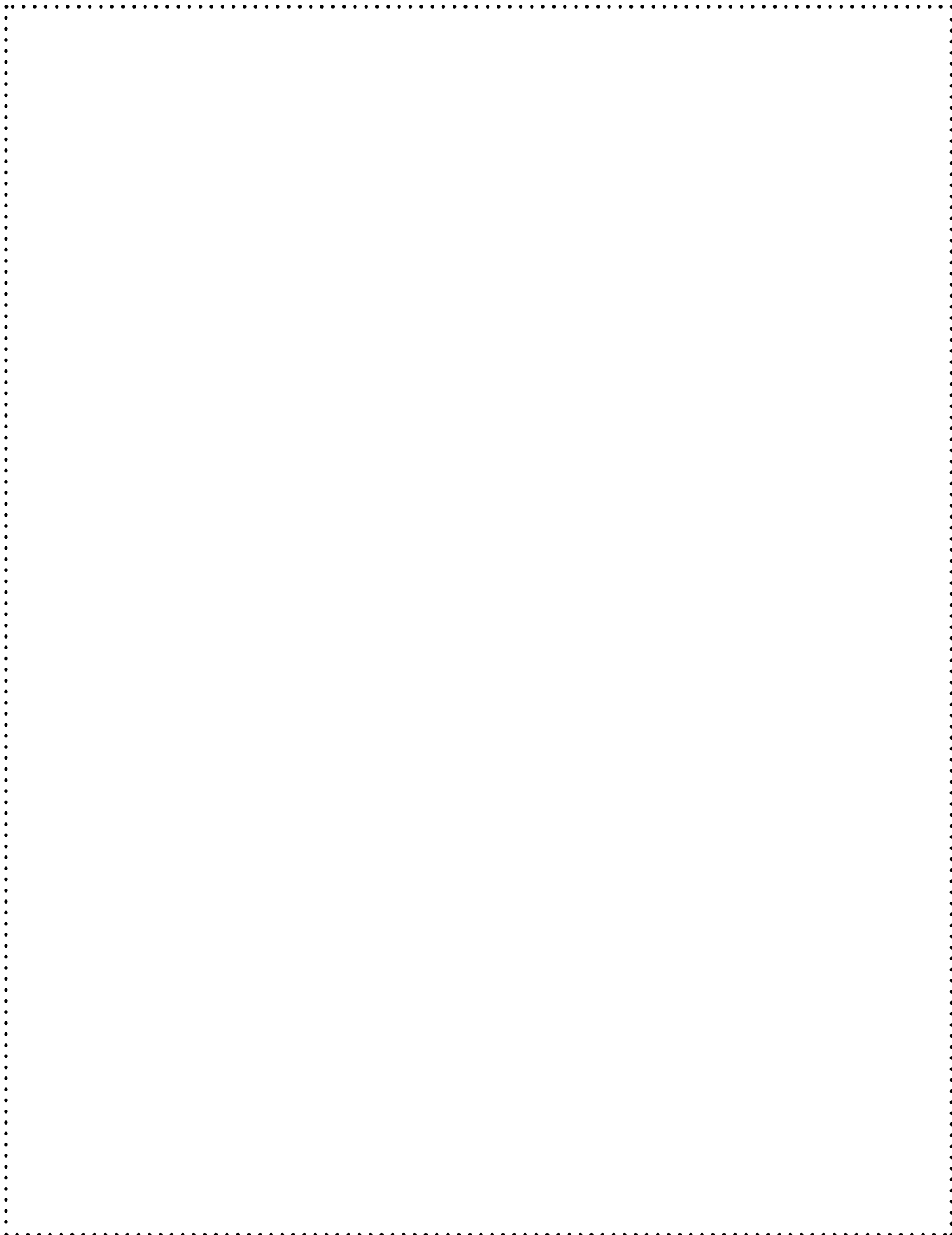
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NOTES



stronger together

Stronger Together is a multi-stakeholder initiative that brings together companies, labour providers, industry associations, NGOs and other key parties to address and help businesses tackle forced labour.

Stronger Together takes a collaborative approach to developing new strategies to support business in addressing Forced Labour risks based on the corporate responsibility to respect human rights advanced in the UN Guiding Principles on Business and Human Rights.

w: www.stronger2gether.org/za

e: infoza@stronger2gether.org

