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# **CONSTITUTION OF THE COMMISSION STAFF ASSOCIATION**

(As Amended on 03 December 2021)

## **1. INTERPRETATION AND PRELIMINARY**

The heading of the clauses in this Constitution are for the purpose of convenience and reference only and shall not be used in the interpretation of, nor modify, nor amplify the terms of this Constitution and any clause hereof; unless a contrary intention clearly appears.

### **1.1 Words importing –**

- a) Anyone gender include the other;
- b) The singular includes the plural and vice versa; and
- c) Natural persons include created entities (corporate or unincorporated) and vice versa;

### **1.2 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall bear corresponding meanings, namely:**

- a) **"The Act"** means the Labour Relations Act 66 of 1995, as amended;
- b) **"Employee"** means employee as defined in terms of the Act;
- c) **"The employer"** means the employer as defined in the Act;
- d) **"The Province"** means provinces as constituted in terms of the Constitution of the Republic of South Africa and in accordance with the structures of the Commission;
- e) **"The Region"** means offices as in accordance with the structure of the Commission and/or the resolution of National Congress and/or the NEC;
- f) **"The REC"** means the Regional Executive Committee as provided for and contemplated in terms of this Constitution;
- g) **"The NOB"** means the National Office Bearers structure as provided for and contemplated in terms of this Constitution;
- h) **"The NEC"** means the National Executive Committee as provided for and contemplated in terms of this Constitution;
- i) **"The Commission"** means Commission for Conciliation Mediation and Arbitration;
- j) **"The Association"** means the Commission Staff Association
- k) **"The Union"** means the Commission Staff Association.

- 1.3 Any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time;
- 1.4 When any number of days is prescribed in this Constitution, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 1.5 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail; and
- 1.6 Reference to day(s), month(s), and/or year(s) shall be construed as per the Gregorian calendar.

## **2. NAME**

- 2.1 The name of the Association shall be the **Commission Staff Association** (CSA).
- 2.2 The Association shall be an association not for gain.

## **3. HEAD OFFICE**

The Head Office of the Association shall be in JOHANNESBURG or such other place as National Congress or the National Executive Committee may from time to time determine.

## **4. AIMS AND OBJECTIVES**

- 4.1 WHEREAS the employees of the Commission have united to form the Association for achieving the following aims:
  - a) To build a strong and powerful democratic organisation, that shall at all the times vigilantly fight and protect employees against all forms of oppression, discrimination, and exploitation;
  - b) To secure decent standard of living, social security, and fair condition of work for all employees.

- c) To build and engender strong employee participation and democracy in all structures of the organisation in order to ensure accountability and efficiency of the leadership at all times;
- d) To fight for a non-racial and anti-sexist democratic society;
- e) To unite all employees of the Commission into one formidable national staff association.

4.2 WE, therefore, set ourselves the following objectives:

- a) To regulate relations between members and the Commission and to protect and further the interests of members in relation to the Commission as an employer,
- b) To build a strong democratic organisation which produce active membership;
- c) To improve wages and terms and conditions of employment;
- d) To set up effective collective bargaining machinery;
- e) To democratize the workplace and processes;
- f) To oppose any policy, practice or measure that will cause division or disunity amongst members or employees in general;
- g) To oppose any laws or administrative measures that affects the interests of employees;
- h) To use every legitimate means to encourage employees who are legible for membership of the Association to become members;
- i) To establish and administer funds for the benefit of its members and/or their dependants, provided that such fund or funds shall be administered in terms of the rules or any amendments thereto which have been adopted at a duly constituted national Congress of the Association;
- j) The rules and amendments thereto governing such funds shall on establishment thereof be submitted to the Registrar of Labour Relations.

**5. SCOPE**

The Association shall be open to all employees of the Commission employed in all the regions and in the National Office of the Commission.



**6. MEMBERSHIP**

- 6.1 All employees of the Commission, other than employees who are members of management and have powers to discipline other employees, shall be eligible for membership of the Association;
- 6.2 Application for admission or re-admission to membership shall be made in writing to the Regional Secretary on the Association's form and being accompanied by the required subscription fee or a signed stop order authorization form in favour of the Association for the payment of Association dues in which event subscription fee shall not be paid;
- 6.3 A member of the Association who has signed a stop order authorization form for requisite subscription to be deducted by the Commission from his salary in favour of the Association shall be deemed to be a paid-up member of the Association until that their membership has been terminated in terms of this Constitution;
- 6.4 If admission to membership is refused by the REC, the applicant concerned shall be notified of the decision in writing and shall, if aggrieved by the decision, have the right to appeal to the next Regional General Meeting which shall have the power to confirm or reverse the REC's decision provided that the applicant shall have the right to appeal to the National Executive Committee ("NEC") whose decision shall be final;
- 6.5 Whenever an appeal is lodged, the applicant shall be afforded an opportunity to state his case personally to the Regional General Meeting and may, if he so desired, call witnesses in support of its case;
- 6.6 Any member who has resigned or has been expelled from the Association may be admitted to membership on such conditions as the REC may determine; subject to ratification by the NEC.

**7. SUBSCRIPTIONS**

- 7.1 The subscription payable by members shall be R200.00 (Two Hundred Rand) per month, subject to the condition that the NEC may from time to time vary the amount of the subscription as it may deem necessary in the interest of the Association;

- 7.2 Should the NEC decide to vary the membership subscription as contemplated in sub-clause 7.1 above, it shall give at least three (3) months' written notice to the members of the Association;
- 7.3 Notwithstanding the provisions of sub-clauses 7.1 and 7.2 above, National Congress shall, having regard to the best interests of the Association and the members, have the power to amend, confirm or annul the decision of the NEC;
- 7.4 Any member who falls more than three (3) months in arrears in the payment of subscriptions shall cease to be a member in good standing and shall not be entitled to any benefits of the Association;
- 7.5 The agency fee shall be equal to the membership fee;
- 7.6 In addition to the aforementioned subscription, a member shall also be liable for the payment of other fees or any levy or charge imposed in terms of this Constitution provided that additional payment shall not exceed R10.00 (Ten Rand) or any amount determined by the NEC in any calendar year.

#### **8. TERMINATION OF MEMERSHIP**

- 8.1 A member may resign by giving one calendar months' written notice to the Regional Secretary, provided that no resignation shall be effective –
  - a) Until all monies due to the Association by the member concerned have been paid;
  - b) If the resignation is received on a standard form designed and supplied by the employer or a third party for the purpose of enabling more than one member employed by the employer to resign from the Association;
  - c) If the resignation is effected through the agency of the employer;
- 8.2 The above provisions will likewise apply to the countermanding of stop order authorization in favour of the Association;
- 8.3 A member of the Association whose employment has been terminated by the Commission as the result of a labour dispute, or under circumstances which the REC believes renders his dismissal unfair, may remain a member of the Association –
  - a) for a period of six months from the date of termination; or

- b) upon legal or appeal proceedings have been finalised, provided that such member may revoke his membership in terms of this Constitution;
- 8.4 A member whose employment has been so terminated shall be exempted from the payment of subscriptions until he is re-employed or reinstated, or until such other date as the REC may determine.

## **9. ORGANISATIONAL STRUCTURE AND DISCIPLINE**

- 9.1 The following democratic principle shall apply at all times to all structures and decision-making processes of the Association:
  - a) The decision of the majority shall bind the minority; and
  - b) The lower structure shall be subordinate to the decision of a higher structure.
- 9.2 The Association shall consist of the following levels of the organizational structure:
  - a) Tri-Annual Regional Elective Meeting
  - b) Regional Executive Committee ("REC")
  - c) Tri-Annual National Congress
  - d) National Executive Committee ("NEC")

## **REGIONAL ORGANISATION**

### **10. ESTABLISHMENT AND CONTROL OF REGIONS**

- 10.1 The Association shall be composed of regional structures in accordance with the existing structures of the Commission;
- 10.2 Only National Congress shall have power to establish a Region;
- 10.3 The members of the Association employed at the Commission's Head Office shall constitute a Region as defined in this Constitution;
- 10.4 In event of a new regional structure being established, the Interim Regional Committee shall be responsible for convening the first Regional General Meeting;
- 10.5 The NEC shall have the right to assign one or more of its members or any official to investigate the affairs of the Regional structure at any time, and shall notify the Regional structure concerned of the reason(s) thereof;

- 10.6 Such an assignee shall have access to all records of the Regional structure and the power to take the records into custody for consideration by the NEC.

**11. REGIONAL GENERAL MEETINGS**

- 11.1 The REC shall convene the Annual General Meeting for all the members of the Association of the Region in February of each year but not later than April;
- 11.2 Notice for every General Meeting together with an agenda and any motions to be considered at that General Meeting; shall be served on individual members not later than two weeks before the date of the General Meeting, provided that no member shall be entitled to nullify the General Meeting by virtue of not having received such notice of the General Meeting;
- 11.3 A quorum for Regional General Meetings shall be a majority of all members of the Association in that Region;
- 11.4 If there is no quorum in the first General Meeting, the meeting shall stand adjourned to such a day as may, in the opinion of those present, be expedient; but to no later than 21 days after the date of such adjourned meeting;
- 11.5 Written notice of such meeting that follows the adjourned meeting shall be given to all members including members who were absent, within a reasonable time.
- 11.6 At such meeting that follows the adjourned meeting, the members present shall constitute a quorum, irrespective of their number;
- 11.7 Copies of the minutes of Regional General Meeting shall be made available to all members within thirty (30) days of such meeting;
- 11.8 Minutes of the previous Regional General Meeting shall be submitted for approval at the General Meeting;

**11.9 Powers of the Regional General Meeting**

- a) A Regional General Meeting may, subject to the directions of the National Congress and/or the NEC:
- i. decide on all matters concerning the Region;
  - ii. make resolution/s concerning the Region to be submitted to the National Congress and/or the NEC or submit resolutions for adoption by the

National Congress or the NEC on any matter concerning the Association as a whole; and

- iii. shall have all powers of the REC;
- b) The Regional General Meeting may review or vary any decision of the REC provided that any proposal to so review or vary is in writing and received by the Regional Secretary at least 10 days prior to the General Meeting;
- c) Upon receipt of a proposal submitted in terms of clause b) above, the Regional Secretary shall forthwith send a copy of such proposal to all members of the Region, but not later than 7 days prior to the Regional General Meeting;
- d) The Regional General Meeting shall consider and decide, in addition to other matters which shall be submitted to it for consideration, on the following:
  - i. Quarterly Regional reports on the activities of the Region by the Regional Secretary on behalf of the REC;
  - ii. Reports from the Regional Chairperson;
  - iii. Resolutions;
  - iv. In the General Meeting of the elective year or when the need arises, the election of members of the REC or vacant REC positions.

11.10 **Special Regional General Meeting**

- a) A special Regional Meeting may be convened upon request from the majority of members of that Region to the Regional Secretary or at the sole initiative of the REC;
- b) A special Regional General Meeting shall transact only the business for which it has been called; the notice and agenda of which meeting shall be given to members of the Region within reasonable time.

11.11 **Ordinary Regional Meetings**

- a) In any year the Regional Executive Committee must convene at least two (2) ordinary meetings with members of their region;
- b) Notice of ordinary meeting in terms of clause 11.11 (a) above must be issued by the Secretary within at least seven (7) days prior to the date of the ordinary meeting.

**12. REGIONAL EXECUTIVE COMMITTEE (REC)**

12.1 The REC shall compose of the following elected members:

- a) Chairperson
- b) Deputy Chairperson
- c) Secretary
- d) Deputy Secretary
- e) Treasurer
- f) Two additional members

12.2 The members of the REC shall be elected Tri-annually at the Regional General Meeting or when a vacancy in the REC require filling following an early departure of the relevant REC member(s).

**12.3 Meetings of the REC**

- a) The REC shall meet at least once every three (3) months or as and when the need arises from time to time;
- b) Notice of every REC meeting together with an agenda and minutes of the previous meeting shall be given to each REC member not less than seven (7) days before the meeting;
- c) The quorum for the REC meetings shall be a majority of REC members.
- d) In the event of there not being a quorum, the meeting shall stand adjourned and shall be reconvened within a period of seven (7) to fourteen (14) days after the adjourned meeting;
- e) At least three days' written notice of the reconvened meeting shall be given to each REC member;
- f) At the reconvened meeting following an adjourned meeting, the REC members present shall constitute a quorum irrespective of their number;
- g) All the minutes of REC meetings must be concluded and filed by the Secretary of the Region within fourteen (14) days after each REC meeting;
- h) If the REC fails to meet after expiry of any three (3) months' period after its last meeting, a brief report detailing the reason for such failure must be composed and signed by the REC Chairperson and the Secretary who must also keep record of the same;

- i) Minutes of the previous REC meeting shall be submitted for the approval at the any meeting following the previous meeting concerned.

#### 12.4 **Powers of the REC**

- a) The powers of the REC shall be as follows:
  - i. To be responsible for the overall functioning of the Region, subject to the direction of National Congress, the NEC and/or the Regional General Meeting;
  - ii. To co-ordinate the activities of the Association in the region;
  - iii. To promote the interests of the Association and its members generally;
  - iv. To deal with and settle disputes on behalf of or affecting members of the Association;
  - v. To appoint sub-committees for the purpose of investigating and reporting on any matter;
  - vi. To engage, counsel, discipline or dismiss any member of the Region, subject to the ratification of the NEC in relation to discipline and/or dismissal;
  - vii. To admit or refuse membership of the Association;
  - viii. To acquire by purchase, lease or otherwise or to dispose of any property or to hold same on behalf of the Association, subject to ratification by the NEC;
  - ix. To do such other lawful things as in the opinion of the REC appear to be in the interests of the Association and which are not inconsistent with the terms of this Constitution.

#### 12.5 **Vacancies**

- a) A member of the REC shall vacate his/her sit in any of the following circumstances:
  - i. On resignation, suspension, or expulsion of membership from the Association;
  - ii. On ceasing to be a member in good standing;
  - iii. On resignation from the REC in writing;

- iv. On absenting himself/herself from three (3) consecutive meetings convened in terms of Clause 12.3 above without sending an apology through acceptable means to the REC.

#### 12.6 **Regional Office Bearers**

- a) **Chairperson** – The Chairperson shall:
  - i. Attend all Regional General Meetings and REC meetings and preside at such meetings; but shall have a casting vote only;
  - ii. Enforce observation of the Constitution of the Association;
  - iii. Sign minutes of meetings;
  - iv. Exercise supervision over the work of the regional Secretary and generally oversee the affairs of the Region;
  - v. Perform such other duties as by usage and custom pertain to his office;
  - vi. Report to the Regional General Meeting and REC meetings.
- b) **Deputy Chairperson** – The Deputy Chairperson shall:
  - i. Assist the Chairperson in performing his duties and perform such duties of the Chairperson as are delegated to him;
  - ii. He shall assume the duty of the Chairperson in the latter's absence.
- c) **Treasurer** – The Treasurer shall:
  - i. Supervise all finances of the Region and ensure that the provisions of the Constitution with regard to the finances are complied with;
  - ii. Prepare periodical budgets to be submitted by the REC to the NEC;
  - iii. Perform such duties, as usage and custom, pertain to his office;
  - iv. Submit statements of income and expenditure of the Region in respect of each period prior to the Regional General Meeting.
- d) **Secretary** – The Secretary shall:
  - i. Be responsible for the proper administration and co-ordination of the Region;
  - ii. Provide full reports to each REC meeting and Regional General Meeting on the administration and activities of the Region;



- iii. Receive requisitions for meetings of Regional General Meeting and of the REC;
  - iv. Issue notices of Regional Meetings;
  - v. Be in charge of Regional correspondence,
  - vi. Keep copies of letters, notices, and other documents received and dispatched by the Region and avail such at the next REC meetings;
  - vii. Keep a register of members, record therein every member's department, date of enrolment and subscriptions, fines and levies paid or due from such member and the period which such payments relate; and in the event of resignation, expulsion or transfer of a member to another region, the date thereof;
  - viii. Present report of the application for membership at each REC meeting;
  - ix. Collect subscriptions, fines and levies and issue official receipts of all monies received other than by stop-order, deposit all monies into the bank within forty-eight (48) hours of receipt;
  - x. Keep such books of account as are prescribed by the NEC and assist the Treasurer to submit statements of income and expenditure of the Region in respect of each relevant preceding period to each meeting of the REC and statements of income and expenditure in respect of each relevant preceding period to the Regional General Meetings, and send copies thereof to the General Secretary within reasonable time;
  - xi. Perform such other duties as are imposed by the Constitution or as per the direction of National Congress, the NEC or the REC may direct.
- e) **Deputy Secretary** – The Deputy Secretary shall:
- i. Assist the Secretary in performing his duties;
  - ii. Perform such duties of the Secretary as are delegated to him from time to time;
  - iii. In the Secretary's absence from office, assume the all duties of the Secretary.
- f) **Additional Members** – The Additional Members shall perform any function or duties as may be delegated to them by either the National Congress, the NEC, the NOB or the REC.

## **NATIONAL ORGANISATION**

13. **NATIONAL CONGRESS** – The National Congress shall be the highest decision-making body of the Union.

### 13.1 **Composition**

- a) The National Congress shall be composed of the members of the NEC and the elected REC's;
- b) The accreditation of delegates shall be confirmed by the General Secretary;
- c) The Tri-Annual National Congress must be held by no later than end of September of the 3<sup>rd</sup> (third) year of the incumbent NOB's tenure.

### 13.2 **Notice**

- a) Notice of the Tri-Annual National Congress shall be provided to each Region within two (2) months, but not less than one (1) month, before the date of Congress;
- b) The General Secretary shall send the agenda for the National Congress, together with all proposed resolutions that have been submitted by the Regions for deliberation, the General Secretary's report and any other relevant documents, to the Secretary of each Region not less than two (2) weeks before the date of the Congress;
- c) The Secretary of the Region shall send the copies of all documents referred to in Clause 13.2 (b) to each delegate of the Region not less than seven (7) days before the date of the Congress.

### 13.3 **Quorum**

- a) The quorum for the National Congress shall be the majority of the delegates eligible to be present provided that at least two-thirds of the Regions are present;
- b) In the event of there not being a quorum, the meeting shall stand adjourned and shall be reconvened with a period of eight (8) weeks;

- c) At the Congress meeting following such adjourned meeting, the members present shall form a quorum provided at least half of the Regions are present;
- d) The General Secretary must give at least four weeks written notice of the Congress meeting following such adjourned meeting to all Regions.

13.4 **MINUTES** – Minutes of the National Congress shall be sent to each region by the General Secretary within two (2) months after the Congress and shall be read and approved/adopted at the next Congress.

13.5 **POWERS** – The Annual National Congress shall:

- a) Decide on all matters submitted to it for consideration as per the adopted agenda of each Congress sitting;
- b) The National Congress shall have the powers vested in the NEC or any Regional meeting;
- c) Consider and/or decide, in addition to any other matter submitted to it for consideration, on the following:
  - i. The report on the state, activities and administration of the Association by the General Secretary;
  - ii. The report from the President;
  - iii. A financial report and audited annual financial statements of the Association presented by the National Treasurer;
  - iv. Resolutions;
  - v. Elections of the National Office Bearers by secret ballot;
  - vi. Any matter that Congress agrees to discuss;
  - vii. Repeal, amendments and/or additions to this Constitution.

#### **14 SPECIAL NATIONAL CONGRESS**

14.1 The Special National Congress shall be held on a resolution sponsored by two-third of the Regions, minutes of which resolutions must be submitted to the General Secretary within three (3) days after the meetings in which the resolutions were adopted;

- 14.2 Within seven (7) days of receipt of the votes in terms of 15.1 above, the General Secretary must give Notice of the Special National Congress to each Region by no later than two (2) weeks before the date of the Special National Congress;
- 14.3 Regions wishing to send resolutions to the Special National Congress shall send this to the General Secretary not later than seven (7) days before such Special National Congress;
- 14.4 An agenda for the Special Congress together with all the resolutions that have been submitted to by the regions to the Congress and any other necessary documents shall be sent to the Secretary of each region not less than three (3) days prior to date of the Special National Congress;
- 14.5 A Special Congress shall decide on the matter for which it was called;
- 14.6 Provisions of Clauses 13.3 – 13.5, with the necessary change in context, shall apply to the Special National Congress.

15 **NATIONAL EXECUTIVE COMMITTEE (NEC)** – The control of the Association shall be vested in the NEC subject to the direction and control of the National Congress.

15.1 **COMPOSITION** – The NEC shall be composed of one representative from each region – being the Chairperson; and the National Office Bearers elected at the Tri-Annual National Congress.

15.2 **MEETINGS**

- a) The NEC shall meet at least once every six (6) months at such time and place as the President in consultation with the General Secretary may decide;
- b) Special NEC meetings may be called by the President and shall also be called on a requisition by not less than one-third of the members of the NEC;
- c) The meeting, in terms of Clause 15.2 (b) above, shall be convened within fourteen (14) days of receipt of the requisition by the General Secretary;

- d) Ordinary meetings of the NEC must be arranged such that they align with the sitting of Congress on the 3<sup>rd</sup> (third) year of each administration's tenure.

#### 15.3 **NOTICE**

- a) The General Secretary or nominee of the NEC shall send to members of the NEC and all others entitled to attend not less than fourteen (14) days' written notice of meetings;
- b) Such notice shall specify the date, time and place; and shall include an agenda of the meeting;
- c) The provision in Clause 15.3 (a) above shall not apply to Special NEC meetings in respect of which shorter notice may, at the discretion of the President, be given provided that not less than three (3) days' notice be given to each NEC member.

#### 15.4 **QUORUM**

- a) The quorum for the meetings of the NEC shall be a majority of members present and two-thirds of Regions represented;
- b) In the event of there not being a quorum the meeting shall stand adjourned and shall be reconvened within a period of four (4) weeks thereafter;
- c) At the meeting following an adjourned meeting, the members present shall form a quorum irrespective of their number;
- d) Written notice of the meeting following an adjourned meeting shall be given to all NEC members within two (2) weeks prior to the meeting.

#### 15.5 **MINUTES**

- a) Copies of minutes of NEC meetings shall be sent to each Region by the General Secretary or a nominee of the NEC as soon as possible after the meeting but not later than thirty (30) days after a meeting and such minutes shall be submitted for approval at the following NEC meeting.

#### 15.6 **POWERS**

- a) The NEC, subject to the provision of this Constitution shall have the powers:

- i. To co-ordinate the activities of the Association and to promote the interest of the Association and its members;
- ii. To decide on the need to employ, maintain or terminate the employment of any person(s) for the effective running of the Association;
- iii. To engage and/or dismiss any member of the Association;
- iv. To determine the remuneration and other conditions of employment of all employees of the Association and to define their duties;
- v. To nominate and elect persons to represent the Association before any forum or body constituted in terms of any law or any other body or forum on which it is desired that the Association is represented;
- vi. To institute and defend legal proceedings by or against the Association;
- vii. To acquire by purchase, lease or otherwise any movable or immovable property and to sell, let with encumbrance or otherwise deal with or dispose in any manner of movable or immovable property belonging to the Association, provided that the property shall not be alienated, encumbered, burdened if two or more regions are opposed to such a decision;
  - aa. In the event of such an occurrence the matter shall be referred to the National Congress for a final decision;
- viii. To open, operate and close banking accounts on behalf of the Association and generally to control funds and finances of the Association;
- ix. To borrow or raise monies and funds for and on behalf of the Association;
- x. To invest monies and funds;
- xi. To allocate float amounts and other funds to the respective Regions;
- xii. To sanction and/or authorize all expenditure on behalf of the Association;
- xiii. To enter into, vary, approve or terminate any agreement with the employer on behalf of the Association as a whole; a Region, any member or group of members of the Association dealing with disputes arising between members and the employer and to endeavour to settle the disputes through conciliatory methods whenever possible;
- xiv. To establish, re-establish or close down regions;

- xv. To suspend any REC or any member of the REC, after a proper investigation of the reasons therefore, for a maximum period of eight (8) weeks for acting contrary to the interests of the Association;
  - aa. During which time a Special Regional General Meeting shall be called and the matter that caused the REC or the REC member to be suspended shall be placed before the Regional General Meeting which shall take any decision it deems necessary;
  - ab. In the event of the NEC not being satisfied about the decision taken by the Regional General Meeting, it shall not reverse the decision of the Regional General Meeting but may refer the matter to the National Congress for a final decision;
- xvi. To review the decisions of the REC or Regional General Meeting and to confirm or reverse such decisions unless specifically included by this Constitution;
- xvii. To provide legal assistance or any other form of representation to members related to their employment;
- xviii. To deal with such other matters as in the opinion of the NEC may appear to be in the interest of the Association;
- xix. To delegate any of its powers in such manner as it deems fit, subject to the subsequent ratification by the National Congress;
  - aa. No power of the NEC provided for in this Constitution shall be delegated to any person or committee for a period exceeding one (1) year provided that such delegation of power may be reviewed after proper consideration of all relevant factors;
- xx. To decide all matters of procedure on which the Constitution is silent;
- xxi. To give final ruling on any question pertaining to the interpretation of this Constitution subject to the general rules of interpretation provided by law and to the directives as may be given by the National Congress from time to time;
- xxii. To do such other lawful things as may in the opinion of the NEC appear to be in the interests of the Association and which are not in consistent with the objects or any matters specifically provided for in this Constitution.

**15.7 VACANCIES**

- a) A member of the NEC shall vacate his seat in any of the following circumstances:
  - i. On resignation, suspension or expulsion from membership of the Association;
  - ii. On ceasing to be a member of the Association in good standing;
  - iii. If the region, he represents so decides by a majority of the REC subject to confirmation by a Regional General Meeting;
  - iv. On resignation from NEC in writing;
  - v. On absenting himself from three consecutive meetings without sending a written apology acceptable to the NEC;
- b) Vacancies on the NEC shall be filled as follows:
  - i. The REC of the region whose representative has vacated his post shall fill the vacancy by electing a new representative at the first REC meeting after the vacancy has occurred subject to confirmation by the next Regional General Meeting;
  - ii. In the of case National Office Bearers, the vacancy shall be filled by the NEC from amongst themselves until at the next National Congress;
  - iii. A member elected to fill a vacancy shall stay in office of the NEC for the unexpired portion of the period that was to be served by the predecessor.

**16 NATIONAL OFFICE BEARERS (NOBs)**

- 16.1 The National Office bearers of the Association are the President, Deputy President, General Secretary, Deputy General Secretary, National Treasurer and three additional members; and shall be elected by ballot at the Tri-Annual National Congress;
- 16.2 The NOBs shall hold office for a period of three (3) years until the next election by Congress and shall be eligible for re-election;
- 16.3 To be eligible for election as the National Office Bearers, the candidate must be the member of the Association who has held office in the REC for a period of at least twelve (12) months prior to the Congress;
- 16.4 The duties of the NOBs shall be as follows:



a) **PRESIDENT**

The President shall –

- i. Attend all National Congress, NEC and National General Meetings and preside over such meetings but shall have a deliberative vote only;
- ii. Enforce observance of the Constitution of the Union;
- iii. Sign minutes of meetings;
- iv. Exercise supervision over the work of the General Secretary and generally over the affairs of the Union;
- v. To perform such other duties as by usage and custom pertain to the office of the President;
- vi. Report to Congress, NEC and General Meetings;
- vii. To be a co-signatory to the national banking accounts of the Union.

b) **DEPUTY PRESIDENT**

The Deputy President shall –

- i. assist the President in performing his duties;
- ii. Perform such duties of the President as are delegated to him by the President or the NEC;
- iii. The Deputy President shall assume the duties of the President in the President's absence.

c) **NATIONAL TREASURER**

The National Treasurer shall-

- i. Supervise and take charge of all finances of the Union and to ensure that the provisions of the Constitution with regard to the finances of the Union are complied with;
- ii. To endorse all accounts for payment, sign all financial transaction (electronic or manual) on the national banking accounts of the Union and to perform such other duties as, by usage and custom, pertain to the office;

- iii. Have the right and powers to inspect all records relating to the finances and books of accounts of the Union;
- iv. Submit statements of income and expenditure, and report thereon, of the Union's national accounts in respect of each month or any relevant period to each meeting of the NEC in respect of each year to the National Congress.

d) **GENERAL SECRETARY**

The General Secretary shall –

- i. be responsible for proper administration and co-ordination of the Union, including, but not limited to, the duties to:
  - aa. Report fully to each Congress and NEC meeting on all aspects of the Union's financial activities and situation;
  - ab. To be a co-signatory to the national banking accounts of the Union;
  - ac. Supervise the work of Regional Secretaries, officials and employees of the Union;
  - ad. Conduct all the head office correspondence of the Union;
  - ae. Ensure that a register of members is maintained, that proper books of accounts are kept and such books are audited annually;
  - af. Issue official receipts for all monies received;
  - ag. Keep such books of accounts as prescribed by the NEC and assist the National Treasurer to submit statements of the income and expenditure of the Union to each meeting of the NEC and the National Congress;
  - ah. In addition to the duties set out above, the General Secretary shall ensure at all times that, the Union complies with the duties imposed on every registered trade union in terms of Section 98, 99, 100 and 101 of the Act.

e) **DEPUTY GENERAL SECRETARY**

The Deputy General Secretary shall –

- i. assist the General Secretary in performing his duties;

- ii. Perform such duties of the General Secretary as are delegated to him by the General Secretary or the NEC;
- iii. The Deputy General Secretary shall assume the duties of the General Secretary in the General Secretary's absence.

f) **ADDITIONAL MEMBERS**

The additional members shall perform any function or duties as may be delegated to them by the NEC and/or the NOBs, which may be made permanent upon ratification by National Congress.

g) **ACTING PRESIDENT**

In the event of both the President and the Deputy President being unable either temporarily or permanently to perform duties, the NEC shall appoint a member of the NEC to act as President, who shall hold office until the President or Deputy President is able to assume his duties or until the next election as the case may be.

**17 FINANCIAL YEAR**

- 17.1 The financial year of the Union shall commence on 1<sup>st</sup> April of each year and end on the 31<sup>st</sup> March of the following year;
- 17.2 At the end of each financial period, the Treasurer shall arrange and ensure that an audited financial statement to be presented at the National Executive Committee set down after the end of such financial period and at the Tri-annual National Congress with the financial report.

**18 RULES OF PROCEDURE AT ASSOCIATION MEETINGS**

The following rules of procedure shall apply to all meetings of the Union –

- 18.1 The President shall be the Presiding Officer in National Meetings, and the Regional Chairperson shall be the Presiding Officer in Regional Meetings;

- a) In the absence of the President in National Meetings or the Chairperson at Regional Meetings, the Deputy President or the Deputy Chairperson must preside;
  - b) In the absence the Deputy President or Deputy Chairperson, the meeting shall elect any member of the relevant leadership structure to preside over the meeting concerned;
- 18.2 The first duty of the Presiding Officer in a meeting shall be to determine whether the meeting is quorate;
- a) Should the meeting not be quorate, it shall be adjourned and reconvened as per the time period set out in this Constitution;
  - b) Written notice of such adjourned meeting shall be given to all members entitled to attend including those members who were absent;
- 18.3 All meetings shall be conducted in accordance with the agenda, which shall be approved at the beginning of the meeting;
- 18.4 No resolutions, other than those appearing in the agenda, shall be debated provided that the meeting may agree to discuss a matter not included in the agenda;
- 18.5 All questions of decision shall be decided on a motion duly seconded and voted upon by a show of hands, or by ballot if the meeting decides it is necessary;
- 18.6 All matters shall be decided upon by majority vote except where otherwise provided;
- 18.7 Before being taken to the vote, every effort should be made to try and reach a decision by consensus;
- 18.8 Whenever the phrase “on a motion duly seconded and voted upon” appears in this Constitution, the following procedure shall be applied:
- a) Any matter to be decided upon shall be proposed to the meeting in the form of a motion;
  - b) The Presiding Officer shall ask for a seconder to the motion;
  - c) If a motion is seconded it shall then be opened to the house for debate;
  - d) Amendments to motions shall be proposed and seconded in a similar manner;
  - e) Once the motion has been debated the Presiding Officer of the meeting shall put the motion to the vote; if no consensus would be reached via the debates;

- f) All motions decided by a vote shall be so deemed on the basis of a vote by simple majority of the members present in the said meeting;
  - g) The mover of a motion shall have the right to speak for ten (10) minutes except with the permission of the meeting and shall have the right to reply to debate provided such reply shall not be longer than five (5) minutes;
  - h) No subject shall be debated for longer than one hour provided that any delegate shall have the right to propose any extension of time and such motion if seconded shall be put without debate and shall have effect unless carried by a majority;
  - i) No one may speak, interject or otherwise in a meeting unless so permitted by the Presiding Officer;
  - j) In respect of the election of office-bearers and other officials, where only one candidate is nominated for any office, that candidate shall be deemed to be elected;
  - k) Where more than one candidate is duly nominated, an election shall be held by ballot;
  - l) Candidates receiving the highest number of votes shall be declared elected (i.e. by simple majority);
- 18.9 The Presiding Officer shall be entitled to make a ruling on matters of procedure;
- 18.10 A ruling given by the Presiding Officer shall be final, save if overruled by a mover and seconder of a motion to overrule or rescind a ruling from a Presiding Officer; and a majority of members' present shall be sufficient to carry such motion;
- 18.11 At all meetings in which more than fifty (50) delegates are present, votes shall be counted by scrutineers appointed by the meeting and shall record the vote and report to the Presiding Officer;
- 18.12 Any person who contravenes the above rules of procedure or who is deemed guilty of misconduct shall, upon a vote being taken to that effect, withdraw from the meeting and the meeting shall have the right to suspend any such member for such period as it may deem fit, subject to any limit provided for in terms of this Constitution.

## 19 DISCIPLINE

- 19.1 Any member, office-bearer, official or employee of the Union who fails to comply with any of the terms of this Constitution or who acts against the interests of the Union may be disciplined by the NEC; or the REC whose chosen disciplinary measure shall be subject to the ratification of the NEC;
- 19.2 The NEC or the REC, as the case may be, shall advise the person concerned by written notice of not less than seven (7) days of the substance of the charge(s) and of the time and the place of his hearing;
- 19.3 Such notice may be sent by electronic mail, short message service (SMS), registered post to the last known address (as per the membership form or any other later address updated with the Union in writing) of the person charged, or may be delivered by hand;
- 19.4 If the NEC or the REC, as the case may be, is satisfied that the person charged has, though absent, received the notice, or if the person charged is present, the relevant Committee may proceed to hear and determine the issue and if it finds the charge(s) established to its satisfaction, it may:
  - a) Expel/dismiss that person from the Union;
  - b) Suspend him for a definite period from membership/employment of the Union;
  - c) Impose a fine not exceeding R30.00 (Thirty Rand) for the first offense, and R50.00 (Fifty Rand) for any subsequent offense, and may suspend a person from membership until such fine is paid;
- 19.5 At the hearing of the charge(s), or in the case of an appeal at the NEC, as the case may be, the person concerned shall be entitled to a representative(s) who must be a member, official, or employee of the Union;
- 19.6 At the enquiry or appeal hearing the person concerned shall have the right to present his case, call witnesses and cross-examine other witnesses;
- 19.7 There shall be a right of appeal from the decision of the REC to the next Regional General Meeting or NEC meeting, whichever occurs first, and which shall have the power to confirm, vary or set aside the REC's decision;
- 19.8 In the event of the appeal being heard at the Regional General Meeting, there shall be a further right of appeal to the NEC, and then to the National Congress, which may confirm, vary, or set aside the Regional General Meeting's decision;
- 19.9 The decision of the National Congress on appeals shall be final; while that of the NEC is subject to an appeal to the National Congress;

- 19.10 An appeal shall be lodged in writing within seven (7) days of notification of the decision appealed against with:
- a) the Regional Secretary in the case of an appeal to the NEC or
  - b) the General Secretary in the case of an appeal to the National Congress;
- 19.11 The notice of the decision of each structure must advise the person concerned of their right to appeal in terms of this Constitution;
- 19.12 Upon expulsion of a member, all monies owing to the Association by that member shall immediately become due and payable;
- 19.13 A member, office-bearer, officials of the Union shall be entitled to the benefits of membership, including the right to vote, during any period while he/she is under suspension (whether holding or suspension as a disciplinary action);
- 19.14 An official or employee who has been suspended shall cease to act on behalf of the Union during the period of his/her suspension, as save in terms of clause 19.13 above.

## **20 BALLOTS**

Whenever a decision is to be made by a ballot, the following procedure shall be followed:

- 20.1 The relevant committee/meeting conducted shall appoint at least two scrutineers who may be members of the Union, who shall count the ballot;
- 20.2 In the event of any election being conducted by ballot, the candidates for such election shall have the right to be present at the counting of such ballot;
- 20.3 Each voter shall, in the presence of the scrutineer, be issued with a ballot paper, there upon shall complete, fold and deposit the ballot paper into a sealed container provided for the purpose;
- 20.4 The issue to be voted upon shall be set forth clearly on the ballot paper and such papers shall not contain any information by means of which it will be possible to identify the voter;
- 20.5 Ballot boxes shall be inspected by the scrutineers;
- 20.6 In the event of an election being conducted by ballot, candidates shall have the right to inspect such ballot prior to the ballot being taken and shall also have the right to be present when the ballot boxes are sealed;

- 20.7 On completion of the ballot or as soon as possible thereafter, the results thereof shall be ascertained by the scrutineers and shall be made known by the Presiding Officer of the meeting to the members concerned and also to the relevant committee conducting the ballot;
- 20.8 Ballot papers, including spoiled papers shall be placed in a sealed container again and after being counted shall be handed to the Regional Secretary, or in the case of the NEC or National Congress ballot – to the General Secretary – who shall retain the same for not less than three (3) years;
- 20.9 The body responsible for the conducting of a ballot shall be bound to take action according to the decision of a majority of members voting in a ballot;
- 20.10 In any election conducted by ballot, the candidates or candidate receiving the highest number of votes shall be declared elected (i.e. by simple majority);
- 20.11 While members shall be entitled to express their views for or against any candidate standing for election and express their view on any other issues on which a ballot is called, the scrutineers shall have the right or duty to ensure that no discussion on the merits of any issue related to the ballot are discussed with any voter from when ballot papers are issued until the results of the ballot have been announced by the Presiding Officer;

20.12 **National Congress Balloting Process on Elections**

Voting at National Congress for election purposes will be conducted as follows:

- a) Nomination shall be by Region on a one-nominee, per position, per Region basis for each of the contested positions;
- b) After a nomination is made, it must be seconded by another Region and the nominee must accept such nomination;
- c) If the above has been complied with, then the nominee must be added to the ballot paper;
- d) Elections for all the positions in the National Office Bearers (NOB) structure must be conducted by ballot;
- e) Once all the nominees are in, for all the positions, the voting process in terms of clauses 20.1 to 20.11 shall apply, with the necessary change in context;



- f) The results of each vote for each position shall be announced once all the votes have been counted and the full list of the NOB structure has been voted upon;
- g) In the event of a tie on any position, the process shall be repeated only in as far as it relates to voting;
- h) No new nominations may be made for positions that must go through a re-vote in order to break a tie;
- i) In the case of voting for Additional Members, the following shall apply after nominations for the said positions have been registered in the ballot box:
  - i. all the nominees will be registered in one ballot paper for all the three (3) Additional Members positions;
  - ii. the nominees who receive the three highest votes will be declared the winners, regardless of the number of votes received by such nominees.
  - iii. in the event of a tie for the third lowest number of votes, then the process as provided in clause 20.12(g) – (h) shall apply, with the necessary change in context;
  - iv. in the event of a tie in relation to the highest number of votes or in relation to the second highest number of votes, then the third highest nominee will cede their third position to the second person in the tied position;
  - v. in the event of a tie in the highest number of votes and at the second highest number of votes, then the tie-breaker voting process as provided for in clause 20.12(g) – (h) shall apply, with the necessary change in context.

## **21 STRIKES**

- 21.1 No strikes or any form of industrial action shall be called by any structure of the Union unless a ballot of the members of the Union in respect of whom a strike or an industrial action is called or is intended to be called, has been held;
- 21.2 The member of the Union shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike or industrial action if:
  - a) No ballot was held about the strike or industrial action, or;
  - b) A ballot was held but a majority of the members who voted did not vote in favour of the strike or industrial action;

- c) The procedure with regard to the conduct of the ballot set out in clause 20 of this Constitution shall *mutatis mutandis* apply with regard to a ballot held in terms of this clause.

## **22 AMENDMENTS**

- 22.1 Any of the provisions of this Constitution may be repealed, amended or added to in any manner by a resolution of the National Congress or the NEC, provided that at least six (6) weeks written notice shall first have been given to Regions;
- 22.2 Any amendments to this Constitution that have been resolved by the NEC in terms of clause 22.1 above may be effected if the operation of such resolution requires implementation on an urgent basis, provided such implementation is recorded and signed in a Special Constitutional Amendment Form by the NEC;
- 22.3 National Congress may ratify, amend or repeal an amendment effected by the NEC;
- 22.4 Amendments shall be effective upon a resolution being passed by the National Congress or NEC in terms of clauses 22.1 – 22.3 above; and upon the approval by the Registrar of Labour Relations in terms of section 101 of the Act.

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SIGNED at **JOHANNESBURG** on this the **3<sup>RD</sup>** day of **DECEMBER** in the year **2021**

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**PRESIDENT**  
(Mandlenkosi Zwane)

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**GENERAL SECRETARY**  
(Nkosinathi Mkhwanazi)