

CONSTITUTION  
OF  
FOOD AND ALLIED WORKERS UNION  
(FAWU)



As Amended & Endorsed  
During The Quadrennial National Congress  
Held On the 22-25 August 2016 in Bela Bela, Limpopo

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## PART ONE

### 1 DEFINITIONS

Any expression used in this Constitution and which is defined in the Labour Relations Act, 1995 (Act No. 66 of 1995), shall have the same meaning as in the Act.

- 1.1 **"Credentials"** shall mean the legibility of those present to be in attendance at the meeting.
- 1.2 **"Delegate"** shall mean a person sent or authorised to represent a structure or members as mandated by that relevant structure or members.
- 1.3 **"Union"** shall mean the Food and Allied Workers Union, abbreviated to FAWU.
- 1.4 **"Office Bearers"** shall have the same meaning as in the Act, and will mean any person who is elected to an office in the Union, at the Branch, Provincial or National level, as the case may be.
- 1.5 **"Official"** shall have the same meaning as in the Act, and will mean an employee of the Union who is designated in his/her contract of employment as:
  - (i) National Negotiator;
  - (ii) Sector Organiser;
  - (iii) Provincial Organiser;
  - (iv) Education Secretary;
  - (v) Bargaining Secretary;
  - (vi) Organising Secretary;
  - (vii) Benefits Co-ordinator;
  - (viii) Legal Officers;
  - (ix) Legal Officers Co-ordinator;
  - (x) Research Co-ordinator;
  - (xi) Researcher;
  - (xii) Gender Co-ordinator;
  - (xiii) International Relations Officer.
- 1.6 **"Employee"** shall include officials and all other employees either permanently or temporarily employed by the Union.

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- 1.7 **"Food and Related Sectors"** shall mean the sectors as detailed in Clause 6.
- 1.8 **"Mandate"** shall mean only decisions and/or resolutions of a structure or members to be presented and/or expressed by the delegate of that relevant structure.
- 1.9 **"Worker"** shall mean any person employed by or working for any employer in the Food and Related Sectors detailed in Clause 6 below and who is receiving or is entitled to receive remuneration in any form in exchange for services rendered.
- 1.10 **"WGM"** shall mean a Workplace General Meeting.
- 1.11 **"SSC"** shall mean a Shop-stewards Committee.
- 1.12 **"BC"** shall mean a Branch Congress.
- 1.13 **"BGM"** shall mean a Branch General Meeting
- 1.14 **"BEC"** shall mean a Branch Executive Committee.
- 1.15 **"PC"** shall mean a Provincial Congress.
- 1.16 **"PEC"** shall mean a Provincial Executive Committee.
- 1.17 **"NC"** shall mean the National Congress.
- 1.18 **"NEC"** shall mean the National Executive Committee.
- 1.19 **"Member"** shall mean both the signed-up and paid-up members.
- 1.20 **"Paid-up member"** shall mean a member in good standing and as defined in Clause 7.2.1.
- 1.21 **"Structures"** shall mean the WGM, SSC, BC, BEC, PC, PEC, NC and NEC.
- 1.22 **"Seasonal Worker"** shall mean any person employed on a seasonal basis in the food and related sectors as defined in Clause 6.
- 1.23 **"Secretaries"** shall mean collectively the:
- (i) the General Secretary;
  - (ii) the Deputy General Secretary; and
  - (iii) Provincial Secretaries.

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1.24      "**Signed-up member**" shall mean a member as defined in Clause 7.1.2.

1.25      "**Workplace**" shall mean any place at which workers render services.

Any other undefined expression used in this constitution and which is defined in the Labour Relations Act of 1995, shall have the same meaning as that ascribed to it in the Act unless indicated otherwise by the context in which it is used.

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## **2 NAME**

The name of the union shall be Food and Allied Workers Union ("**FAWU**").

## **3 HEAD OFFICE**

The Head Office of the union shall be in Cape Town, with the Satellite Office in Gauteng or at other place as the Quadrennial National Congress may determine from time to time.

## **4 STATUS OF THE UNION**

4.1 The union shall be an independent entity having perpetual succession and legal existence and it shall be entitled to sue or to be sued in its own name, the union shall be an organization not for gain.

4.2 The Union is a single, national, unitary organization whose control vests in the following in order of supremacy:

4.2.1 NC;

4.2.2 NEC;

4.2.3 NOB.

4.3 The Union shall have the following structures:

4.3.1 NC;

4.3.2 NEC;

4.3.3 PC,

4.3.4 PEC;

4.3.5 BC;

4.3.6 BEC;

4.3.7 WGM.

4.4 The decision of the NC and NEC shall be binding on all structures and members of the Union.

4.5 The Union may not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its aims and objectives;

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- 4.6 The Union is required to utilize substantially the whole of its funds for the sole or principal object for which it has been established;
- 4.7 No member may directly or indirectly have any personal or private interest in the union;
- 4.8 Substantially the whole of the activities of the union must be directed to the furtherance of its sole or principal object and not for the specific benefit of an individual member or minority group;
- 4.9 The Union shall not have a share or other interest in any business, profession or occupation which is carried on by its members. However, nothing shall stop the Union from procuring services from its members subject to 14.1.3 below;
- 4.10 The Union shall function subject to the provisions of this Constitution and the policies of the Union as adopted by the NEC from time to time;
- 4.11 The Union shall not have a share or interest in any employer organisation in which it has its members. This, however, shall not stop the Union from purchasing shares listed in a public stock exchange;
- 4.12 The Union recognises the need for the advancement of worker interests and the advancement of better living conditions for all;
- 4.13 The union must not pay to any employee, office bearer, member or other person a remuneration, as defined in the fourth schedule which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the services rendered;
- 4.14 Substantially the whole of the Union's funding must be derived from subscriptions paid/received from its members and from donors approved by the NC from time to time or from an appropriation by the government of the Republic in the national, provincial or local sphere;
- 4.15 The union must as part of its dissolution transfer its assets to -
- 4.15.1 another entity approved by the Commissioner in terms of this clause;
- 4.15.2 a public benefit organization approved in terms of clause 30,

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- 4.15.3 an institution, board, or body which is exempt from tax under section 10(1)(cA)(i) of the Income Tax Act 58 of 1962; or
- 4.15.4 the government of the Republic at a national, provincial or local sphere;
- 4.16 the General Secretary or persons contemplated in paragraph (b)(i) will submit any amendment of the constitution or written instrument of the entity to the Registrar and the Commissioner within 30 days of its amendment;
- 4.17 the Union will comply with such reporting requirements as may be determined by the Commissioner from time to time; and
- 4.18 the Union is not knowingly and will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part 11A of Chapter 11, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act 58 of 1962.

## **5 AIMS AND OBJECTIVES**

The aims and objectives of the Union shall be:

- 5.1 To organize all workers engaged in the value-chains of agriculture and food industries into one (1) National Union and to use every legitimate means to induce all workers who are eligible for membership to become members.
- 5.2 To promote a spirit of trade union unity and solidarity amongst members and all workers in the economy, irrespective of race or gender, and to oppose any policy, practice or measure which will cause division/disunity.
- 5.3 To promote the interest of the members in particular and workers in general.
- 5.4 To regulate relations between members and their employers and to protect and further the interest of members in relation to their employers.
- 5.5 To negotiate and enter into collective agreements between members and their employers in relation to their employment.
- 5.6 To capacitate worker leaders and promote democracy within Structures of the Union having regard to the democratic centralism of the Union.

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- 5.7 To consider and advise on legislation or policies affecting the interest of members, to provide support for or oppose any such legislation or policies and to make representations to public and other bodies.
- 5.8 To co-operate with and assist other progressive trade unions or worker organizations within South Africa and internationally in the general interest of the working class movement.
- 5.9 To try assist members in obtaining employment and to endeavour to induce employers in agriculture and food value-chains to employ trade union labour.
- 5.10 To educate workers about their rights and their interests.
- 5.11 To endeavour to provide legal assistance to members and / or Officials where it deems it in the interest of the Union to do so.
- 5.12 To endeavour to achieve decent standards of living and social justice including but not limited to promotion of socially responsible causes.
- 5.13 To endeavour doing such other things as appears to be in the interest of the union and its members and which are not inconsistent with the aims and objectives or any matter specifically provided for in this Constitution.

## 6 SCOPE FOR ORGANISING AND RECRUITMENT

- 6.1 The **scope** of organizing workers will be within sectors/subsectors/industries in the Food value-chains listed, but not limited to the, below:
  - 6.1.1 Agriculture: Farms at primary level and farming operations/enterprises at secondary level, including packing and packaging;
  - 6.1.2 Fishing: Sea-going fishing, fish-farming, aquaculture and other fish breeding, growing and catching, up to delivery for processing/sale purposes;
  - 6.1.3 Forestry, Tobacco and Plants: forest planting, tree-felling, logging, processing to consumables up to furniture, flowers, tobacco leaves and smoke-based products, such as cigarettes, pipes, vapers and snuffs.

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- 6.1.4 Animal Husbandry: From animal breeding, slaughtering, skin hides, clothes making
- 6.1.5 Food Processing: value-addition processing of agricultural produce to all edible food and related items, including but not limited to dairy-related products, poultry and meat, bread and baked products, maize and starch products, sweets and snacks, salt and other seasonings, sugar and sugar-based products, and other food related grocery items
- 6.1.6 Beverage Manufacturing: Alcohol; be it spirits, beer, ciders and others; and non-alcoholic; be it carbonated, non-carbonated and other soft drinks such as soda, juice, bottled water, tea, coffee other drinkables
- 6.1.7 Food and other Merchandising: Merchandising of food and other products in retail stores, wholesale centres and other facilities
- 6.1.8 Food Transportation and Delivery: Warehousing, Sales, Distribution and Delivery of Food, Forestry and other items to points of sales
- 6.1.9 Professional Services: Research, government departments, NGO and other professional and services on food, beverages, forestry, flowers, and other value-chain related/based provisions and offerings
- 6.1.10 Down-stream Stages: Retails and Wholesales, Restaurants and Fast-foods, Catering and Serving, Hospitalities and Hotels, Game Farms and Theme Parks, and Old Age and Home Care.
- 6.2 **Other sub-sectors** related to the stages/sectors of the above value-chains in a widest sense of the word and practical implication if not implied expressions.

## **7 MEMBERSHIP**

### **7.1 Application for Membership**

- 7.1.1 Application for admission or re-admission to the membership shall be made in writing to the Provincial Secretary on the Union's application form and shall be accompanied by a signed stop order authorization form in

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favour of the Union for the payment of the Union subscription fee as of the date of acceptance of the member.

7.1.2 An applicant shall be deemed to be a signed-up member of the Union on completion of the application form accompanied by a signed stop order form, subject to approval of the PEC. The PEC shall consider applications within 3 month or until the next PEC meeting.

7.1.3 An applicant to whom admission to membership is refused shall be notified in writing together with reason(s) for such refusal and shall be entitled to a refund of the membership fee paid by him/her from the date of application to the date of refusal of membership.

7.1.4 If admission to membership is refused by the PEC, the applicant shall have the right to appeal to the NEC, which shall have the power to confirm or reverse the PEC's decision. Such an appeal shall be in writing and shall be submitted to the General Secretary within one (1) week of such a decision being taken. This decision shall be final.

## 7.2 **Paid-up Membership**

7.2.1 Only paid-up members shall be entitled to benefits of the membership, including the right to vote and to be voted. A paid-up member shall be regarded as a member whose subscription fees and other fees/charges/levies due to the Union are up to date.

7.2.2 A member shall forfeit all benefits of membership if:

7.2.2.1 The subscriptions or other charges due by him/her to the Union are more than thirteen (13) weeks in arrears provided that if the arrears are caused by the member's participation in a strike, or a lockout by the employer, or an employer's failure to pay over subscriptions, or any other reason which is beyond the member's control, the member shall be deemed to be a member in good standing. In the event that

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a member is released from his/her company to perform Union business and the Union pays him/her for the lost wages, the Union should ensure that subscriptions are deducted from such loss of wages paid.

7.2.2.2 The member cancels the stop order authorization form.

7.2.2.3 S/he is expelled from the Union or during any period, which s/he is under suspension in terms of the Constitution.

7.2.2.4 S/he ceases to be employed in the Food and Related Sectors except in the case of seasonal workers during any period of seasonal unemployment.

7.2.2.5 S/he intentionally causes or permits subscription fees not to be paid to the Union.

### 7.3 **Signed-up Membership**

7.3.1 A signed-up member shall mean any member, who has filled in, signed and submitted the union membership form but who has not started paying the subscription fees to the union.

7.3.2 Signed-up members shall in general have no rights or benefits of membership until they become paid-up members of the Union.

7.3.3 The Union shall, at its sole and absolute discretion, depending on the circumstances of the signed-up members consider, and if deemed appropriate as decided by the NEC, accept such members' request for representation in disputes with employees but only up to the level of the CCMA and/or Bargaining council.

7.3.4 The signed up member shall specifically not be entitled to the union's funeral benefit or any other benefit which ordinarily are reserved for paid up members.

7.3.5 A signed-up member shall attend any union meeting when required to do so but shall not be entitled to vote or be voted to any position in the union

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#### **7.4 Termination of Membership**

7.4.1 A member may resign by giving four (4) weeks' notice in writing to the Provincial Secretary, provided that no resignation shall take effect;

7.4.1.1 Until all monies due to the Union by the member concerned have been paid;

7.4.1.2 If the resignation is received on a standard form compiled for the purpose of enabling more than one (1) member employed by the same employer to resign from the Union;

7.4.1.3 If the resignation is received through the agency of the member's employer.

7.4.1.4 A member ceases to be a member on joining the rival union organized at the same workplace as dual membership is expressly prohibited.

7.4.1.5 Membership of any person may be terminated by the Union in terms of Clause 13.5 [**Discipline of Members**].

#### **7.5 Subscriptions**

7.5.1 Active members shall pay weekly, fortnightly or monthly subscription fees.

7.5.2 This amount shall not exceed one comma four percent (1.4%) of the member's weekly, fortnightly or monthly remuneration, in a month as determined from time to time by the National Executive Council or the National Congress and as ratified by the Registrar before implementation.

7.5.3 A seasonal worker shall be liable for the payment of subscription fees during his/her periods of employment only.

7.5.4 In addition to subscriptions all members shall be liable to pay:

7.5.4.1 Contributions towards any benefit fund established by the Union;

7.5.4.2 Any fines and levies imposed by the Union in terms of this constitution.

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## PART TWO

### 8 ESTABLISHMENT OF ORGANIZATION IN AND CONTROL OF WORKPLACES

8.1 The **control** of the Union at Workplace level shall be vested in the following meetings or committees, in order of supremacy:

8.1.1 Workplace General Meeting;

8.1.2 SSC OB;

8.1.3 Shop-Stewards Committee;

8.1.4 Shop-Stewards.

#### 8.2 Workplace General Meeting (WGM)

8.2.1 Composition

A WGM shall be composed of the SSC and membership of the workplace.

8.2.2 Meetings

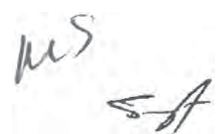
A WGM shall be held once a month, on a date to be fixed by the Chairperson, Deputy Chairperson or the Secretary, in consultation with the SSC Office-Bearers. Special WGM shall be called if it is deemed necessary by a majority i.e. fifty percent (50%) plus one (1) of the members.

8.2.3 Notice

Notice of WGM shall be publicly displayed at the workplace not less than three (3) days before the date of such, provided that in the case of a Special WGM shorter notice, not less than twenty-four (24) hours may be given.

8.2.4 Quorum

The quorum for WGM's shall be 50% + 1 of members and Shop stewards required to attend and one quarter ( $\frac{1}{4}$ ) in the case of Special WGMs. If within thirty (30) minutes of the time fixed for a meeting a quorum is not formed, the meeting shall stand adjourned until a further meeting. Such adjourned meetings shall take place at a date not sooner than six (6) days and not later than fourteen (14) days from the date of the meeting adjourned. Notices of adjourned meetings shall be publicized at workplaces. At such adjourned meetings the eligible members present shall form a quorum.



### 8.2.5 Minutes

Minutes of the WGM shall be sent to the Branch Secretary but not later than later than fourteen (14) days after the WGM who shall keep them in a safe place. These minutes shall be read and approved at the following WGM.

### 8.2.6 Powers

The powers of the WGM is to deal with all matters, which may affect membership of the factory, subject to the direction and control of this Constitution, and shall include but not be limited to the following:

8.2.6.1 Implementation of the decisions of: NC, NEC, PC, PEC, BC and BEC;

8.2.6.2 To determine all resolutions submitted to it for consideration;

8.2.6.3 To elect Shop-Stewards;

8.2.6.4 To remove Shop-Stewards.

### 8.2.7 Agenda

8.2.7.1 Subject to this Constitution, the agenda of a WGM shall include:

8.2.7.1.1 A report from the Shop-stewards' meetings with the employers and with SSC and BEC;

8.2.7.1.2 Resolutions to be submitted to the employers or the Branch;

8.2.7.1.3 Elections of delegates to the Branch Congress;

8.2.7.1.4 Elections of delegates to the Branch Executive Committee;

8.2.7.1.5 Any other matter of importance that needs to be discussed.

## 8.3 Shop-Stewards Committee

### 8.3.1 Composition

8.3.1.1 A shop stewards committee (SSC) shall be constituted by all Shop-stewards of a workplace in which there are 2 or more Shop-stewards.

### 8.3.2 Duties and Functions of SSC

The SSC shall have the following duties and functions:

8.3.2.1 To recruit new members and to use legitimate means to ensure that all workers who are eligible for membership become members;

8.3.2.2 To ensure that all members are paying subscriptions;

- 8.3.2.3 To take up all complaints of members and to negotiate with the employer on matters affecting members at the workplace;
- 8.3.2.4 To attend negotiations on collective agreements and to ensure that such agreements are observed by members and their employers;
- 8.3.2.5 To report to the Branch Secretary/BEC any dispute arising at the workplace, or any grievance of the members which the SSC had not been able to resolve;
- 8.3.2.6 To convey decisions of the Union to members at the workplace and to convey resolutions of the members to the Union;
- 8.3.2.7 To endeavour to lawfully settle disputes at the workplace;
- 8.3.2.8 To, at the request of a member in the workplace, assist and represent a member in grievance and disciplinary proceedings;
- 8.3.2.9 To monitor the employer's compliance with any law regulating terms and conditions of employment;
- 8.3.2.10 To report any alleged contravention of any law regulating terms and conditions of employment to the employer, Union or any responsible authority or agency; and
- 8.3.2.11 To perform any other functions as the Union may direct.

#### 8.3.3 Meetings

The SSC shall meet once every (3) months and an SSC which failed to meet on 3 consecutive times shall be deemed dissolved unless otherwise decided by the BEC in circumstances judged to be extraordinary. A special SSC may be called whenever it is deemed necessary by the Deputy/Chairperson or the Secretary in consultation with the SSC Office-Bearers or within seven (7) days of receipt of a requisition signed by not less than fifty percent (50%) plus one (1) of the members, calling for a special SSC.

#### 8.3.4 Notice

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Written notice of every SSC meeting shall be given by the Secretary to all members of the SSC not less than (3) days before the date of such meeting provided that in the case of special meetings shorter notice, being not less than twenty-four (24) hours, may be given. The proceedings of any meeting shall not be invalidated merely by reason of non-receipt by any member of the notice of the meeting.

#### 8.3.5 Quorum

A quorum at meetings of the SSC shall be 50% + 1 the number of SSC members and one-quarter ( $\frac{1}{4}$ ) in the case of special meetings. If within thirty (30) minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned until a further meeting can be arranged. Such adjourned meetings shall take place at a date not sooner than six (6) day and not later than fourteen (14) days from the date of the meeting which was adjourned. Notices of adjourned meetings shall be given to all members. At such adjourned meetings, the eligible members present shall form a quorum.

#### 8.3.6 Minutes

Minutes of all SSC meeting shall be taken by the Secretary and copies of all minutes shall be submitted to the Branch Secretaries as soon as possible after the meeting, and in any event within seven (7) day. These minutes shall be read and approved at the following meeting.

### 8.4 **SSC Office Bearers**

#### 8.4.1 Composition

The Office Bearers, being a Chairperson, 1<sup>st</sup> Deputy Chairperson, 2<sup>nd</sup> Deputy Chairperson, Treasurer and Secretary, shall be elected by the WGM from amongst the SSC members within one (1) month of the elections by the WGM of the SSC.

#### 8.4.2 Duties of SSC Office Bearers

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8.4.2.1 The SSC Office Bearers shall perform the same duties *Mutatis Mutandis* in respect of the workplace as are imposed on the Branch Office Bearers.

## 8.5 Shop-Steward

### 8.5.1 Election

8.5.1.1 A shop-steward shall be elected from amongst the paid-up members of the Union.

8.5.1.2 A shop-steward shall be elected at any workplace where the Union is representative of workers.

8.5.1.3 A shop-steward shall be elected in accordance with the constitution.

8.5.1.4 An elected shop steward shall be a member of the Shop-steward Committee in the workplace

### 8.5.2 Election procedure of a Shop-steward

8.5.2.1 The general election of Shop-stewards shall be held once every four years during the months of February to April.

8.5.2.2 A Shop-steward for each workplace shall be elected by the members in good standing who are employed at such workplace.

8.5.2.3 Only members in good standing employed at the workplace shall be eligible for election as a shop-steward for such workplace.

8.5.2.4 An official of the Union shall preside over and oversee the election of shop-stewards at each workplace and ensure that elections are conducted in terms of the provisions of this Constitution.

8.5.2.5 The nomination of a member as a shop-steward shall take place at a meeting of the members of the workplace who shall be given at least seven (7) days' notice thereof. A nomination shall be moved and duly seconded

8.5.2.6 Written notice of such meetings may be posted on the notice boards in the workplace where an election is to be held and may be posted

on the notice board of the relevant branch office at least three (3) days prior to such meeting, but no election shall be invalidated solely by the non-receipt of such notice by any member.

8.5.2.7 Voting for the election of a shop-steward in each workplace shall be by ballot only and in the event of only one (1) person being nominated, he/she shall be declared to have been duly elected

8.5.2.8 A Shop-steward duly elected at each workplace respectively shall assume and hold office from the date of the election and shall exercise the rights and discharges the duties assigned to him/her by this Constitution.

8.5.3 Duties of the Shop-steward

8.5.3.1 To recruit new members at the workplace.

8.5.3.2 To ensure that all members pay subscriptions.

8.5.3.3 To take up all complaints of members and to negotiate with the employer on all matters affecting the interest of the members at the workplace.

8.5.3.4 To attend the negotiation of collective agreements applicable to workplace and to ensure that such collective agreements are observed by members and their employers.

8.5.3.5 To attend any structural meetings of the Union as delegated by the members of the Union.

8.5.3.6 To assist and represent an employee in grievance and disciplinary proceedings at the request of a member.

8.5.3.7 To report any alleged contravention of any law regulating terms and conditions of employment to the employer, Union or any responsible authority or agency.

8.5.3.8 To perform any other functions as the Union structures may direct.

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## PART THREE

### 9 ESTABLISHMENT OF ORGANIZATION AND CONTROL IN BRANCHES

9.1 A **branch** of the Union may be **established** in an area where there are two (2) or more organized workplaces within the Province. The PEC shall demarcate its Province into Branches, as approved by the NEC, convene an inaugural BC.

9.2 At the **inaugural BC** meeting branch office-bearers and delegates to the PEC shall be elected and hold office until the next BC. The inaugural BC shall also decide on the name of the Branch. Branches shall be under the supervision and control of the Province. The structures of the Union at this level shall be the following in order of supremacy:

9.2.1 Branch Congress

9.2.2 Branch Executive Committee

9.3 **Branch Congress**

9.3.1 Composition

A BC shall be composed of:

9.3.2 the BOBs and Branch Congress delegates (jointly referred to as members required to attend) elected from Workplace as follows:

9.3.2.1 Members at each workplace shall be entitled to elect one delegate for one hundred and fifty (150) members or part thereof. Each delegate shall be a Shop-steward at his/her workplace.

9.3.2.2 a representative from the Provincial Office Bearer deployed by the POBs.

9.3.3 Meetings

BC shall be held once every four (4) years during the period July to August, i.e. in the same year the Provincial Congress on a date and at such place to be fixed by the majority of Branch Office-Bearers or the Provincial Secretary. A Special BC may be held if and when this is deemed necessary by either the BEC, POB, PEC, NOB or NEC or within seven (7) days of receipt of a requisition

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signed by fifty percent (50%) plus one (1) of the members of the BC calling for a special meeting.

9.3.4 Notice

The Branch Secretary, failing him/her, the Provincial Secretary, shall notify all SSC's at least one (1) month before the date of the BC, provided that in case of a Special BC such shorter notice, being not less than fourteen (14) days shall be given. The proceedings of any meeting shall not be invalidated, merely by reason of non-receipt by any member of the notice of the meeting.

9.3.5 Quorum

The quorum for a BC shall be 50% + 1 of the number of members required to attend in terms of Clause 9.3.2 and one quarter ( $\frac{1}{4}$ ) in the case of special meetings. If within two (2) hours of the time fixed for a meeting a quorum is not present, the meeting shall be adjourned until further meeting can be arranged. Such a meeting shall take place at a date not sooner than twelve (12) days and not later than thirty (30) days from the date of the meeting which was adjourned. Notice of adjourned meetings shall be given to each SSC. At such a meeting eligible members present shall form a quorum.

9.3.6 Minutes and Resolutions

9.3.6.1 The Resolutions of a BC shall be submitted to the General Secretary, Provincial Secretary and Branch delegates within 30 days from the date of the Branch Congress.

9.3.6.2 Copies of minutes of a BC shall be submitted to the General Secretary, Provincial Secretary and to each Workplace within the Branch concerned within a reasonable time and approved at the following BC.

### 9.3.7 Powers

9.3.7.1 A BC shall decide, subject to review by the PC, on all matters affecting the Branch, and may submit resolutions to the PEC or PC, as to such matters or matters affecting workplaces under its jurisdictions, or any other Branch, Province or the Union as a whole.

9.3.7.2 To conduct Elections of:

9.3.7.2.1 Branch Office Bearers;

9.3.7.2.2 PEC delegates; and

9.3.7.2.3 PC delegates;

9.3.8 Take Resolutions to the PEC and PC;

9.3.9 To Review the decision of the BEC.

9.3.10 The agenda of the BC shall include, but not limited to, the following items:

9.3.10.1 The composition and quorum of the meeting (credentials);

9.3.10.2 The Branch Chairperson's address;

9.3.10.3 Report by the Branch Secretary on behalf of the BEC;

9.3.10.4 Report by the Branch Treasurer on behalf of the BEC;

9.3.10.5 Resolutions for the BC, PEC, PC, NEC and NC;

9.3.10.6 Proposed amendments to the Constitution;

### 9.4 Branch Executive Committee

The management of the affairs of a Branch shall be vested in the BEC subject to the direction and control of this Constitution. The BOB's shall have the power to manage the affairs of the Branch in between the BEC's.

#### 9.4.1 Composition

The BEC shall be composed of:

9.4.1.1 the BOBs and BEC delegates who shall be elected as follows:

9.4.1.2 Each workplace shall elect (1) delegate for the first two hundred and fifty (250) members or part thereof;

9.4.1.3 Each workplace with more than two and fifty (250) but less than five hundred (500) members shall be entitled to two (2) delegates.

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9.4.1.4 Each workplace with more than five hundred (500) members shall be entitled to 3 delegates.

9.4.1.5 A representative from the Provincial Office Bearers deployed by the POBs.

#### 9.4.2 Meetings

Each BEC shall meet quarterly on a date to be fixed by the Branch Chairperson in consultation with the Branch Office Bearers. In the absence of the Branch Chairperson the Provincial Secretary in consultation with the Branch Office Bearers will convene such a meeting. Special meeting of a BEC shall be called by the Branch Chairperson or Provincial Secretary in consultation with the Office Bearers whenever it is deemed necessary or within seven (7) days of receipt of a requisition, signed by not less than fifty percent 50% + 1 of the BEC members, calling for such a meeting.

#### 9.4.3 Notice

The Branch Secretary, failing him/her, the Provincial Secretary, shall notify all SSC's at least (14) days before the date of the BEC, provided that in case of a Special BC such shorter notice, being not less than fourteen (7) days shall be given. The proceedings of any meeting shall not be invalidated, merely by reason of non-receipt by any member of the notice of the meeting.

#### 9.4.4 Quorum

The quorum for the meetings of the BEC shall be 50% + 1 of the number of Branch Office-Bearers and members required to attend and one-quarter ( $\frac{1}{4}$ ) in the case of special meetings. If within sixty (60) minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to a day not sooner than six (6) days and not later than fourteen (14) days from the date of the meeting which was adjourned. Notices of adjourned meetings shall be given to all members of the BEC and at such adjourned meetings the eligible members present shall form a quorum

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#### 9.4.5 Minutes

Copies of minutes of BEC meetings shall be submitted to the Provincial Secretaries as well as to each workplace as soon as possible after the meeting and in any event within thirty (30) days and shall be approved at the following BEC meeting.

#### 9.4.6 Powers

A BEC shall have the power:

- 9.4.6.1 To co-ordinate the activities of the Union within the Branch;
- 9.4.6.2 To convey decisions of the Union to the SSC's;
- 9.4.6.3 To implement the decisions of the Union at Branch level;
- 9.4.6.4 To deal with disputes between SSC's and members and to endeavour to settle such disputes by conciliatory methods;
- 9.4.6.5 To appoint sub-committees as it may deem necessary;
- 9.4.6.6 To review the decisions and activities of the WGM and the SSC's;
- 9.4.6.7 To do such other things as in the opinion of the BEC appears to be in the interests of the Union or its members at Branch level and which are not inconsistent with the objectives, or any matter provided for in this Constitution.

#### 9.5 Branch Office Bearers

##### 9.5.1 Composition

The Branch Office Bearers are the branch Chairperson, 1 Deputy Chairperson, 2<sup>nd</sup> Deputy Chairperson, Branch Secretary and the Branch Treasurer. The Branch Office bearers shall all be shop stewards at the workplace where they are employed.

##### 9.5.2 Duties and Functions:

Their duties and functions shall be to manage the affairs of the Union in between the BEC meetings and shall include:

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9.5.3 **Branch Chairperson**

The Branch Chairperson shall:

- 9.5.3.1           preside over all BC's and BEC's;
- 9.5.3.2           ensure compliance with the Constitution of the Union;
- 9.5.3.3           sign the minutes of the BEC, BC and BOB meetings after approval;
- 9.5.3.4           give Chairperson's Addresses to BC and BEC meetings.

9.5.4 **Deputy Branch Chairperson**

The Deputy Branch Chairperson shall assist the Branch Chairperson in performing his duties and perform such duties and tasks as are delegated to them by the Branch Chairperson.

9.5.5 **Acting Branch Chairperson**

In the event of the Branch Chairperson being unable, either temporarily or permanently, to perform his duties, the Branch 1<sup>st</sup> Deputy Chairperson, failing him, the 2<sup>nd</sup> Deputy Chairperson, shall assume his/her duties until the next BEC, which shall elect a member of the BEC as Acting Branch Chairperson. The Acting Branch Chairperson shall hold office until the Branch Chairperson is able to resume his/her duties or until the next election, whichever occurs first.

9.5.6 **Branch Treasurer**

The Branch Treasurer shall:

- 9.5.6.1           Manage all the finances of the Branch under the supervision of the POBs and ensure that the provisions of the Constitution with regard to the finances of the Branch are complied with.
- 9.5.6.2           Oversee compliance with financial policies of the Union.

9.5.7 **Branch Secretary**

The Branch Secretary shall:

- 9.5.7.1           Receive requisitions for meetings of the BEC or BC.
- 9.5.7.2           Issue notices of meetings through the Provincial Secretary.

- 9.5.7.3 Send all Branch Office Bearers correspondence of the Union through the Provincial Secretary; keep the originals of letters received and copies of those dispatched.
- 9.5.7.4 Attend all BC and BEC meetings, record and keep the minutes of the proceedings and at each succeeding meeting present the minutes of the previous meeting for adoption.
- 9.5.7.5 Report to each BC, BEC and Provincial Secretary on his/her activities.
- 9.5.8 The branch secretary may resign on giving one (1) months' notice in writing to the BEC and he may be removed from office in terms of Clause 13.3.

#### **PART FOUR**

### **10 ESTABLISHMENT OF ORGANIZATION OF AND CONTROL IN PROVINCES**

A Province of the union may be established in any Province of the Republic of South Africa or following any demarcation as may otherwise be authorized by the NC.

- 10.1 Application for the establishment of a Province shall be made in writing to the NEC by a BEC.
- 10.2 If the NEC approves of the establishment of a Province, the NEC shall convene an Inaugural PC. Considerations not limited to this:
- no less than 10 000 members;
  - the vastness of a Province,
- At this meeting Provincial Office-Bearers shall be elected and shall hold office until the next PC. Delegates to an Inaugural PC shall be elected in the same manner as the election of delegates to a PC. The Inaugural PC shall decide on the name of the Province, subject to the approval of the NEC.
- 10.3 The structures of the union provincially shall be the following structures in order of supremacy:
- 10.3.1 Provincial Congress
- 10.3.2 Provincial Executive Committee.

#### 10.4 Provincial Congress

10.4.1 Composition: A PC shall be composed of:

10.4.1.1 the POBs; and Provincial Congress delegates (jointly referred to in this Clause as members required to attend) elected as follows:

10.4.1.2 Each branch shall elect one (1) delegate for every Three hundred (300) members of the Branch or part thereof.

10.4.1.3 A representative from the National Office deployed by the NOBs.

#### 10.4.2 Meetings

A PC shall be held once every four Years (4) during the period October to November, on a date and at such place to be decided by a majority of the POB'S present at the meeting. A special PC may be held if and when this is deemed necessary by the POB, PEC, NOB or NEC or within ten (10) days of receipt of a requisition signed by fifty percent (50%) plus one (1) of the members of the PC, calling for such a meeting.

#### 10.4.3 Notice

The Provincial Secretary, failing him/her, the General Secretary, shall notify all SSC's at least one (1) month before the date of the PC, provided that in case of a Special PC such shorter notice being not less than fourteen (14) days shall be given. The proceedings of any meeting shall not be invalidated by reason of the mere non-receipt by any member of the notice of the meeting.

#### 10.4.4 Quorum

The quorum for a PC shall be 50% + 1 of the number of members required to attend, one quarter ( $\frac{1}{4}$ ) in the case of special meetings. If within one hundred and twenty (120) minutes of the time fixed for the meeting a quorum is not presented, the meeting shall stand adjourned until a further meeting can be arranged. Such an adjourned meeting shall take place at a date not sooner than twelve (12) days and not later than thirty (30) days from the date of the meeting which was adjourned. Notice of all adjourned meetings shall be given

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to the Provincial Secretary and the General Secretary. At such adjourned meetings the eligible members present shall form a quorum.

10.4.5 Minutes and Resolutions

10.4.5.1 The Resolutions of a PC shall be submitted to the General Secretary and PC delegates within 30 days.

10.4.5.2 Copies of minutes of PC shall be submitted to the General Secretary and to each PC delegate and Branch Secretary within the Province concerned. The minutes will be approved at the following PC meeting, where after they shall be distributed within 30 (thirty) days. The Resolutions of a PC shall be submitted to the General Secretary, Provincial Secretary and Branch delegates within 30 (thirty) days from the date of the Branch Congress.

10.4.6 Powers

10.4.6.1 A PC may decide on all matters concerning the Province, subject to review by the NEC or NC, and may submit resolutions to a NC or NEC on any matter concerning the Union.

10.4.6.2 The agenda of the PC shall include, but not limited to, the following:

10.4.6.2.1 The composition and quorum of the meeting (credentials);

10.4.6.2.2 Provincial Chairperson's Address;

10.4.6.2.3 The report by the Provincial Secretary on behalf of the PEC;

10.4.6.2.4 A financial report by the Provincial Treasurer on behalf of the PEC;

10.4.6.2.5 Proposed Resolutions;

10.4.6.2.6 Election and removal of the Provincial Chairperson, 1<sup>st</sup> Deputy and 2<sup>nd</sup> Deputy Chairperson, Secretary and Treasurer;

10.4.6.2.7 Election and Removal of delegates to the NEC and NC;

10.4.6.2.8 Propose amendments to the Constitution.

## 10.5 Provincial Executive Committee

The management of the affairs of a Province shall be vested in the PEC in between the Provincial Congresses. The POB's shall have the power to manage the affairs of the Province in between the PEC's.

### 10.5.1 Composition; The PEC shall be composed of:

10.5.1.1 the POBs; and the PEC delegates (jointly referred to as members required to attend) elected at a BC as follows:

10.5.1.2 a Branch with less than two thousand (2000) members shall be entitled to two (2) delegates;

10.5.1.3 a Branch with more than two thousand (2000) but less than four thousand (4000) members shall be entitled to four (4) delegates;

10.5.1.4 a Branch with more than four thousand (4000) members shall be entitled to six (6) delegates;

10.5.2 a representative from the National Office deployed by the NOBs.

### 10.5.3 Meetings

The PEC shall meet quarterly on a date to be fixed by the Provincial Chairperson, in consultation with the Provincial Office-Bearers. In case the Provincial Chairperson is unable/absent the General Secretary in consultation with the Provincial Office Bearers shall convene a PEC. Special meetings of a PEC shall be called by the Provincial Chairperson in consultation with the Provincial Office-Bearers whenever it is deemed necessary or within fourteen (14) days of receipt of a requisition signed by not less than fifty (50%) plus one (1) of the members of the PEC, calling for such a meeting. In case the Provincial Chairperson is unable/absent the General Secretary in consultation with the Provincial Office Bearers shall convene such a meeting.

### 10.5.4 Notice

10.5.4.1 The Provincial Secretary, failing him/her, the General Secretary, shall notify all PEC members at least 7 days before the date of such a meeting, provided that in case of a Special PEC such shorter notice, being not less than twenty-four (24) hours shall be

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given. The proceedings of any meeting shall not be invalidated, merely by reason of non-receipt by any member of the notice of the meeting.

#### 10.5.5 Quorum

10.5.5.1 The quorum for meetings of the PEC shall be 50% + 1 the number of members and Provincial Office-Bearers required to attend and one quarter ( $\frac{1}{4}$ ) in the case of special meetings. If within sixty (60) minutes of the time fixed for a meeting a quorum is not present, the meeting shall stand adjourned until a further meeting can be arranged.

10.5.5.2 Such an adjourned meeting shall take place at a date not sooner than six (6) days and not later than fourteen (14) days from the date of the meeting which was adjourned. Notice on all adjourned meetings shall be given to all members of the PEC and the Branch Secretary and at such adjourned meetings the eligible members present shall form a quorum.

#### 10.5.6 Minutes

Copies of minutes of PEC meetings shall be submitted to the General Secretary and the Branch Secretary concerned as soon as possible after the meeting, and in any event within thirty (30) days and shall be approved at the following PEC meeting.

#### 10.5.7 Powers

A PEC shall have the power;

10.5.7.1 To co-ordinate the activities of the Union within the Province;

10.5.7.2 To convey decisions of the Union to Branches

10.5.7.3 To deal with disputes in the Branches and to endeavour to settle disputes by conciliatory methods.

10.5.7.4 To discipline any member of the Union working in a workplace within the jurisdiction of the Province for any offence and/or misconduct committed in terms of the discipline clause;

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- 10.5.7.5 To open and operate a banking account/s in the name of the Province, subject to the approval of the NEC;
- 10.5.7.6 To review the decisions and activities of the WGM, SSC, BEC and BC and to ensure that elections of Branch Office Bearers are held timeously.
- 10.5.7.7 To do such other things as in the opinion of the PEC appear to be in the interest of the union or its members and which are not inconsistent with the objects or any matter provided for in this Constitution.
- 10.5.7.8 To deal with the finances of the Province in terms of provisions of this Constitution.
- 10.5.7.9 To elect and remove acting Provincial Office Bearers pending the next sitting of the PC.

10.6 Provincial Office Bearers (POB) and Provincial Officials (PO)

10.6.1 Composition

The Provincial Office-Bearers and Provincial Officials of the Union are the Provincial Chairperson, Provincial 1<sup>st</sup> Deputy Chairperson, Provincial 2<sup>nd</sup> Deputy Chairperson, Provincial Secretary and Provincial Treasurer. They shall be shop stewards at the workplace where they are employed except in the case of the Provincial Secretary who shall be a full-time Officials of the Union.

10.6.2 Function and Duties

Their duties and functions shall be to manage the affairs of the Province in between PEC's and shall include:

10.6.2.1 **Provincial Chairperson shall**

- 10.6.2.1.1 preside over all PC's and PEC's;
- 10.6.2.1.2 ensure compliance with the Constitution of the Union;
- 10.6.2.1.3 sign the minutes of the PEC, PC and POB meetings after approval;
- 10.6.2.1.4 give Chairperson Addresses to PC and PEC meetings.

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10.6.2.1.5 shall be a co-signatory to a provincial bank account if opened

10.6.2.2 **Deputy Provincial Chairperson Shall**

assist the Provincial Chairperson in performing his/her duties and perform such duties and tasks as are delegated to them by the Chairperson.

10.6.2.3 **Acting Provincial Chairperson**

In the event of the Provincial Chairperson being unable, either temporarily or permanently, to perform his/her duties, the 1<sup>st</sup> Deputy Chairperson, failing him, the 2<sup>nd</sup> Deputy Chairperson, shall assume his/her duties until the next PEC, which shall elect a member of the PEC as Acting Provincial Chairperson. The Acting Provincial Chairperson shall hold office until the Provincial Chairperson is able to resume his/her duties or until the next election, whichever occurs first.

10.6.2.4 **Provincial Treasurer Shall**

10.6.2.4.1 Manage all the finances of the Province and ensure that the provisions of the Constitution with regard to the finances of the Province are complied with.

10.6.2.4.2 Oversee compliance with financial policies of the Union.

10.6.2.5 **Provincial Secretary Shall**

10.6.2.5.1 Be responsible for instituting disciplinary measures against provincial staff in consultation with Provincial Office Bearers.

10.6.2.5.2 Be a full-time Official of the Union. His/her terms and conditions of employment shall be determined by the NEC.

10.6.2.5.3 In general be responsible for the proper administration of the Province, coordinating all organizing activities of the Province, co-coordinating all negotiations of collective agreements on behalf of the Province, the training of Officials, Shop-stewards and employees of the Province and such other matters as are generally in the interest of the Union.

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- 10.6.2.5.4 Receive requisitions for meetings of the PEC or PC.
- 10.6.2.5.5 Issue notices of meetings.
- 10.6.2.5.6 Send and receive all Provincial office correspondences of the Province, keep the originals of letters received and copies of those dispatched and at each meeting of the PEC present all correspondence, which has taken place since the previous meeting.
- 10.6.2.5.7 Attend all PC and PEC meetings, record and keep the minutes of the proceedings and at each succeeding meeting present the minutes of the previous meeting for adoption.
- 10.6.2.5.8 Issue official receipts for all monies received, keep such books of account as are prescribed by the PEC and in collaboration with the Provincial Treasurer submit statements of income and expenditure of the Union to each meeting of the PEC..
- 10.6.2.5.9 Approval of all accounts for payment, sign all cheques on the banking account of the Province and perform such other duties as by usage and custom pertain to the office as co-signatory to the provincial bank account.
- 10.6.2.5.10 Supervise the work of the Provincial employees.
- 10.6.2.5.11 Perform such other duties as are imposed by this Constitution or as the PEC may direct.
- 10.6.2.5.12 Report to each PC, PEC and General Secretary on his/her activities.
- 10.6.2.5.13 Perform any other duties as by usage and custom pertains to the office.
- 10.6.2.6 The Provincial Secretary may resign on giving one (1) months' notice in writing to the PEC and he may be removed from office in terms of Clause 14.3.

## **PART FIVE**

### **11 ESTABLISHING ORGANIZATION AND CONTROL AT NATIONAL LEVEL**

#### **11.1 National Congress**

The NC is the supreme body and custodian of all powers of the Union. The Union structures at workplace, branch and provincial levels are subservient to the NC.

##### **11.1.1 Composition**

A NC shall be composed of the NOBs and the National Congress delegates from each Province as follows:

11.1.1.1 Each Province shall elect one (1) delegate for every Three hundred (300) members or part thereof;

11.1.1.2 Each delegate shall be a Shop-steward at the workplace where s/he is employed.

##### **11.1.2 Meetings**

An NC shall be held once every four (4) years during the period September to November or any other date and at such a place as may be decided by the National Office Bearers. However, the NC shall sit not earlier than ten (10) months from November of the previous year. A special NC shall be held if and when this is deemed necessary by the NOB, NEC or within three (3) months of receipt of a requisition signed by the majority of the NEC delegates i.e. fifty percent (50%) plus one (1).

##### **11.1.3 Notice**

11.1.3.1 Written notice of a NC shall be given by the General Secretary to each Provincial Secretary at least two (2) months before the date of the NC and at least one (1) month prior to a Special NC.

11.1.3.2 The proceedings of any meeting shall not be invalidated merely by reason of the non-receipt by any member of the notice of the meeting.

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11.1.4 Quorum

11.1.4.1 The quorum for NC shall be 50% + 1 of the number of delegates and Office-Bearers required to attend and one quarter ( $\frac{1}{4}$ ) in the case of a Special NC. If within one hundred and twenty (120) minutes of the time fixed for a meeting a quorum is not present, the meeting shall stand adjourned until a further meeting can be arranged.

11.1.4.2 Such an adjourned meeting shall take place at a date not sooner than thirty (30) days and not later than sixty (60) days from the date of the meeting which was adjourned. Notice of all adjourned meetings shall be given. At such an adjourned meeting the eligible members present shall form a quorum.

11.1.5 Minutes and Resolutions

11.1.5.1 The resolutions of the NC shall be distributed to the structures within 30 days from the date of the National Congress.

11.1.5.2 Minutes of the NC shall be submitted to each Provincial and Branch Secretaries by the General Secretary for that purpose within two (2) months of the NC and shall be approved at the following NC.

11.1.6 Powers

11.1.6.1 To Adopt Constitutional Amendments.

11.1.6.2 To Pass Resolutions.

11.1.6.3 To Elect National Office Bearers.

11.1.6.4 A NC may decide on all and any matters submitted to it for consideration. A Special NC shall decide on the matter for which it was called. A NC shall have the powers to vary or reverse any decision taken by any structure of the Union.

11.1.7 The agenda of the NC shall include, but not limited to, the following matters:

11.1.7.1 Composition and quorum of the meeting (credentials);

11.1.7.2 A Presidential Address;

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- 11.1.7.3 Approval of Constitutional amendments;
- 11.1.7.4 Elections and removals of National Office-Bearers;
- 11.1.7.5 A report on the activities of the Union by the General Secretary on behalf of the NEC;
- 11.1.7.6 Audited financial statements/financial statements presented by the National Treasurer for the previous 4 (four) Financial years;
- 11.1.7.7 Resolutions
- 11.1.7.8 Any other matter that the NC agrees to discuss.

## 11.2 National Executive Committee

The NEC shall have the power to manage the affairs of the Union in between the NCs.

### 11.2.1 Composition

The NEC shall be composed of the NOBs and NEC delegates elected by the PC as follows:

- 11.2.1.1 Two (2) delegates from every Province with up to ten thousand (10 000) members;
- 11.2.1.2 Four (4) delegates from every Province with between ten thousand (10 000) and twenty thousand (20 000) members;
- 11.2.1.3 Six (6) delegates from every Province with more than twenty thousand (20 000) members.

### 11.2.2 Meetings

The NEC shall meet quarterly each year at such time and place as the President in consultation with the National Office-Bearers may decide. Special NEC meetings may be called if and when this is deemed necessary by the President in consultation with the National Office-Bearers. The President shall, within fourteen (14) days of receipt of a requisition by a majority i.e. fifty percent (50%) plus one (1) of the members of the NEC calling for such a meeting.

### 11.2.3 Notice

Written notice of every NEC meeting shall be given to all delegates of the NEC by the General Secretary not less than fourteen (14) days before the date of such meeting, provided that in the case of special meetings, shorter notice being not less than forty-eight (48) hours, may be given. The proceedings of any meeting shall not be invalidated merely by reason of the non-receipt by a member of the notice of the meeting

### 11.2.4 Quorum

The quorum of meetings of the NEC shall be 50% + 1 the number of delegates and National Office-Bearers required to attend and one quarter (1/4) in the case of special meetings. If within sixty (60) minutes of the time fixed for a meeting a quorum is not present, the meeting shall stand adjourned until a further meeting can be arranged. Such an adjourned meeting shall take place at a date not sooner than twelve (12) days and not later than thirty (30) days from the date of the meeting which was adjourned. Notice of all adjourned meetings shall be given to all members. At such adjourned meetings the eligible members present shall form a quorum.

### 11.2.5 Minutes

Copies of minutes of NEC meetings shall be submitted to each Provincial and Branch Secretaries by the General Secretary as soon as possible after the meeting and in any event within thirty (30) days. The minutes will be approved at the following NEC meeting.

### 11.2.6 Powers and Duties

The NEC shall have the power:

11.2.6.1 To appoint all the employees of the Union and fill vacancies arising from the NOBs in between the NCs.

11.2.6.2 To define the duties of all the employees and to fix their remuneration and other conditions of employment.

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- 11.2.6.3 To appoint from time to time such committees as it may deem necessary and to delegate any of its powers to such committees accordingly.
- 11.2.6.4 To nominate and elect persons to represent the Union at any negotiations or on anybody constituted in terms of any law or on which it is deemed necessary that the Union be represented.
- 11.2.6.5 To regulate the terms of reference in committees and to delegate its powers to such committees accordingly.
- 11.2.6.6 To formulate, adopt and amend the policies of the Union.
- 11.2.6.7 To institute or defend all legal proceedings by or against the Union, which are deemed necessary.
- 11.2.6.8 To open and operate a banking account in the name of the Union.
- 11.2.6.9 To approve all expenditure on behalf of the Union.
- 11.2.6.10 To sanction any agreement with employers or employers organizations on behalf of the Union and to settle any disputes by conciliatory methods if possible.
- 11.2.6.11 To establish, re-establish, or disband Branches or Provinces in any area.
- 11.2.6.12 To suspend any BEC, PEC, Office-Bearer or Union member for violations of the provisions of this Constitution or in the interests of the Union.
- 11.2.6.13 To take over the management of the affairs of any Branch or Province until a BC or PC can be held and a new BEC or PEC and/or Office-Bearers can be elected.
- 11.2.6.14 To delegate any of its powers in such a manner as it deems necessary.
- 11.2.6.15 To provide legal assistance to members on matters related to their employment.
- 11.2.6.16 To accept donations from donors, subject to the approval of the NC.
- 11.2.6.17 To expel any member of the Union.

11.2.6.18 To do such other lawful things as in the opinion of the NEC may appear to be in the interests of the Union or its members and which are not inconsistent with the objectives, or any other matter provided for in this Constitution.

### 11.3 **National Office Bearers (NOB) and National Officials (NO)**

#### 11.3.1 Composition

The National Office-Bearers and National officials of the Union shall be the President, 1<sup>st</sup> Deputy President, 2<sup>nd</sup> Deputy President, General Secretary, Deputy General Secretary and National Treasurer. They shall be Shopstewards at the workplace where they are employed, except in the case of the General Secretary and Deputy General Secretary who shall be full-time employees of the Union.

#### 11.3.2 Duties and Functions

Their duties and functions shall be to manage the affairs of the Union in between NEC's and shall include:

##### 11.3.2.1 **President** Shall

- 11.3.2.1.1 be the political head of the Union;
- 11.3.2.1.2 attend and preside over all NC's and NEC meetings;
- 11.3.2.1.3 ensure compliance with this Constitution by all members;
- 11.3.2.1.4 sign the minutes of the NEC, NC and NOB meetings after approval;
- 11.3.2.1.5 exercise supervision over the work of the General Secretary, in conjunction with the other National Office Bearers, and generally over the affairs of the Union;
- 11.3.2.1.6 perform such other duties as by usage and custom pertain to the office of the President; and
- 11.3.2.1.7 give Presidential Addresses to the NC and NEC meetings.
- 11.3.2.1.8 shall be a co-signatory to the national bank account of the union.

- 11.3.2.2            **Deputy Presidents shall**  
assist the president in performing his/her duties and perform such duties and tasks as are delegated to them by the President.
- 11.3.2.3            **Acting President**  
In the event of the President being unable, either temporarily or permanently, to perform his/her duties, the 1<sup>st</sup> Deputy President, failing him, the 2<sup>nd</sup> Deputy President, shall assume his/her duties until the next NEC, which shall elect a member of the NEC as Acting President. The Acting President shall hold office until the President is able to resume his/her duties or until the next election, whichever occurs first.
- 11.3.2.4            **National Treasurer shall**
- 11.3.2.4.1           manage all the finances of the Union and ensure that the provisions of the Constitution with regard to finances are complied with; and
- 11.3.2.4.2           oversee compliance with financial policies of the Union.
- 11.3.2.4.3           shall be a co-signatory to the national bank account of the union.
- 11.3.2.5            **General Secretary shall**
- 11.3.2.5.1           be responsible for instituting disciplinary measures against employees, excluding the Deputy General Secretary who may only be subjected to disciplinary action by the National Congress / National Executive Committee or the National Office Bearers;
- 11.3.2.5.2           be a full-time Official of the Union. His/her terms and conditions of employment shall be determined by the NEC;



- 11.3.2.5.3 be responsible for the proper administration of the Union, coordinating all organizing activities of the Union, coordinating all negotiations of Collective Agreements on behalf of the Union, the training of Officials, Shopstewards and employees of the Union and such other matters as are generally in the interest of the Union;
- 11.3.2.5.4 receive requisitions for meetings of the NEC or NC;
- 11.3.2.5.5 issue notices of meetings;
- 11.3.2.5.6 conduct all Head Office correspondences of the Union, keep the originals of letters received and copies of those dispatched;
- 11.3.2.5.7 attend all NC and NEC meetings, record and keep the minutes of the proceedings and at each succeeding meeting present the minutes of the previous meeting for adoption;
- 11.3.2.5.8 issue official receipts for all monies received, keep such books of account as are prescribed by the NEC and in collaboration with the National Treasurer submit statements of income and expenditure of the Union to each meeting of the NEC;
- 11.3.2.5.9 approve of all accounts for payment, sign all cheques on the banking account of the Union having co-signatory powers;
- 11.3.2.5.10 supervise the work of the Heads of Departments and Provincial Secretaries;
- 11.3.2.5.11 assume the duties of the Provincial Secretaries, in the event of a vacancy;
- 11.3.2.5.12 perform such other duties as are imposed by this Constitution or as the NEC may direct;
- 11.3.2.5.13 report to each NC and NEC on his/her activities;
- 11.3.2.5.14 in consultation with the National Office Bearers, appoint Provincial and National official(s) of the Union, subject to the prior approval or subsequent confirmation of the NEC;

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- 11.3.2.5.15 coordinate the implementation of structural decisions in conjunction with such relevant structures;
- 11.3.2.5.16 perform any other duties as by usage and custom pertains to the office;
- 11.3.2.5.17 perform the duties imposed on the Union by the Labour Relations Act, 1995, as amended, in particular Sections 98, 99 and 100 thereof, relating to the keeping of records and the furnishing of information to the Registrar.
- 11.3.2.6 The General Secretary may resign on giving one (1) calendar months' notice in writing to the NEC.
- 11.3.2.7 The General Secretary may be removed from office in terms of **Clause 13.3.**
- 11.3.2.8 **Deputy General Secretary shall**
- 11.3.2.8.1 perform such duties as are delegated to him/her by the General Secretary;
- 11.3.2.8.2 coordinate the implementation of structural decisions in conjunction with relevant structures; and
- 11.3.2.8.3 in the event of the General Secretary being unable, either temporarily or permanently, to perform his/her duties, the Deputy General Secretary shall assume his/her duties until the next NEC, which shall appoint an Acting General Secretary. The Acting General Secretary shall hold office until the General Secretary is able to resume his/her duties or until the next election, whichever occurs first.
- 11.3.3 **Powers of the National Office Bearers**
- 11.3.3.1 the National Office Bearers (NOBs) have power less than those of the National Executive Committee (NEC) in principle.
- 11.3.3.2 the NOBs shall manage the affairs of the Union between NEC meetings, including taking policy decisions and actions subject to

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prior approval and/or post endorsement of the NEC, enforce decisions of the NEC and/or NC and provisions of its Constitution; as well as instituting or defend all legal proceedings by or against the Union, which are deemed necessary.

11.3.3.3 process the recruitment, selection and appointment of candidates to fill vacant positions subject to the NEC endorsement;

11.3.3.4 have the powers to discipline POBs following the procedure in **Clause 13.5.**

11.3.3.5 implement the NC and NEC decisions and have the powers to make recommendations to the NEC and seek ratification from and/or endorsement of decisions made and actions taken from the NEC.

11.3.3.6 The National Office Bearers (NOBs) shall have the power, strictly for the benefit and purposes of the Union, to borrow from time to time such sums of money, on such terms and conditions as they may consider fit, with power from time to time to consent to any variations or alterations of the terms of any such borrowing and secure such borrowing or any obligation of the Union by pledging either generally or specifically, any of the assets constituting portion of the Union assets and, if considered fit to borrow afresh on security or otherwise for the purpose of repaying any such pledge.

11.3.3.7 The National Officers Bearers are hereby empowered to sign suretyship on behalf of the Food and Allied Workers Building Trust, Trust number IT619/89.

#### 11.3.4 **Procedures and Principles**

##### 11.3.4.1 Meetings

The NOBs shall meet at least once a month at a place and at such a time that the President, in consultation with other NOBs, may decide.

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#### 11.3.4.1.1

#### Notice

Written or verbal notice of every NOB meeting shall be communicated to all members of the NOB not less than seven (7) days before a date of such a meeting, provided that in a case of special meetings, shorter notices of not less than forty-eight hours (48) hours may be given.

#### 11.3.4.1.2

#### Quorum

The quorum of NOB meetings shall be 50%+1 of the expected number of NOBs in both the special and normal meetings. If within sixty (60) minutes of the time fixed for a meeting a quorum is not formed, the meeting shall stand adjourned until further notice.

#### 11.3.4.1.3

#### Minutes

Copies of minutes of NOB meetings shall be distributed to all the NOBs in the next meeting or where possible three (3) days before.

### PART SIX

## 12 ELECTION PROCEDURES FOR SHOP-STEWARDS and OFFICE BEARERS

### 12.1 Shop Stewards

12.1.1 Alternate Shop-stewards who are recognised as such in terms of Recognition Agreements are not Shop-stewards for the purposes of this Constitution.

12.1.2 Shop-stewards for each workplace shall be elected by the members in good standing who are employed at such workplace. The election of shop-stewards shall be subject to the provisions of the Recognition Agreement and/or the following provisions:

12.1.2.1 Only members in good standing employed at the workplace shall be eligible for election as shop stewards for such workplace

12.1.2.2 The number and distribution of shop stewards shall be in accordance with the nature of their employment and the BEC having jurisdiction shall decide such numbers and distribution after consultation with the membership at each workplace;

- 12.1.2.3 An official(s) of the union shall be present at the meeting convened in each workplace for the purpose of electing shop stewards;
- 12.1.2.4 The nomination of members as shop stewards shall take place at a meeting of the members of the workplace who shall be given at least seven (7) days' notice thereof. All nominations shall be moved and duly seconded;
- 12.1.2.5 Written notice of such meetings may be posted on the boards in workplace where an election is to be held and may be posted on the notice board of the relevant branch office of the Union at least three (3) days prior to such meeting, but no election shall be invalidated solely by the non-receipt of any such notice by any member;
- 12.1.2.6 Voting for shop stewards in each workplace, or elsewhere, shall be by ballot only and in the event of only one (1) person duly nominated, he/she shall be declared to be duly elected;
- 12.1.2.7 Shop-stewards elected at each workplace respectively shall assume and hold office for a period of four (4) years as from the date of the overall elections, or till expiry of the remainder period if bi-elected and shall exercise the rights and discharges the duties assigned to them by this Constitution. They shall be eligible for re-elections. Elections shall be held in the period January to March of every fourth (4<sup>th</sup>) year failing which affairs of the workplace shall be taken over by the Branch until elections are held.
- 12.1.3 If there is a conflict between the provisions of the Recognition Agreement (RA) and this Clause 12, the provisions of the LRA shall apply.
- 12.2 **Office Bearers and Delegates:**
- 12.2.1 Office Bearers of each structure shall be elected by delegates to the BC, PC and NC, as the case may be, and in the case of SSC Office Bearers, by the WGM.

- 12.2.2 Only members in good standing, and who are shop stewards at their workplace shall be eligible for election as Office Bearers and Delegates. In the case of Provincial Secretaries, the Deputy General Secretary and the General Secretary, they shall be full time Officials of the Union and shall have no voting rights.
- 12.2.3 Office Bearers and Delegates shall hold office until the next election and shall be eligible for re-election.
- 12.2.4 All voting in contested elections of Office Bearers and Delegates shall be by ballot only and on a motion duly seconded. Candidates receiving the highest number of votes shall be declared elected. In the event of only one (1) person being nominated and seconded, he/she shall be declared to be duly elected.
- 12.2.5 Presiding over and overseeing of elections shall be as follows:
- 12.2.5.1 in respect of Shop-stewards elections, by the officials of the Union;
  - 12.2.5.2 in respect of BOBs Branch Congress and BEC delegates, by one / more / all of the POBs;
  - 12.2.5.3 in respect of POBs, NEC and NC delegates, by one / more / all NOBs;
  - 12.2.5.4 in respect of Workplace, by Officials;
  - 12.2.5.5 in respect of Branches, by the POBs;
  - 12.2.5.6 in respect of Provincial, by the NOBs;
  - 12.2.5.7 in respect of National, by an Independent Body.

## **PART SEVEN**

### **13 VACANCIES, BI-ELECTIONS, REMOVAL FROM OFFICE AND DISCIPLINE**

#### **13.1 Vacancies**

- 13.1.1 A delegate of the SSC, BEC, PEC and/or NEC shall vacate his/her seat in any of the following circumstances:
- 13.1.2 On resignation in writing;
- 13.1.3 On resignation, suspension or expulsion from membership of the Union or being unable to perform his/her duties;
- 13.1.4 On ceasing to be a Union member in good standing;
- 13.1.5 On ceasing to be a shop-steward or to be employed at a workplace where he/she was elected as a shop-steward, provided that where an unfair dismissal case is pending such person shall remain in his /her position until the finalization of the case or his/her replacement at the workplace.
- 13.1.6 On being absent from two (2) consecutive meetings without sending a written apology acceptable to the relevant structure;
- 13.1.7 If the relevant structure he/she represents so decides, by a majority of that structure.
- 13.1.8 On being removed from an elected position.
- 13.1.9 Filling of Vacancies in the relevant structures shall be filled as follows:
  - 13.1.9.1 In the case of office bearers of the relevant structure, vacancies should be filled by an election in the relevant structures amongst its members within 90 days of the occurrence of such vacancy or in the next structural meeting where such vacancy has occurred.
  - 13.1.9.2 An Office Bearer or member elected to fill a vacancy shall hold office for the unexpired period of office of his/her predecessor

## 13.2 **Bi-Elections**

- 13.2.1 By-elections can only be called to fill a specific vacancy which has arisen within a structure.
- 13.2.2 Every bi-election in relation to a vacant position must be conducted in terms of clause 12 (elections).
- 13.2.3 A member elected to fill a vacant position shall hold office for the unexpired period of the term of office of that member's predecessor.
- 13.2.4 Within 90 days of a vacancy arising on any structure, or at the next structural meeting, a bi-election must be held.
- 13.2.5 Members, shop stewards and delegates shall be eligible for election in a bi-election if at the time nominations close, they:
  - 13.2.5.1 are members in good standing; and
  - 13.2.5.2 are members or delegates to a relevant workplace or structure, respectively, where the vacancy arose.
- 13.2.6 A member or shop steward or delegate shall not be eligible for elections in a by-elections if they:
  - 13.2.6.1 have been suspended from the union;
  - 13.2.6.2 undergoing a disciplinary process in terms of clauses 13.4 and 13.5; and
  - 13.2.6.3 have been expelled from the Union.

## 13.3 **Removal of Office Bearers and Shop-Stewards from Office**

- 13.3.1 An Office Bearer, or shop-steward may be removed from office if he/she:
  - 13.3.1.1 Infringes any provision(s) of this Constitution;
  - 13.3.1.2 Acts in any manner, which is detrimental to the interests of the Union.
- 13.3.2 No Office Bearer may be removed from office unless he/she has been afforded an opportunity to state his/her case personally or in writing to the BC, PC, NEC, NC as the case may be.

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- 13.3.3 An Office Bearer or Shop-steward can be removed from office only if 2/3 of members entitled to vote, vote for his removal.
- 13.3.4 No shop-steward shall be removed from office unless he/she has been afforded an opportunity to state his/her case personally or in writing to the body which elected him/her in terms of the Recognition Agreement or this Constitution
- 13.3.5 Appeals and Procedure
- 13.3.5.1 An Office Bearer or shop-steward that has appeared before the applicable body referred in Clause 13.3.2 or 13.3.3 above, shall have right of appeal.
- 13.3.5.2 Notice of appeal shall be given to the Secretary of the Appeal Structure concerned, in writing within seven (7) days of the date on which the decision of the structure was communicated to the person concerned. The Appeal Body will consider the written appeal and may confirm, vary or reverse such decision. The decision of the Appeal Body shall be final.
- 13.3.6 In the case where the Provincial Secretary, Deputy General Secretary and the General Secretary is removed from office, he/she will still remain an employee of the union but no longer in the elected position which he/she held prior to the removal. Where such a person is however disciplined in terms of the FAWU Disciplinary Code and Procedures and be dismissed, he/she shall automatically be removed from his/her elected position as from the date of such dismissal.
- 13.4 **Discipline of Office Bearers and Officials**
- 13.4.1 The employees of the Union who hold elected office shall be disciplined as employees, in terms of the Disciplinary Code and Procedures of the Union if they have committed a misconduct under such code;

13.4.2 The members of the Union who hold elected office shall be disciplined as members in terms of Clause 13.6 of this Constitution for all misconduct committed;

13.4.3 The provisions of this Clause shall not detract from the rights which Structures have to remove an Office Bearer from a position to which such a Structure elected him to hold such Office.

**13.5 Discipline of Members**

13.5.1 The power to discipline members of the Union in each Province shall vest in the POBs of the Province.

13.5.2 Any member of the Union, irrespective of whether or not such member is an office bearer, may be suspended, fined or expelled as may be determined by the POB or, in the case of POB members, by the NOBs if he/she infringes any of the terms of this Constitution or acts in a manner, which is detrimental to the interests of the Union or in respect of misconduct.

13.5.3 No member may be suspended, fined or expelled unless s/he has been afforded the opportunity to state his /her case personally or in writing at the meeting of the POB. Such member shall be given not less than seven (7) days' notice in writing by the Provincial Secretary of the POB. The matter with which the member is charged shall be set out in such notice.

13.5.4 If the POB is satisfied that the member charged, though absent, received the prescribed notice, or is the person charged is present, the POB may proceed to hear the matter and determine it.

13.5.5 A member shall be entitled to call such witnesses in support of his/her case as are reasonably necessary when attending a hearing. The POB may call further witnesses as it finds necessary and may take such further investigations as it deem expedient before arriving at a decision.

13.5.6 And if the POB finds the charge proved to its satisfaction may:

13.5.6.1 Expel the member from the Union.

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- 13.5.6.2 Suspend the member for a definite period from membership.
- 13.5.6.3 Impose a fine of two hundred and fifty rand (R250) for the first time offence but not exceeding five hundred rand (R500), and not less than one thousand rand (R1000) for subsequent offences but not more than one thousand five hundred rand (R1500) and may suspend a person from membership until such a fine is paid without prejudice to any right of civil action to recover such monies;
- 13.5.7 Appeals and Procedure for Members
- 13.5.7.1 A member who has appeared before the POBs, NOB and who is dissatisfied with the decision of the POB or NOB shall have the right to appeal to the NEC. Notice of such an appeal shall be given to the General Secretary, in writing, within fourteen (14) days of the date on which the decision of the disciplinary action was communicated to the person concerned. The notice of the appeal shall state the grounds of appeal.
- 13.5.7.2 The appellant shall have the right to address the NEC in person or in writing on the issues on the grounds of appeal and the representative of the POB who conducted the disciplinary hearing shall have the right of personal or written response.
- 13.5.7.3 The NEC shall confirm, vary or reverse the decision taken at the disciplinary hearing. The decision of the NEC on appeal shall be final and the member concerned shall have no further right of appeal.
- 13.5.7.4 Upon expulsion of a member, all monies due to the Union by such member shall become payable.
- 13.6 **Discipline of Elected Officials, Appointed Officials and Other Employees**
- 13.6.1 The discipline of elected officials, officials and employees shall at all time take place in accordance with the FAWU Disciplinary Code and Procedures as endorsed and amended from time to time by either the NEC and/or the NC (elected officials in this case referring to all Secretaries).

## **PART EIGHT**

### **14 RULES AND PROCEDURES APPLICABLE IN ALL UNION MEETINGS**

#### **14.1 Meeting Procedure, Voting and Speaking Rights**

- 14.1.1 In addition to the delegates required in terms of this constitution to attend any meeting, meetings may be attended by Union officials who shall have speaking rights but not voting rights. Visitors invited by the BOBs, POBs or NEC, NOB to the relevant structure may attend Union meetings and have speaking rights but no voting rights.
- 14.1.2 All meetings shall be conducted in accordance with the agenda as adopted by the meeting.
- 14.1.3 All decisions/resolutions shall be decided on a motion moved and duly seconded. If the meeting decides it is necessary, or fifty percent plus one of the delegates entitled to be present at any meeting request a vote by ballot, such decision/resolution shall be voted upon by ballot. Except where the constitution provides otherwise, all matters shall be decided upon by a majority vote.
- 14.1.4 The mover of a motion shall have the right to speak for ten (10) minutes unless the meeting agrees to an extended period and shall have the right to reply to debate provided such reply should not be longer than five (5) minutes.
- 14.1.5 All other speakers have the right to speak for five (5) minutes, unless the presiding officer permits an extended period.
- 14.1.6 No subject shall be debated for longer than one and a half hours. Once this threshold has been reached the subject matter shall be decided by a vote by ballot, unless two thirds of the delegates entitled to vote decides to extend the period of debate.
- 14.1.7 A Chairperson of a meeting shall be entitled to make a ruling on matters of procedure. This ruling shall be final unless a motion, which is seconded, is moved to overrule the Chairperson's ruling and is supported by a

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majority of members required to attend such a meeting. In the event that such a motion is proposed, the proposer and the Chairperson in reply, shall each be allowed to speak for no more than 5 minutes each. No other person shall be allowed to speak or to debate the motion to overrule the Chairperson's ruling.

## **15 Ballots and Voting Procedure**

15.1.1 A ballot on any issue, if it does not contradict any other part of this constitution, shall be taken amongst the members of the Union in the relevant workplace if the SSC concerned, the NEC or the relevant PEC or BEC so decide. A ballot shall be any system of voting by members that is recorded and in secret. Furthermore within thirty (30) days of a petition signed by not less than ten (10%) of members in good standing in the relevant structure requesting a ballot on any issue being presented to the Chairperson of the SSC or the Branch Secretary, Provincial Secretary or General Secretary shall convene a meeting of members in the structure, as the case may be, for the holding of such ballot.

15.1.2 Procedure

15.1.2.1 The relevant Congress or Committee conducting the ballot shall appoint at least two (2) scrutinisers from among its members, who shall count the ballots and shall have a voter's roll.

15.1.2.2 Each voter shall, in the presence of a scrutinizer, be issued with an authenticated ballot paper. The voter shall complete, fold and deposit the ballot paper in a sealed container provided for the purpose.

15.1.2.3 Such ballot papers shall not be signed or marked in any way, on the face of it, apart from the mark required to be made by a member in recording his/her vote. Papers bearing any other marks on their face shall be regarded as spoilt.

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- 15.1.2.4 Ballot boxes shall be inspected by the scrutinizer and sealed in the presence of observers. In the event of an election being conducted by ballot, candidates shall have the right to inspect such ballot boxes prior to the ballot being taken and shall also have the right to be present when the ballot boxes are sealed.
- 15.1.2.5 On completion of voting the results thereof shall be ascertained by the appointed scrutinizer and shall be made known to the member concerned and also the relevant structure conducting the ballot.
- 15.1.2.6 Ballot papers including spoilt papers shall be placed in a sealed container again and shall be handed to the Provincial Secretary, in respect of workplace, branch and provincial ballots. The Provincial Secretary shall forward the ballots to the General Secretary who shall retain the same for not less than three (3) years.
- 15.1.2.7 The body responsible for the conducting of a ballot shall be bound to take action according to a decision of the majority of the members voting in any ballot, provided that such Congress or Committee shall not be so bound where less than thirty percent (30%) of the members entitled to vote have voted.
- 15.1.2.8 While members shall be entitled to express their view for or against any candidate standing for election and to express their views on any issue on which a ballot is called, the scrutinizer shall have the right and duty to ensure that no discussion on the merits of any issue related to the ballot are discussed with any voter from the time s/he is given his/her ballot paper until after s/he deposited his/her ballot paper in one of the sealed ballot boxes.

15.1.3 Scrutinizers relating to Ballots

Whenever any meeting of the Union decided to take a ballot on any question the meeting shall elect as many scrutinizers as it may deem necessary from

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amongst the members of the union present at such a meeting who shall conduct the ballot and elections.

15.1.4 The trade union shall, before calling a strike, conduct a ballot of those of its members in respect of whom it intends to call the strike.

14.2.5 Notwithstanding anything to the contrary contained in this Constitution, members of the trade union shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike if -

14.2.5.1 no ballot was held about the strike; or

14.2.2 a ballot was held but a majority of the members who voted did not vote in favour of the strike.

## **PART NINE**

### **16 FINANCE**

16.1 The funds of the Union shall be made up of all monies received by means of subscription, levies, donations, functions and in any other lawful manner.

16.2 The Funds including subscription fees of the Union shall be deposited in a bank account of the NEC (the NEC account) decided upon by the NEC, or subject to the approval of the NEC, the funds collected by each Province shall be deposited into the NEC account.

16.3 The Funds of the Union shall be applied to the payments of such expenses, the acquisition of such property and such other purposes as may be decided on or approved by the NEC, and subject to the following:

16.4 The NEC shall approve the amount of funds for petty cash that may be made available during any one month and shall determine the manner in which this money may be spent and should be accounted for.

16.5 Provinces may apply the funds allocated to them by the NEC to the payments of expenses or such other purposes as may be determined by the PEC, subject to the approval of the NEC.

16.6 All accounts of the union shall be audited annually by a person registered as an accountant and auditor under section 23 of the Public Accountant's and Auditor's Act No 51 of 1951, appointed by the NEC.



- 16.7 The audited financial statements, balance sheet and auditors report in respect of the Union for each financial year end as at 31 March shall be confirmed by the National Congress.
- 16.8 In accordance with the provisions of section 98, 99 and 100 of the Labour Relations Act, 1995, the General Secretary shall prepare a statement of income and expenditure and a balance sheet in respect of each financial year ending March. Such statement and balance sheet shall be audited and dealt with as required by section 98(2) of the Act.
- 16.9 The auditors' report contemplated in 16.7 shall state whether the auditor:
- 16.9.1 Is satisfied that proper books have been kept;
- 16.9.2 Has satisfied him/herself of the existence of the securities and has examined the books of accounts and records of the Union;
- 16.9.3 In his/her opinions satisfied that the statement of income and expenditure and the balance sheet audited by him/her have been properly drawn up so as to exhibit a true and correct reflection of the state of affairs of the Union according and as shown by the books of the Union as at the date of the balance sheet;
- 16.9.4 The auditor has obtained all the information and explanation required;
- 16.9.5 In his/her opinion is satisfied that the provision of the Constitution of the union in so far as they related to financial affairs, have been complied with and in compliance with relevant provisions of the LRA.
- 16.10 A member who resigns or is expelled from membership shall have no claim on the funds of the Union as and from the date on which resignation or expulsion takes place.
- 16.11 The NEC shall have the power to invest surplus monies in a manner that the Union stands to benefit from the investments.



## 17 **DISPUTES**

In the event of a dispute existing between the union and any other party, the General Secretary subject to the prior approval or subsequent confirmation of the NEC, to take appropriate action on behalf of the Union, and to do all the things necessary on behalf of the Union in respect thereof.

## 18 **INDEMNIFICATION OF SHOP-STEWARDS, OFFICIALS, OFFICE-BEARERS and COMMITTEE MEMBERS**

The shop-stewards, officials, Office-Bearers and committee members of the Union provided that they have not acted in a manner which would constitute misconduct, shall be indemnified by the Union against all proceedings, costs and expenses incurred by reason of any omission, negligence or other act done in performance of their duties on behalf of the Union and they shall not be personally liable for any of the liabilities of the Union.

## 19 **REPRESENTATION ON BARGAINING and STATUTORY COUNCILS as well as OTHER FORUMS and STRUCTURES**

- 19.1 The NEC may at any time recommend that the union shall become a party to a bargaining and/or statutory council established in terms of the Labour Relations Act 1995 and other forums and structures of engagements and consultations as may be set up and the union be invited or secure its participation.
- 19.2 Representatives and their alternates shall be appointed by the NEC or by a structure/committee to which such powers have been delegated by the NEC.
- 19.3 Representatives or their alternates on a bargaining and/or statutory council and other forums/structures may be removed by the NEC and may resign on giving one (1) month notice to the NEC or by such notice as may be prescribed in the constitution of the council or forum or structures concerned.
- 19.4 In the event of the resignation or death of a representative or an alternate or his/her removal, the vacancy shall be filled by the NEC or by the structure/council as per clause 19.2.

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- 19.5 Representatives or their alternates shall have the full power to enter into agreements on behalf of the union and such agreement shall be informed by the mandate of the Union.

## 20 WINDING-UP / DISSOLUTION

- 20.1 The union shall be winded-up if 60% of the total membership voted in favour of a resolution that the union be winded-up.
- 20.2 If a resolution for winding-up the union has been passed or for any reason the union is unable to continue to function, the following provisions shall apply:
- 20.2.1 The last elected/appointed president of the union, or if he/she is not available, the available members of the last elected national office bearers and/or national executive committee of the union, shall forthwith transmit to the labour court a statement sign by him/her or them setting forth the resolution adopted or the reasons for the union's inability to continue to function as the case maybe, and request the labour court to grant an order in terms of section 103 of the Labour Relations Act 1995.
- 20.2.2 After the payment of all debts by the Liquidator, the remaining funds, if any, shall be distributed among the remaining members of the trade union on the basis of membership fees actually paid during the 12 months prior to the date of dissolution.
- 20.2.3 After the payment of all liabilities any assets that cannot be disposed of in accordance with the provisions of this clause shall be realised by the liquidator and the proceeds paid to the Commission for Conciliation, Mediation and Arbitration (in accordance with section 103(5)) of the Labour Relations Act, 1995).
- 20.2.4 The liability of members shall for the purpose of this clause be limited to the amount of membership fees due by them to the union in terms of this Constitution as at the date of dissolution.

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## 21 AMENDMENTS TO THE CONSTITUTION

- 21.1 Any of the provisions of this Constitution may be repealed or amended in any manner by resolution of the National Congress (NC) or special NC.
- 21.2 The amendments shall be adopted by unanimous votes unless contested, in which case same shall be adopted by a ballot.
- 21.3 No changes or amendments to the Constitution or its provisions shall have any force or effect until certified in terms of section 101(3) of the Labour Relations Act, 1995.

### SIGNING - OFF

*We, the undersigned, being the President and the General Secretary of the Union, certify that all the provisions of the existing Constitution have been complied with in the adoption of amendments to the Constitution.*

SIGNED BY:



**PRESIDENT**

26 March 2020

DATE

SIGNED BY:



**GENERAL SECRETARY**

26 March 2020

DATE