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## **PREAMBLE**

We, union members, firmly commit ourselves to the formation of a strong, democratic organisation controlled by its members. We further commit ourselves to a united, non-racial, non-sexist, democratic South Africa, free from oppression, economic exploitation and all other forms of unfair discrimination.

History has taught us that unorganised and divided workers cannot meaningfully improve their working conditions. Only effectively organised and united workers are able to improve wages, raise their standard of living and protect themselves against the insecurities of life.

We therefore commit ourselves to unity, comradeship and solidarity of all workers. We unreservedly reject any attempts to sow disunity among workers on the basis of colour, nationality, race, sex, religion, creed and disability. We declare that the long-term interests of all workers are alike irrespective of the above differences.

We declare our commitment to coordinate, affiliate, associate and formulate working class relations with other worker organisations or federations or any progressive organisations within the community of South Africa and internationally to build a better and happy life for the working class and all South Africans. Together with these organisations we declare to fight for these ideals and establish a future South Africa and the world that is free from unemployment, poverty, diseases, racial oppression and economic exploitation. We commit ourselves to the task of building and defending socialism.

We call on all those who identify with this commitment to join us as comrades in the struggle ahead. We firmly resolve that this union shall seek to protect, advance and defend the interests of all its members, and workers in general. Its guiding motto shall be the universal slogan of working class solidarity "an injury to one is an injury to all".

1.

## **PART ONE: THE UNION**

### **CHAPTER 1: FOUNDING PROVISIONS**

#### **1. Establishment and Name**

- (1) There is hereby established an association of employees, to be known as the National Education Health and Allied Workers Union, which is a trade union as defined in the Act.
- (2) The union established by subsection (1) is:
  - (a) an association not for gain; and
  - (b) a corporate body having perpetual succession, legal existence, and all the legal powers of a juristic person.
- (3) As a matter of convenience, the National Education Health and Allied Workers Union:
  - (a) is referred to throughout this constitution as "the union"; and
  - (b) may be referred to in any notice, correspondence or legal document by the shortened form of name "NEHAWU".

#### **2. Objectives**

- (1) The aim and objectives of the union are:
  - (a) to recruit and unite workers into one single union in order to share their economic and social welfare;
  - (b) to protect the job security of members, to advance their employment prospects, and to serve their individual and collective interests;
  - (c) to foster unity, co-operation and comradeship amongst all workers within the scope of the union and other industries;
  - (d) to establish relationships with other trade unions, trade union federations and labour organisations for the benefit of members of the union; and
  - (e) to build international working class solidarity and bi-lateral relations with trade unions internationally.

2.

### 3. Scope

- (1) The union may operate anywhere in the Republic of South Africa, and is open to any worker employed in any of the following sectors:
  - (a) health;
  - (b) education excluding educators defined in the Educators Employment Act;
  - (c) social development;
  - (d) state administrations; and
  - (e) parastatals and public entities.

### 4. Offices

- (1) The Central Executive Committee of the Union:
  - (a) may determine the location of the union's head office; and
  - (b) must maintain at least one office in the Republic at all times.

### 5. Authority of the Constitution

- (1) This constitution is the source of all rights and responsibilities within the union, and is the final authority concerning any dispute within the union.

## CHAPTER 2: UNION ORGANISATION

### 6. Structures within the Union

- (1) The union is organised into the following structures and general spheres of authority:
  - (a) members, who collectively are the foundation of democratic organisation in the workplace and in the union;
  - (b) shop stewards and shop steward committees, which operate within the different workplaces in which members work;
  - (c) branch executive committees (referred to as "BEC") which operate within each branch;

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- (d) branch congresses (referred to as "BC") which operate within each branch;
- (e) regional executive committees (referred to as "REC") which operate within each region;
- (f) regional congresses (referred to as "REC") which operate within each region;
- (g) provincial executive committees (referred to as "PEC") which operate within each province;
- (h) provincial congresses (referred to as "PC") which operate within each province;
- (i) national executive committee (referred to as "NEC") which operates at national level;
- (j) central executive committee (referred to as "CEC") which operates at national level; and
- (k) national congress (referred to as "NC"), which operates at a national level.

### 7. Spheres of Authority within the Union

- (1) Within the union, authority to effect the aims and objectives of the union is allocated as follows:
  - (a) Within the workplace sphere of operations
  - (b) where there are less than 50 members in a workplace, shop stewards exercise all authority of the union, subject to the decisions and policies of their, BEC, BC, REC, RC, PEC, PC, NEC, CEC and NC; and
  - (c) where there are 50 or more members within a workplace, the Shop Stewards Committee for that workplace exercises all authority of the union, subject to the decisions and policies of their BEC, BC, RC, REC, RC, PEC, PC, NEC, CEC, and NC.
- (2) Within the branch sphere of operations:
  - (a) the policy-making authority of the union is exercised by the BC subject to the decisions and policies of the REC, RC, PEC, PC, NEC, CEC, and NC;

4.

- (b) the management of the affairs of the union and the executive authority of the union, is exercised by the BEC, subject to the decisions and policies of its BC, REC, RC, PEC, PC, NEC, CEC, and NC.
- (3) Within the regional sphere of operations:
- (a) the policy-making authority of the union is exercised by the RC subject to the decisions and policies of the PEC, PC, NEC, CEC, and NC;
  - (b) the management of the affairs of the union and the executive authority of the union is exercised by the REC, subject to the decisions and policies of its RC, PEC, PC, NEC, CEC, and NC.
- (4) Within the provincial sphere of operations:
- (a) the policy-making authority of the union is exercised by the PC, subject to the decisions and policies of the NEC, CEC, and NC;
  - (b) the management of the affairs of the union between meetings of the PEC, and the executive authority of the union, is exercised by the PEC, subject to the decisions and policies of the PC, NEC, CEC, and NC.
- (5) Within the national sphere of operations:
- (a) the policy-making authority of the union is exercised by the NC;
  - (b) the development of union policy, between meetings of the NC is exercised by the CEC, subject to the decisions and policies of the NC;
  - (c) the NEC, and the national office-bearers (NOB's), exercise the executive authority of the union, subject to the decisions and policies of the CEC, and the NC.

## **PART TWO: UNION STRUCTURES**

### **CHAPTER 3: MEMBERSHIP**

#### **8. Qualification for Membership**

- (1) To be eligible for membership in the union, a person:
- (a) must be a worker covered by the scope of this constitution (a member); or
  - (b) must be associated with the union by virtue of the applicant's work, political position or historical connection (an associate member);
  - (c) a worker who, but for the retirement would otherwise qualify for membership of the union (a retired member);
  - (d) must be a fit and proper person to be a member; and
  - (e) must not have been either rejected as a member, or expelled from membership in the union, within the past 12 months.
- (2) No person may be rejected as a member of the union on any basis that constitutes unfair discrimination in terms of section 9 of the Constitution of the Republic of South Africa, 1996.

#### **9. Application and Acceptance**

- (1) Any eligible person may apply for membership in the union by submitting to the branch of the union which has jurisdiction over that worker's area of employment:
- (a) an application in the proper form; and
  - (b) the prescribed subscription form.
- (2) Upon receiving an application for membership in terms of subsection (1), a BEC must either:
- (a) enrol the worker as a member of the union in a manner prescribed by the union; or

- (b) reject the application if it believes that the worker is not eligible to be a member of the union.
- (3) A worker whose application for membership has been rejected by a BEC:
- (a) may, within 30 days of the rejection, appeal in writing against that decision to the PEC by lodging a written notice of appeal with the branch secretary concerned; and
  - (b) may appear personally at the meeting of the PEC scheduled to consider the appeal, for the purpose of making representations in support of the appeal.
- (4) Upon considering an appeal in terms of subsection (3), a PEC must either:
- (a) confirm the decision of the BEC; or
  - (b) direct that the BEC should enrol the worker as a member of the union.
- (5) A decision of a PEC in terms of subsection (4) is final.
- (6) An unsuccessful applicant for membership:
- (a) is entitled to a refund of the subscription fee paid with the application; and
  - (b) may make a fresh application after at least twelve (12) months have elapsed from the date on which his/her previous application was rejected by the BEC or the appeal was turned down by the PEC, whichever is the later.

#### 10. Subscription Fee

- (1) The CEC may establish a common basis for determining the members' monthly subscription fees, but a member's fee may not exceed:

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- (a) 1% of the members basic salary; and
  - (b) a maximum amount established by the CEC.
- (2) A member may pay the monthly subscription fee through a check-off facility that provides for direct payment to the union's national account.
- (3) A BEC may excuse a member from paying monthly subscription fee for any period of time if, due to illness, that member has been unable to work for a continuous period of at least three months.

#### 11. Good Standing

- (1) A member remains in good standing unless:
- (a) the member's subscription fees are more than three months in arrears; or
  - (b) the member has been suspended in terms of section 12.
- (2) Despite subsection (1)(a), a member who has been excused in terms of section 10(3) from paying subscription fees remains in good standing during the period of that exemption.
- (3) Only a member, excluding associate and retired members, in good standing is entitled to the benefits of membership.
- (4) Associate and retired members shall not be entitled to the full benefits referred to in section 11(5). The benefits that associate and retired members are entitled to must be determined by the CEC.
- (5) Subject to this constitution, the benefits to membership, include:
- (a) attending meetings of the union;
  - (b) meeting and assembling freely with other members;
  - (c) participating in union activities;
  - (d) voting in elected representatives; and

8.

- (e) enjoying the rights and benefits conferred on members in terms of the Labour Relations Act.

## 12. Suspension of, or Expulsion from Membership and Resignation

- (1) A REC, after holding an inquiry at which the member concerned is afforded an opportunity to be heard, may recommend to the PEC, which will recommend to the NEC, that a member be suspended or expelled for conduct that is against the interests of the union and its members.
- (2) The PEC, on its own initiative, following an enquiry at which the member concerned is afforded an opportunity to be heard, or upon receipt of a recommendation from a REC, may recommend to the NEC that a member be suspended or expelled for conduct that is against the interests of the union and its members.
- (3) The NEC, on its own initiative, following an enquiry at which the member concerned is afforded an opportunity to be heard, or upon receipt of a recommendation from a PEC, may suspend or expel a member for:
  - (a) acting against the interests of the union;
  - (b) failing to pay the required monthly subscription fees; or
  - (c) failing, without a reason or apology acceptable to the particular committee to which the member was on, to attend more than three (3) consecutive meetings of BEC, REC, PEC, NEC or CEC; and
  - (d) Violation of the constitution, policies, procedures and membership code.
- (4) A suspension or expulsion in terms of subsection (1) and (2) is not effective until the NEC has made a decision to this effect. Once the decision is made, the member concerned must be notified in writing of the reasons for the suspensions or expulsion, and give that member an opportunity to present a case to the Appeals Committee established and appointed by the CEC.

- (5) The member concerned may appeal a suspension or expulsion by:
  - (a) lodging an appeal with the General Secretary within 30 days of having been notified of the suspension or expulsion; and
  - (b) the appeal must be referred to the Appeals Committee appointed by the CEC for consideration. The Appeals Committee is the structure that finalises all appeals and its decisions are final and binding.
- (6) A member may resign from the union by giving 30 days written notice to the NEC, the PEC, REC or the BEC stating the reasons for resigning.
- (7) The NEC, PEC, REC or BEC may waive the notice period required for a resignation in terms of subsection (5).
- (8) When a member resigns or is expelled from the union:
  - (a) the member remains responsible to the union for any money that the member owes to the union at that time;
  - (b) the member has no further claim on any assets of the union; and
  - (c) the NEC must ensure that appropriate steps are taken to recover any money that the member owes to the union.
- (9) Any member who has resigned or been expelled from the union may be re-admitted to membership if:
  - (a) at the time of application for readmission they meet the requirements of section 9; and
  - (b) they comply with any conditions determined by the PEC concerned.

## 13. Termination of Membership due to Termination of Employment Contract

- (1) Subject to subsection (2)-(5), a person ceases to be a member of the union 30 days after the date, on which that person's contract of employment within the registered scope of the union terminates.

- (2) A member whose contract of employment within the registered scope of the union has been terminated, but who intends to remain employed within the registered scope of the union, may choose to remain a member of the union by notifying the REC of the BEC concerned in writing within 30 days after that member's contract of employment terminated.
- (3) A person who remains a member of the union in terms of subsection (2):
  - (a) is not required to pay any subscription fee during the period that they are unemployed and intending to return to employment in the industry; and
  - (b) ceases to be a member of the union on the earlier of:
    - (i) the date on which the member withdraws their requirements for membership to continue;
    - (ii) the date on which the member begins to work outside the registered scope of the union, with the intention to remain outside; or
    - (iii) the date that is six months after the date on which that member's contract of employment terminated.
- (4) A member whose contract of employment has been terminated by the employer as a result of a labour dispute or under circumstances which the member believes renders the dismissal unfair, may choose to remain a member of the union by notifying the BEC or REC concerned in writing within 7 days of the date of dismissal.
- (5) A person who chooses to remain a member of the union in terms of subsection (4):
  - (a) is not required to pay any subscription fee until the later of:
    - (i) the date on which they are re-employed or reinstated; or
    - (ii) a date determined by the REC or the BEC;
  - (b) may remain a member of the union:
    - (i) for up to six months after the date on which that member was dismissed; or

- (ii) if legal proceedings to challenge the lawfulness of their dismissal have begun, until those proceedings are finalised; and
- (c) ceases to be a member of the union on:
  - (i) the date on which that person's membership expires in terms of paragraph (b);
  - (ii) the date on which that person withdraws their request for membership to continue; or
  - (iii) the date on which the person begins to work outside the registered scope of the union with the intention to remain outside.

## **CHAPTER 4: WORKPLACES**

### **14. Members Meetings at Workplaces**

- (1) The union members in a workplace must hold a meeting at least once every 60 days.
- (2) The composition of the meeting is the shop stewards and the members of the union at the workplace.
- (3) For purposes of commencing a meeting and in order for the meeting to continue:
  - (a) at least one third of the members of the union at that workplace must be present; and
  - (b) a majority of the shop stewards on the shop stewards committee must be present.
- (4) If, in terms of subsection (3), a meeting cannot commence within 30 minutes after the time fixed for it to begin, the shop stewards must fix a new time and date for the meeting, which must be not before 2 days and not after 7 days later.
- (5) Despite subsection (3), a meeting scheduled in terms of subsection (4) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## 15. Shop Stewards

- (1) The members of the union in good standing in each workplace must elect, by ballot and from among themselves, shop stewards:
  - (a) who hold office for 3 years; and
  - (b) who may be re-elected.
- (2) The BEC or the REC must regulate the election of the shop stewards in each workplace, including specifying the number of shop stewards to be elected.
- (3) The shop stewards shall have meetings at least once a month with members.

## 16. Shop Stewards Committee

- (1) At every workplace in which there are at least 50 union members, the members must, elect a shop stewards committee every three years representing various work sections in which the union has members.
- (2) The number of members constituting the Shop Stewards Committee must be at least 3 except that the BEC or the REC, after consultation with the members of the workplace, and in accordance with the guidelines established by the CEC, may increase the number of members constituting the committee.
- (3) The election procedure of the shop stewards committee is similar in principle to the election procedure at the national level as set out in section 48(3), subject to any additional requirements provided by the PC.
- (4) The shop stewards committee must meet at least every 14 days and is responsible to:
  - (a) conduct the affairs of the union in relation to members at that workplace;

- (b) receive and attend to complaints affecting members concerning their employment and, where necessary, report such complaints to the BEC or the REC;
- (c) report any improper employment practice or any matter within the jurisdiction of a shop steward in terms of any legislation to the BEC or the REC; and
- (d) defend the individual and collective interests of the membership at the workplace.

- (5) For purposes of commencing a meeting, and in order for the meeting to continue at least one third of the shop stewards in the committee must be present; and
- (6) If, in terms of subsection (5), a meeting cannot commence within 30 minutes after the time fixed for it to begin, the shop stewards must fix a new time and date for the meeting, which must be not before 2 days and not after 7 days later.
- (7) Despite subsection (5), a meeting scheduled in terms of subsection (6) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## CHAPTER 5: BRANCHES

### 17. Establishment of Branches

- (1) Branches of the Union are established and demarcated in accordance with CEC decisions on the type and nature of branches.

## CHAPTER 6: BRANCH OFFICES

### 18. Branch Office-Bearers

- (1) In each branch, the office-bearers are:
  - (a) the Branch Chairperson;

- (b) the Branch Deputy-Chairperson;
- (c) the Branch Treasurer; and
- (d) the Branch Secretary.

#### **19. Powers of the Branch Office Bearers**

- (1) The powers and duties of the branch office-bearers are generally the same as those of the national office-bearers, set out in section 49, and read with the change required by the context.
- (2) The branch office-bearers must liaise with their respective regional counterparts and keep them generally informed about the affairs of the branch.
- (3) The procedures for election of branch office-bearers are the same as those of the national office-bearers set out in section 48, and read with the changes required by the context.

### **CHAPTER 7: BRANCH EXECUTIVE COMMITTEE**

#### **20. Establishment**

The management of the affairs of the branch are vested in the BEC.

#### **21. Powers of the Branch Executive Committee**

- (1) The BEC has the powers and duties necessary to give effect to the aims and objectives of the union and which are usual in such an executive body, including powers to:
  - (a) approve monthly financial statements of the branch;
  - (b) recruit members within its jurisdiction and generally promote the interests of the members and the union;
  - (c) supervise the affairs of the workplaces within its jurisdiction; and
  - (d) do all further things as it considers are in the interest of the union and which are not in conflict with the decisions and policy of the NC, CEC, NEC, PEC, PC, REC, RC and the BC, nor inconsistent with the provisions of the constitution.

#### **22. Composition**

- (1) The BEC is composed of:
  - (a) the Branch Chairperson, Branch Deputy-Chairperson, Branch Treasurer and Branch Secretary; and
  - (b) the Chairperson and Secretary of each committee at a workplace within the branch.

#### **23. Meetings of the Branch Executive Committee**

- (1) The BEC must meet at least 4 times a year, at the place and on the date and time fixed by the Branch Secretary in consultation with the Branch Office Bearers.
- (2) Subject to subsection (4), the Branch Secretary must circulate notice of a BEC meeting, along with the agenda for the meeting, to each workplace within the branch:
  - (a) at least 7 days before a general meeting; and
  - (b) at least 24 hours before a special meeting.
- (3) For purposes of commencing a meeting of the BEC and, in order for the meeting to continue:
  - (a) at least half of the branch office-bearers must be present; and
  - (b) at least the majority of the members of the BEC must be present or the majority of the workplaces in the branch must be represented.
- (4) If, in terms of subsection (3), a meeting cannot commence within 1 hour after the time fixed for it to begin, branch office-bearers must fix a new time and date for the meeting, which must not be more than 7 days later.
- (5) Despite subsection (3), a meeting scheduled in terms of subsection (4) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## **CHAPTER 8: BRANCH CONGRESS**

### **24. Governing Body for Branch Structures**

- (1) The BC is the governing body of each branch structure of the union.

### **25. Powers of the Branch Congress**

- (1) Each BC has the powers and duties as may be assigned by the PEC, the NEC and CEC which may include to:
  - (a) implement decisions of the NC, CEC, NEC, REC, PC or RC;
  - (b) elect a Branch Chairperson, Deputy Chairperson and Branch Treasurer from among its members every 3 years;
  - (c) elect a Branch Secretary every 3 years;
  - (d) consider reports of the activities of the workplaces in the branch;
  - (e) consider reports of the activities of the BEC and the branch office-bearers;
  - (f) liaise with the National Office-Bearers on the employment of officials, subject to the NEC determining the terms of employment of such officials and subject to the CEC ratifying those terms;
  - (g) formulate policy for the branch not inconsistent with the decisions of the NC, CEC, NEC and REC or the provisions of this constitution; and
  - (h) generally carry out the aims and objectives of the union with regard to the organisation of workers in the branch.

### **26. Composition of the Branch Congress**

- (1) The BC is composed of:
  - (a) the Branch Chairperson, Branch Deputy-Chairperson, Branch Treasurer and Branch Secretary; and
  - (b) delegates from each workplace as specified in this section.

- (2) Each workplace may appoint one delegate for each 100 members, or portion thereof, in that workplace, but every delegate must be a member in good standing at the time of appointment, and at the time of the BC meeting for which they are selected as a delegate.
- (3) Each workplace must advise the Branch Secretary of the number of members in that workplace, the number of delegates appointed from that workplace, and the names of those delegates and their alternates:
  - (a) at least 30 days before an ordinary meeting of the BC; or
  - (b) at least 7 days before a special meeting of the BC.
- (4) The BC is entitled to request proof of the membership on which a workplace has decided its delegation.

### **27. Meetings of the Branch Congress**

- (1) The BC must meet at least once a year at the place and on the time fixed by the BEC.
- (2) The Branch Secretary must give notice of a BC meeting in writing to each workplace in the branch:
  - (a) at least 30 days before a general BC meeting; or
  - (b) at least 14 days before a special BC meeting.
- (3) For purposes of commencing a BC meeting and, in order for the meeting to continue, at least half of the delegates or their alternates, from at least a majority of the workplaces must be present, and, for the purpose of this section, the calculation of the number of delegates representing a workplace may include only persons:
  - (a) who are members in good standing; and
  - (b) whose names were previously provided to the Branch Secretary in terms of this section.

- (4) If, in terms of subsection (3), a meeting cannot commence within 2 hours after the time fixed for it to begin:
  - (a) the BEC must fix a new time and date for the meeting, which must not be more than 7 days later; and
  - (b) written notice of the new date for the meeting must be given by the Branch Secretary to each workplace of the branch.
- (5) Despite subsection (3), a meeting scheduled in terms of subsection (4) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## **CHAPTER 9: REGIONS**

### **28. Establishment of Regions**

- (1) The PEC may establish and demarcate a region of the union in line with the decisions of the CEC on establishing regions.

## **CHAPTER 10: REGIONAL OFFICES**

### **29. Regional Office-Bearers**

- (1) In each region, the office-bearers are:
  - (a) the Regional Chairperson;
  - (b) the Regional Deputy-Chairperson;
  - (c) the Regional Treasurer; and
  - (d) the Regional Secretary.

### **30. Powers of the Regional Office Bearers**

- (1) The powers and duties of the regional office-bearers are generally the same as those of the national office-bearers set out in section 49, and read with the change required by the context.
- (2) The regional office-bearers must liaise with their respective provincial counterparts and keep them generally informed about the affairs of the region.

- (3) The procedures for election of regional office-bearers are the same as those of the national office-bearers set out in section 48(3), and read with the changes required by the context.

## **CHAPTER 11: REGIONAL EXECUTIVE COMMITTEE**

### **31. Establishment**

- (1) The management of the affairs of the region is vested in the REC.

### **32. Powers of the Regional Executive Committee**

- (1) The REC has the powers and duties necessary to give effect to the aims and objectives of the union and which are usual in such an executive body, including powers to:
  - (a) approve monthly financial statements of the region;
  - (b) recruit members within its jurisdiction and generally promote the interests of the members and the union;
  - (c) supervise the affairs of the workplaces within its jurisdiction; and
  - (d) do all further things as it considers are in the interest of the union and which are not in conflict with the decisions and policy of the NC, CEC, NEC, PEC, and the PC, nor inconsistent with the provisions of the constitution.

### **33. Composition of the Regional Executive Committee**

- (1) The REC is composed of:
  - (a) the Regional Chairperson, Regional Deputy-Chairperson, Regional Treasurer and Regional Secretary;
  - (b) the Branch Chairperson, the Branch Secretary; and
  - (c) regional officials, except that they do not have voting rights at the REC meeting.

### **34. Meetings of the Regional Executive Committee**

- (1) The REC must meet at least 4 times a year, at the place and on the date and time fixed by the Regional Secretary in consultation with the Regional Office Bearers.
- (2) Subject to subsection (4), notice of a REC meeting, along with the agenda for the meeting, must be circulated to each branch within the region by the Regional Secretary.
  - (a) at least 7 days before a general meeting; and
  - (b) at least 24 hours before a special meeting.
- (3) For purposes of commencing a meeting of the REC and, in order for the meeting to continue:
  - (a) at least half of the regional office-bearers must be present; and
  - (b) at least a majority of the branches in the region must be represented.
- (4) If, in terms of subsection (3), a meeting cannot commence within 1 hour after the time fixed for it to begin, regional office bearers must fix a new time and date for the meeting, which must not be more than 7 days later.
- (5) Despite subsection (3), a meeting scheduled in terms of subsection (4) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## **CHAPTER 12: REGIONAL CONGRESS**

### **35. Governing Body for Regional Structures**

- (1) The RC is the governing body of each regional structure of the union.

### **36. Powers of the Regional Congress**

- (1) Each RC has the powers and duties as may be assigned by the CEC, PC, PEC and NEC which may include to:
  - (a) implement decisions of the NC, CEC, NEC, PC or PEC;
  - (b) elect a Regional Chairperson, Regional Deputy Chairperson and Regional Treasurer from amongst its members every 3 years;
  - (c) elect a Regional Secretary every 3 years;
  - (d) consider reports of the activities of the branches in the region;
  - (e) consider reports of the activities of the REC and the regional office-bearers;
  - (f) liaise with the Provincial Office-Bearers and the National Office Bearers on the employment of officials, subject to the NEC determining the terms of employment of such officials and subject to the CEC ratifying those terms;
  - (g) formulate policy for the region not inconsistent with the decisions of the PC, PEC, N, C, CEC and NEC or the provisions of this constitution; and
  - (h) generally carry out the aims and objectives of the union with regard to the organisation of workers in the region.

### **37. Composition of the Regional Congress**

- (1) The RC is composed of:
  - (a) the Regional Chairperson, Regional Deputy-Chairperson, Regional Treasurer and Regional Secretary;
  - (b) delegates from each branch as specified in this section;
  - (c) the Chairperson and Secretary of each branch in the region; and
  - (d) all regional officials, except that they do not have voting rights at the RC meeting.
- (2) Each branch may appoint one delegate for each 50 members, or portion thereof, in that branch, but every delegate must be a member in good standing at the time of appointment, and at the time of the RC meeting for which they are selected as a delegate.

- (3) Each branch must advise the Regional Secretary of the number of members in that branch, the number of delegates appointed from that branch, and the names of those delegates and their alternates:
  - (a) at least 30 days before an ordinary meeting of the RC; or
  - (b) at least 7 days before a special meeting of the RC.
- (4) The RC is entitled to request proof of the membership on which a branch has decided its delegation.

### **38. Meetings of the Regional Congress**

- (1) The RC must meet at least once a year at the place and on the time fixed by the REC.
- (2) The Regional Secretary must give notice of a RC meeting in writing to each branch in the region:
  - (a) at least 30 days before an ordinary RC meeting; or
  - (b) at least 14 days before a special RC meeting.
- (3) For purposes of commencing a RC meeting and, in order for the meeting to continue, at least half of the delegates or their alternates, from at least a majority of the branches must be present, and, for the purpose of this section, the calculation of the number of delegates representing a branch may include only persons:
  - (a) who are members in good standing; and
  - (b) whose names were previously provided to the Regional Secretary in terms of this section.
- (4) If, in terms of subsection (3), a meeting cannot commence within 2 hours after the time fixed for it to begin:
  - (a) the REC must fix a new time and date for the meeting, which must not be more than 7 days later; and

- (b) written notice of the new date for the meeting must be given by the Regional Secretary to each branch of the region.
- (5) Despite subsection (3), a meeting scheduled in terms of subsection (4) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## **CHAPTER 13: PROVINCIAL OFFICES**

### **39. Provincial Office-Bearers**

- (1) In each province, the office-bearers are:
  - (a) the Provincial Chairperson;
  - (b) the Provincial Deputy-Chairperson;
  - (c) the Provincial Treasurer; and
  - (d) the Provincial Secretary.
- (2) The powers and duties of the provincial office-bearers are generally the same as those of the national office-bearers, as set out in section 49 and read with the changes required by the context.
- (3) The provincial office-bearers must liaise with their respective national counterparts and keep them generally informed about the affairs of the province.
- (4) In addition to those duties assigned by reference to the national counterparts in terms of subsection (2), the Provincial Treasurer must:
  - (a) present a financial statement to each ordinary meeting of the PC; and
  - (b) together with the Provincial Secretary, present the annual budget of the province.

#### 40. Election of Office-Bearers

- (1) The procedures for election of provincial office-bearers are the same, as those of the national office-bearers set out in section 48(3), read with the changes required by the context.

### CHAPTER 14: PROVINCIAL EXECUTIVE COMMITTEES

#### 41. Establishment and Powers

- (1) The PEC exercises the management of the affairs of the union between meetings of the PC within the provincial sphere and has the necessary powers usual for such an executive body to give effect to the aims and objectives of the union, including the powers to:
  - (a) approve monthly financial statements;
  - (b) open, operate and close banking accounts in the name of the province, subject to approval, direction and ultimate control by the NEC;
  - (c) recruit members in the province and generally promote the interests of the members and the union;
  - (d) supervise the affairs of the regions and branches;
  - (e) ensure that proper communication occurs between the province, its branches and the national office;
  - (f) do all further things as it considers are in the interest of the union and which are not in conflict with the decisions and policy of the NC, CEC and any PC, nor inconsistent with the provisions of this constitution; and
  - (g) Consider the reports of the regions. {this clause is not necessary in view of item 41(1)(d) above}

#### 42. Composition of the Provincial Executive Committee

- (1) The PEC is composed of:
  - (a) the Provincial Chairperson, Provincial Deputy-Chairperson, Provincial Treasurer and Provincial Secretary;

- (b) the Chairperson and Secretary of each REC; and
- (c) provincial officials except that they do not have voting rights at the PEC meeting.

#### 43. Meetings of the Provincial Executive Committee

- (1) The PEC must meet at least four times per annum, at the place and on the date and time fixed by the PEC at its previous normal meeting.
- (2) The date of the meeting may be changed only with the prior consent of the majority of the regions and the Provincial Secretary must give all PEC members 14 days notice of any change of date of a normal meeting.
- (3) Subject to subsection (4), notice of a PEC meeting must be circulated to each region by the Provincial Secretary
  - (a) at least 10 days prior to a scheduled meeting, along, with the agenda and minutes of the previous meeting and any other relevant documentation; and
  - (b) at least 48 hours before a special meeting, together with a written agenda specifying the issues requiring such a meeting.
- (4) The notice and agenda meeting requirements of a special meeting may be waived with prior consent of the majority of the branches, except that no decision of a special meeting is valid if it is proved to detrimentally affect any delegate who did not receive notice of the meeting.
- (5) A special meeting of the PEC may consider only that special business which necessitated the meeting.
- (6) For purposes of commencing a meeting of the PEC and, in order for the meeting to continue:
  - (a) at least half of the provincial office-bearers must be present;

- (b) at least one delegate from a majority of the regions entitled to representation must be present; and
  - (c) a majority of the delegates present must be members in good standing.
- (7) If, in terms of subsection (6), a meeting cannot commence within 1 hour after the time fixed for it to begin the provincial office bearers must fix a new time and date for the meeting, which must be not more than 7 days later.
- (8) Despite subsection (6), a meeting scheduled in terms of subsection (7) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

#### **CHAPTER 15: PROVINCIAL CONGRESS**

##### **44. Governing Body for Provincial Structures**

- (1) The CEC may establish provincial structures of the union in any province in which 2 or more regions are established in accordance with this constitution. The PC is the governing body of each provincial structure of the union.

##### **45. Powers of the Provincial Congress**

- (1) Each PC has the powers and duties as may be assigned by the CEC and NEC, which may include to:
- (a) implement decisions of the NC, CEC or NEC;
  - (b) elect a Provincial Chairperson, Deputy Chairperson and Provincial Treasurer from among its members every 3 years;
  - (c) elect a Provincial Secretary every 3 years;
  - (d) consider reports from the POBs and officials on activities of each service centre, Union operations in the regions and give direction if necessary;

- (e) consider reports of the activities of the PEC and the provincial office-bearers;
- (f) liaise with the National Office-Bearers on the employment of officials, subject to the NEC determining the terms of employment of such officials in line with the CEC decision on the establishment and demarcation of regions;
- (g) formulate policy for the province not inconsistent with the decisions of the NC, CEC and NEC or the provisions of this constitution; and
- (h) generally carry out the aims and objectives of the union with regard to the organisation of workers in the province.

##### **46. Composition of the Provincial Congress**

- (1) The PC is composed of:
- (a) the Provincial Chairperson, Provincial Deputy-Chairperson, Provincial Treasurer and Provincial Secretary;
  - (b) delegates from each region as specified in this section; and
  - (c) all provincial branch officials, except that they do not have voting rights at the PC meeting.
- (2) Each region may appoint one delegate for each 200 members, or portion thereof, in that region, but every delegate must be a member in good standing at the time of appointment, and at the time of the PC meeting for which they are selected as a delegate.
- (3) Each branch must advise the Provincial Secretary of the number of members in that branch, the number of delegates appointed from that branch, and the names of those delegates and their alternates:
- (a) at least 30 days before an ordinary meeting of the PC; or
  - (b) at least 7 days before a special meeting of the PC.
- (4) The PC is entitled to request proof of the membership on which a branch has decided its delegation.

#### 47. Meetings of the Provincial Congress

- (1) The PC must meet at least once every three years at the place and on the time fixed by the PEC.
- (2) The Provincial Secretary must give notice of a PC meeting in writing to each region in the province:
  - (a) at least 30 days before a general PC meeting; or
  - (b) at least 14 days before a special PC meeting.
- (3) For purposes of commencing a PC meeting and, in order for the meeting to continue, at least half of the delegates or their alternates, from at least a majority of the regions must be present, and, for the purpose of this section, the calculation of the number of delegates representing a province may include only persons:
  - (a) who are members in good standing; and
  - (b) whose names were previously provided to the Provincial Secretary in terms of this section.
- (4) If, in terms of subsection (3), a meeting cannot commence within 2 hours after the time fixed for it to begin:
  - (a) the PEC must fix a new time and date for the meeting, which must not be more than 7 days later; and
  - (b) written notice of the new date for the meeting must be given by the Provincial Secretary to each region of the province.
- (5) Despite subsection (3), a meeting scheduled in terms of subsection (4) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

### CHAPTER 16: NATIONAL OFFICE

#### 48. National Office-Bearers

- (1) The national office-bearers of the union are:  
29.

- (a) the President;
  - (b) the First and Second Deputy-Presidents;
  - (c) the National Treasurer; and
  - (d) the General Secretary and the Deputy General Secretary.
- (2) Each national office-bearer
    - (a) must be elected for a term of three years by the NC, in accordance with the provisions of subsection (3);
    - (b) assumes office on the first working day following the close of the NC meeting at which they were elected; and
    - (c) hold office until the earliest of the date on which:
      - (i) the office-bearer resigns or dies;
      - (ii) the office-bearer is removed from office in terms of section 64; or
      - (iii) their successor assumes office after being elected by the NC.
  - (3) At an ordinary meeting of NC:
    - (a) any member in good standing may be nominated and seconded for election as a national office-bearer referred to in subsection (1)(a), (b) or (c);
    - (b) any person may be nominated and seconded for election as General Secretary or Deputy General Secretary;
    - (c) if only one person is nominated for a particular national office-bearer post, that person must be declared elected; and
    - (d) if more than one person is nominated for a particular national office-bearer post, a vote must be taken for that office by ballot, and the candidate with the highest number of votes must be declared to that office.

#### 49. Powers and Duties of National Office-Bearers

- (1) The President must:
    - (a) preside over meetings of the NC, CEC and NEC and conduct those meetings in accordance with this constitution;
- 30.

- (b) in consultation with NOBs ensure enforcement and observance of the rules and orders of this constitution;
  - (c) after consultation with the National Treasurer and/or NOBs collective co-sign the national banking accounts and sign minutes of meetings of the NC, CEC and NEC; and
  - (d) together with other NOBs, generally supervise the affairs of the union and perform duties incidental to the office subject to the resolution of the NEC, CEC or congress and more importantly in compliance with the constitution of the Union.
- (2) First and Second Deputy-Presidents must each:
- (b) assist the President, and perform any duties of the President that are delegated to them; and
  - (c) perform the duties of the President if for any reason the President is unable to perform them.
- (3) If neither the President nor Deputy-President is able to perform the duties of the President, the CEC must appoint someone from the CEC to act as President until:
- (a) the President or one of the Deputy-Presidents are able to perform the duties of the President; or
  - (b) a new President or Deputy-President is elected.
- (4) The National Treasurer must:
- (a) supervise the financial affairs of the Union;
  - (b) endorse all accounts for payment and sign cheques on the national banking accounts of the union;
  - (c) submit and present statements of the national accounts for each month to the CEC and NEC, and for each annual period to the NC; and
  - (c) perform duties usual to the office of the Treasurer, or as are reasonably required by the NC, CEC or NEC.
- (5) The General Secretary:
- (a) is responsible for keeping books and accounts of the union as required in terms of the Act, and by the NEC;

- (b) must assist the National Treasurer in submitting statements of income and expenditure of the union to each meeting of the NC, CEC and NEC;
  - (c) is responsible for preparing, and circulating to the CEC and NEC, the annual report of activities of the union, including in it:
    - (i) statements of income and expenditure, and a balance sheet, all certified by the union's auditors; and
    - (ii) the auditor's report;
  - (d) is responsible:
    - (i) for the correspondence of the union and for tabling it at meetings of the NEC;
    - (ii) for sending out notices and minutes of all meetings of the NC, CEC and NEC and any other committee;
    - (iii) to supervise the work of the provincial secretaries and all officials of the union; and
    - (iv) for the general organising and co-ordinating of work of the union and for the general office work and administration of the affairs and activities of the union;
  - (e) may institute and defend legal proceedings in the name of the union in urgent circumstances; and
  - (f) must undertake any other duty that is necessary or requested by the NC, CEC or NEC
- (6) The Deputy General Secretary must:
- (a) assist in the performance of the duties of the General Secretary; and,
  - (b) perform those duties if the General Secretary is unable to perform them.

## **CHAPTER 17: NATIONAL EXECUTIVE COMMITTEE**

### **50. Establishment and Powers**

- (1) The NEC exercises the executive functions of the union within its national sphere of operations. The NEC:

- (a) may not make or amend any policy decision of the union;
  - (b) must carry out union policy as determined by the NC and the CEC;
  - (c) is responsible for the conduct of the day-to-day running of the union; and
  - (d) may delegate any of its powers and duties to any office bearer in the union.
- (2) In addition to its general authority in terms of subsection (1), the NEC has the authority to:
- (a) consider reports from the National office-bearers and officials on activities of each department and union operations in the provinces, and give directions if necessary;
  - (b) determine the creation, maintenance and termination of employment posts for the effective running of the union;
  - (c) hire, determine employment terms and conditions for, and discharge, employees and officials of the union, other than the General Secretary and Deputy General Secretary;
  - (d) open, operate and close bank accounts of the union;
  - (e) generally control the funds and finances of the union;
  - (f) borrow or raise money, including the imposition of levies, and invest the funds of the union;
  - (g) allocate float amounts and other funds to respective PECs;
  - (h) institute and defend legal proceedings in the name of the union;
  - (i) appoint attorneys to act for the union and appoint any person to sign a document in connection with or on behalf of the union;
  - (j) acquire, deal with or dispose of any property on behalf of the union;
  - (k) make awards and determine procedures consistent with this constitution to regulate union affairs such as:
    - (h) election, balloting, injury or meeting procedures; or
    - (ii) union discipline and appeals; and
  - (l) deal with any matter delegated to it by the CEC.

- (3) Every decision of the NEC:
- (a) must be consistent with this constitution and with any relevant decision of the NC or CEC; and
  - (b) is subject to confirmation by the CEC.

#### **51. Composition of the National Executive Committee**

- (2) The NEC is composed of:
- (a) the national office-bearers;
  - (b) each provincial chairperson and secretary; and
  - (c) other secretaries and heads of the various departments of the union.

#### **52. Meetings of the National Executive Committee**

- (1) The NEC must meet at least twice a year at the place and on the date and time fixed by the General Secretary in consultation with the NOBs.
- (2) A special meeting of the NEC may be called at any time by the General Secretary or at the request of the 2/3 of the provincial executive committees submitting in writing to the General Secretary such a request.
- (3) The General-Secretary must give notice of an NEC meeting in writing, with an agenda attached, to each Provincial Secretary:
- (a) at least 14 days before a general NEC meeting; or
  - (b) at least 3 days before a special NEC meeting.
- (4) For purposes of commencing a meeting of the NEC and, in order for the meeting to continue:
- (a) at least half of the national office-bearers must be present;

- (b) at least half of the delegates or their alternates, from each of at least two-thirds of the provincial delegation must be present; and
  - (c) a majority of the delegates present must be members in good standing.
- (5) If, in terms of subsection (4), a meeting cannot be commenced within 2 hours after the time fixed for it to begin:
- (a) the General Secretary in consultation with the NOBs must fix a new time and date for the meeting, which must be no less than 7 days, and no more than 14 days, after the original date for that meeting; and
  - (b) the General Secretary must give written notice in writing to each Provincial Secretary of the new date for the meeting.
- (6) Despite subsection (4), a meeting scheduled in terms of subsection (5) may be commenced at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## CHAPTER 18: CENTRAL EXECUTIVE COMMITTEE

### 53. Establishment and Powers

- (1) The CEC develops the policy of the union between meetings of the NC, and has the necessary powers usual for such a body to give effect to the aims and objectives of the union, including the power to:
- (a) give broad direction concerning organisational, political, educational and policy issues within the union;
  - (b) pass resolutions not inconsistent with the resolutions passed by the NC;
  - (c) establish and determine the nature, membership and scope of sub-committees;
  - (d) ratify decisions of the NEC;

- (e) approve the annual audited financial statements and balance sheet of the union and submit these to the NC;
  - (f) determine budget guidelines;
  - (g) establish or dissolve branch, region and provincial structures of the union and demarcate the jurisdiction of such branches and provinces and delegate powers to the PC and PEC; and
  - (g) appoint acting national office bearers to fill vacancies occurring in the positions of the National office-bearers consistent with this constitution.
- (2) National Office-Bearers and union officials attending meetings of the CEC have full speaking rights but no voting rights.

### 54. Composition of the Central Executive Committee

- (3) The CEC is composed of:
- (a) the national office-bearers listed in section 48(1);
  - (b) every other person who is a member of the NEC; and
  - (c) the chairperson and secretary of each region.

### 55. Meetings of the Central Executive Committee

- (1) The CEC must meet at least once a year at the place and on the date and time fixed by the NEC.
- (2) The General Secretary must call a special meeting of the CEC if:
- (a) on the request of the NEC; or
  - (b) if at least one-third of the PEC's request a special meeting in writing to the General-Secretary.
- (3) A special meeting of the CEC may consider only the special business that necessitated the special meeting.
- (4) The General-Secretary must give notice of a CEC meeting in writing to each Provincial Secretary and to each Regional Secretary:

- (a) at least 30 days before a general CEC meeting; or
  - (b) at least 7 days before a special CEC meeting.
- (5) For purposes of commencing a meeting of the CEC and, in order for the meeting to continue:
- (a) at least two-thirds of the NEC members and regional chairpersons and secretaries must be present; and
  - (b) a majority of the delegates present must be members in good standing.
- (6) If, in terms of subsection (5), a meeting cannot be commenced within 2 hours after the time fixed for it to begin:
- (a) the General Secretary must fix a new time and date for the meeting, which must be no less than 14 days, and no more than 24 days, after the original date for that meeting; and
  - (b) the General Secretary must give written notice in writing to each Provincial Secretary and Regional Secretary of the new date for the meeting.
- (7) Despite subsection (5), a meeting scheduled in terms of subsection (6) may be commenced at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

## **CHAPTER 19: NATIONAL CONGRESS**

### **56. Governing Body of the Union**

- (1) The NC is the highest governing body of the union.

### **57. Powers of the National Congress**

- (1) The NC may:
- (a) adopt any policy measures to further the political, socio-economic and organisational policy framework of the union;

- (b) amend the constitution;
- (c) review credentials of the delegates;
- (d) receive the reports of the CEC and national office bearers, and make any decision arising from those reports;
- (e) receive and consider the financial report and approve the auditor's report and financial statements;
- (f) approve nominations for, and elect national office bearers;
- (g) consider any resolution concerning the removal or reinstatement of a national office bearer; and
- (i) deal with any other matter that is in the interest of the union.

### **58. Composition of the National Congress**

- (1) The NC is composed of:
- (a) the members of the NEC; and
  - (b) delegates from each province, as specified in this section.
- (2) Each PEC may appoint one delegate for every 50 members in that province.
- (3) Every delegate must be either a member in good standing, or an official of the union at the time of appointment, and at the time of the NC meeting for which they are selected as a delegate.
- (4) In each province, the Provincial Secretary must advise the General Secretary of the number of members in that province, the number of delegates appointed from that province, and the names of those delegates and their alternates:
- (a) at least 30 days before an ordinary meeting of the NC; or
  - (b) at least 7 days before a special meeting of the NC.
- (5) The General Secretary is entitled to obtain proof of the membership on which a province has decided its delegation.

**59. Meetings of the National Congress**

- (1) The NC must meet at least once every 3 years, at the place, and on the date and at the time fixed by the NEC.
- (2) The General Secretary must call a special meeting of the NC if at least two-thirds of the PEC's request a special meeting in writing to the General Secretary.
- (3) The General Secretary must give notice of a NC meeting in writing to each PEC:
  - (a) at least 60 days before an ordinary NC meeting; or
  - (b) in the case of a special meeting, within a number of days determined by the NOBs, which may not be less than 7 days before that special NC meeting.
- (4) For purposes of commencing a meeting of the NC and, in order for the meeting to continue, at least half of the delegates or their alternates, from each of a least two-thirds of the provincial delegations must be present.
- (5) If in terms of subsection (3), a meeting cannot be commenced within 3 hours after the time fixed for it to begin:
  - (a) the NOBs must fix a new time and date for the meeting, which must be within 30 days after the original date for that meeting; and
  - (b) the General Secretary must give written notice in writing to each PEC of the new date for the meeting.
- (6) Despite subsection (3), a meeting scheduled in term of subsection (5) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of members present.
- (7) For all purposes of this section, the calculation of the number of delegates representing a province may include only persons:

- (a) who are members in good standing; and
- (b) whose names have been provided to the General Secretary in terms of section 58(4).

**CHAPTER 20: REMOVAL OF SHOP STEWARDS, OFFICE BEARERS AND OFFICIALS FROM OFFICE**

**60. Removal of Members who hold Office**

- (1) Any shop steward, or any member holding any position in the union, shall no longer hold that position if:
  - (a) they are no longer employed in the workplace, which elected them;
  - (b) they are no longer employed within the scope of the union;
  - (c) they fail to attend three consecutive meetings of the council and/or committee, which elected that person without sending a written reason;
  - (d) they fail to be in good standing with the union;
  - (e) the union suspends or expels them; and
  - (f) they are unable to perform their duties.

**61. Discipline of Shop Stewards**

- (1) A shop steward who fails to comply with the terms of this constitution, or who acts in a manner which is detrimental to the interests of the union and its members, or who is found guilty of misconduct, may be disciplined by the REC.
- (2) The REC is required to follow up the disciplinary procedure set out in section 63.

**62. Discipline of Office-Bearers and Officials**

- (1) Where a branch, regional or provincial office bearer or official, fails to comply with any of the terms of this constitution, or who acts in such a manner that is detrimental to the interests of the union and its members, or who is found guilty of misconduct may be disciplined by the BEC, REC, PEC or NEC respectively.

- (2) Where a national office bearer or official fails to comply with any of the terms of this constitution, or who acts in such a manner that is detrimental to the interests of the union and its members, or who is found guilty of misconduct may be disciplined by the CEC.
- (3) The BEC, REC, PEC, NEC or CEC is required to follow the disciplinary procedure set out in this Constitution.

### **63. Disciplinary Procedure for Shop Stewards, Office-Bearers and Officials**

- (1) When intending to discipline shop stewards, office-bearers or officials, the BEC, REC, PEC, NEC or the CEC as the case may be, must:
  - (a) advise the person concerned in writing giving not less than 7 days notice of the charges against him/her and the date, time and place of his/her hearing. This notice may be sent by registered post to the last known address of the person charged or delivered by hand; and
  - (b) from amongst themselves appoint a person, or persons to preside over the hearing;
  - (c) from amongst themselves appoint a person to prosecute in the enquiry.
- (2) At the hearing of the charges the person concerned shall have the opportunity to state his/her case personally and to call witnesses in support of his/her case.
- (3) In each case the person concerned must receive written notice of the decision and be advised in this notice that he/she has a right to appeal, which he/she must take up within seven days.
- (4) If the BEC, REG, PEC, NEC or the CEC as the case may be, is satisfied that:
  - (a) the person charged has although absent received the notice;

- (b) the person charged is present;
  - (c) the BEC, REC, PEC, NEC or the CEC may proceed to hear and determine the charge.
- (5) If, in its opinion, the charge has been satisfactorily proven, the BEC, REC, PEC, NEC or CEC may:
    - (a) remove the shop steward or office bearer or official (as the case may be) from office in the union;
    - (b) expel the shop steward or office bearer from the union, or dismiss the official from employment by the union;
    - (c) suspend him/her for a definite period from membership of/or employment in, the union;
    - (d) impose a fine and may suspend a person from membership until such fine is paid;
    - (e) impose any other such penalty, not listed above as it deems fit.

### **64. Removal by Ballot**

- (1) In addition to any other provision in this constitution for the removal of office bearers and officials, these persons may be removed from office in the following way:
  - (a) at least 30% of the members, in good standing, in the constituency in which the affected person was elected or appointed, must prepare a written request for the removal of the office bearer or elected official which is then sent to the higher Executive Committee; and
  - (b) that Executive Committee must arrange for a ballot of all the members in good standing in such constituency to determine the matter.

### **65. Appeal Procedure**

- (1) Shop stewards may appeal against the decision of the BEC, the REC or the PEC to the NEC in accordance with the appeals procedures.

- (2) Branch, regional and provincial office-bearers and officials may appeal against the decision of the BEC, REC or PEC as the case may be, to the NEC.
- (3) National office-bearers may appeal the decision of the CEC to the NC.
- (4) The structure of the union hearing the appeal has the power to confirm, vary or reverse the decision to discipline and this is the final decision of the union.

#### **66. Vacancies arising from Removal**

- (1) Vacancies in any position shall be filled in the manner prescribed for that position.
- (2) 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.

### **CHAPTER 21: MEETING PROCEDURES**

#### **67. Rules of Procedure at Union Meetings**

- (1) The President, Chairperson or other most senior person at the meeting shall chair the meeting. In their absence, the First Deputy-President or Deputy-Chairperson must chair the meeting. In the President and First Deputy-President's absence, the Second Deputy-President must chair the meeting. In their absence, the meeting may decide who is to chair.
- (2) The business of union meetings must proceed in accordance with the agenda, unless otherwise decided by the meeting, subject to the following rules:
  - (a) no questions other than those appearing on the agenda will be debated, except that the meeting by resolution may agree to discuss a matter not included on the agenda;

- (b) every matter for consideration must be brought by motion duly seconded and will be voted by a show of hands except if the meeting decides on a vote by ballot;
- (c) a two-thirds majority is needed for a decision made by the CEC, NEC, PEC, REC or BEC or any other committee;
- (d) a simple majority is needed for a decision to be made by the NC, PC, RC or BC;
- (e) no motion that has already been debated and determined may be considered, varied or debated again or rescinded at that meeting, unless the meeting decides otherwise;
- (f) a chairperson may make a ruling on any matter of procedure;
- (g) a ruling given by the chairperson is final except that this ruling may be rescinded by a motion supported by a majority of members present; and
- (h) a delegate must withdraw from the meeting for such a period as the meeting decides, after a vote of the meeting on the issue.

#### **68. Minutes**

- (1) Full minutes of a meeting must be kept by the secretary to the relevant structure of the union and must be circulated not later than 14 days following the meeting.

### **CHAPTER 22: BALLOTS**

#### **69. When must a ballot be taken?**

- (1) A ballot must be taken:
  - (a) when required by any law;
  - (b) when required by this constitution; and
  - (c) if a decision is taken to this effect by any structure of the union.

#### **70. Decision of Ballot**

- (1) Except as provided in this constitution, the relevant structure of the union is bound to take the action according to the decision of a majority of the members voting in a ballot subject to:

- (a) this constitution; and
- (b) the decisions of the CEC and the NEC.

#### **71. Jurisdiction of Ballot**

- (1) The PEC, REC or BEC may confine a ballot to the members of a particular province, region or branch regarding matters affecting those members.

#### **72. Ballot Procedure**

- (1) The union, before calling a strike, will conduct a ballot in respect of its members who will participate in the strike; and
- (2) the members of the union who do not participate in a strike, where no ballot was held, or the majority of the members did not vote in favour of the strike, will not be disciplined or have their membership terminated for their failure or refusal to participate in the strike.
- (3) The following is the ballot procedure:
  - (a) the relevant structure/meeting of the union appoints at least two scrutinisers who;
  - (b) may be members of the union; and who
  - (c) must supervise the ballots being counted.
- (4) Each voter shall, in the presence of a scrutiniser, be issued with a ballot paper which:
  - (a) clearly describes the issue; and
  - (b) makes it impossible to identify the voter.
- (5) The voter must make his/her mark in secret and deposits the ballot paper in a ballot box.
- (6) On completion of the ballot or as soon as possible thereafter, the scrutiniser must count the votes. If there is an election the candidates can watch the counting of the votes.

- (7) The scrutiniser must then inform the Chairperson of the results.
- (8) The Chairperson must then inform the meeting or committee of the results.
- (9) The branch, regional, provincial and General Secretary must keep branch, regional, provincial and national ballot papers. These ballot papers must be kept for three years.

### **PART THREE**

#### **CHAPTER 23: UNION FINANCES**

#### **73. Receipt and Use of Union Funds**

- (1) Union funds consist of all money received by means of subscription fees, levies, donations, functions and in any other manner within the framework of this constitution.
- (2) Union funds received by the General Secretary must be deposited to the union's credit within 5 days of receipt.
- (3) Funds may be used for investment, payment of expenditure relating to the acquisition of property and for other purposes as may be decided by the NC or the CEC for the achievement of the aims and objects of the union, but no profits or gains will be distributed to any person.
- (4) Funds contributed by members of the union for a specific purpose must not be used for any other purpose except with the written consent of the contributing member.
- (5) Float amounts and other funds must be allocated to each PEC, by the NEC from time to time.
- (6) All membership subscriptions and other amounts due to the union collected from members, whether or not through check-off, must be deposited into a national banking account as soon as possible, but in any event within 5 days of receipt.

#### **74. Financial Year**

The union's financial year is from January 1 to December 31.

#### **75. Financial Committee**

- (1) A financial committee (referred to as Fincom) is established and reports to the NEC.
- (2) Fincom must meet three times a year before NECs and before CEC is composed of:
  - (a) the National Treasurer;
  - (b) the General Secretary; and
  - (c) Provincial Treasurers.
- (3) Fincom is responsible for:
  - (a) assisting the national treasurer;
  - (b) preparing financial reports for the NEC;
  - (c) recommending amendments or additions to the financial policy;
  - (d) monitoring the union's accounts and querying unusual expenditure;
  - (e) making recommendations regarding financial requests from provincial bodies of the union;
  - (f) proposing ways of making the union self-sufficient; and
  - (g) preparatory work regarding the union's budget.
- (4) All income and expenditure must be reported to each meeting of the NEC and such reports must include a clear statement of any unbudgeted expenditure.
- (5) The NEC is responsible for ratification of all expenditure by the union, except that expenditure on immovable property and vehicles is subject to approval of the CEC.
- (6) There must be 6 signatories to the national banking account, which will be appointed by the CEC, and any cheques issued by the union must be signed by two of the signatories.

#### **76. Banking Authority**

- (1) No person is authorised to open an account in any bank in the name of "National Education Health and Allied Workers' Union", "NEHAWU" or any other similar name without:
  - (a) the explicit written authority of a resolution of the NEC on official union letterhead signed by at least 3 of either the President, First Deputy-President, Second Deputy-President, National Treasurer, General Secretary or Deputy General Secretary; and
  - (b) subsequent verbal confirmation by either the National Treasurer or General Secretary.
- (2) The General Secretary must take reasonable steps to draw this provision to the attention of financial workplaces.

#### **77. Provincial Finance**

- (1) All income and expenditure within the provincial sphere must be reported to each meeting of the PEC for ratification and the report must include a clear statement of any unbudgeted expenditure.
- (2) Any cheque issued by a provincial body of the union must be signed by the Provincial Secretary or the Provincial Treasurer, and the Provincial Chairperson or Provincial Deputy Chairperson.

#### **78. Regional Finance**

- (1) The region has the financial duty and responsibility delegated to it by the PEC or the NEC.

#### **79. Branch Finance**

- (1) The branch has the financial duty and responsibility delegated to it by the PEC, the REC or the NEC.

## 80. Property of the Union

- (1) The NEC or PEC, as the case may be, holds in trust, as property of the union:
  - (a) any gift made to the union;
  - (b) any gift made to an office-bearer or official of the union in the course of service to the union;
  - (c) any revenue raised by the union from any source;
  - (d) any account in a financial workplace in the name of the union;
  - (e) anything purchased with any revenue or gift, or exchanged for any property of the union;
  - (f) copyright in any material or publication either:
    - (i) produced at the expense of the union; or
    - (ii) contributed to the union by the original creator of that material or publication;
  - (g) anything else that would be generally recognised as being the property of the union in accordance with ordinary commercial conduct.
- (2) CEC must establish policies for the acquisition, maintenance, insurance, management, use and disposal of property of the union.
- (3) The General Secretary is responsible to maintain a current inventory of the property of the union, and attach a summary of that inventory to the report.

## 81. Credit and Debt

- (1) The NEC may:
  - (a) borrow money on the credit of the union;
  - (b) pledge any property of the union as security for any debt, goods or services; and
  - (c) pledge the credit of the union in exchange for goods and services.

- (2) The CEC must establish policies:
  - (a) regulating the undertaking of debt and pledging of credit;
  - (b) regulating the liquidation of debt; and
  - (c) limiting the total debt of the union.
- (3) The General Secretary must maintain a current inventory of the debt and credit obligations of the union, noting any item of property of the union that is specifically encumbered by debt, and attach a summary of that inventory to the report.

## 82. Liability, Indemnity and Insurance

- (1) The union accepts responsibility for any liability incurred in the course of service to the union by any office-bearer or official of the union, unless the liability arose from conduct of the office bearer or official that involved:
  - (a) gross or criminal negligence;
  - (b) fraud or deliberate deception;
  - (c) a misrepresentation of the authority of that office-bearer or official; or
  - (d) that office-bearer or official taking improper personal advantage of an opportunity available to the union.
- (2) The NEC may identify any office-bearer or official of the union for any loss or claim arising out of conduct for which the union accepts responsibility as set out in subsection (1).
- (3) The CEC must adopt a policy setting out:
  - (a) rules of conduct for office-bearers and officials of the union; and
  - (b) the circumstances in which, and the extent to which, the union will assume responsibility within the scope of subsection (1) and provide indemnification within the scope of subsection (2).

- (4) The NEC may purchase liability insurance to protect the union from losses or claims that fall within the scope of the union's assumed responsibility in terms of this section.

## **CHAPTER 24: GENERAL PROVISIONS**

### **83. Enhancing Participation of Women in the Affairs of the Union**

- (1) When appointing any office-bearer or official of any structure of union or any member to a committee or other organ of the union, or when determining the representatives or alternatives to any meeting of the union, due regard must be given to enhancing the participation of women in the affairs of the union.
- (2) The structures of the union must, by resolution, determine the manner in which the participation of women in the affairs of the union may be perpetually enhanced.

### **84. Dissolution by Resolution**

- (1) The union may be dissolved by resolution supported by not less than three-quarters of those voting on the resolution at a NC meeting, subject to section 103 of the Act.
- (2) If a resolution to dissolve the union is passed or if, for whatever reason, the union is unable to continue to function, the following rules apply:
  - (a) The last President or any available national office-bearer must immediately send to the Labour Court a signed statement setting forth the resolutions adopted or the reasons for the union's inability to continue to function.
  - (b) The NC or any available national office-bearer must appoint a liquidator to carry out the winding-up of the union's affairs.
  - (c) The liquidator must not be a member of the union and must be paid such fees as are agreed upon by the national office bearers;

- (d) If the liquidator and the national office-bearers cannot agree on the fees, the Registrar of the Labour Court will fix the basis on which the liquidator will be paid.
- (e) The liquidator's fees and expenses rank in order of preference as though the liquidator were a trustee of an insolvent and as though the expenses were the cost of sequestration of an insolvent estate.

- (3) After payment of all debts, any remaining assets are to be given to any other non-profit, tax-exempt organisation or organisations with similar objectives to those of the union, failing which the liquidator may dispose of the remaining assets in terms of section 103(5) of the LRA.

### **85. Amendments to Constitution**

- (1) Subject to subsection (2) and (3), any provision of the constitution may be repealed or amended by resolution passed by a two-thirds majority at a meeting of the NC:
  - (a) a notice of the proposed amendment has been sent to the General Secretary;
  - (b) the General Secretary has circulated the proposal to every Provincial Secretary and to the members of the NC; and
  - (c) the proposal has been placed on the agenda for that meeting.
- (2) A proposal may not be placed on the agenda of a meeting of the NC if it would result in the repeal of any provision that is required in terms of the Act to be included in the constitution, unless the proposal also includes a replacement provision that satisfies the requirements of the Act.
- (3) An amendment takes effect only upon being approved by the Registrar of Labour Relations in terms of section 101 of the Act.

### **86. Interpretation**

- (1) If any doubt arises as to the meaning of any provision of this constitution the interpretation of that provision is the responsibility of the NC:

- (a) which must decide any matter of interpretation by majority vote; and
  - (b) whose decisions are the final interpretation of the provision in question.
- (2) Despite subsection (1), the CEC may make an interim ruling on constitution interpretation at any time between meetings of the NC.
- (3) Every person interpreting and applying the constitution:
- (a) must prefer a reasonable interpretation of a by-law, statement of policy, or decision that is consistent with the constitution over an interpretation that conflicts with the constitution;
  - (b) must give a liberal construction to the provisions of the Constitution, in a manner consistent with the Bill of Rights, the Act, and the traditions of the union;
  - (c) may consider applicable legal precedents; and
  - (d) may consult any recognised authority for the meaning of words not specifically defined in this chapter.
- (4) Words importing the singular include the plural, and Deputy versa.
- (5) Wherever any period between two events is expressed as a number of days, the days on which the first and second event take place is not to be counted.
- (6) The power to appoint includes the power to replace.
- (7) The power to make a rule or policy includes the power to amend or repeal that rule or policy.
- (8) The word "province", when used as a geographic reference, means a particular province as defined in the Constitution of the Republic of South Africa, 1996 and when used to refer to a constituent element of the union means the operation of the union within a province.

- (9) The words "the Act" mean the Labour Relations Act, 1995, as amended.

#### **87. Notice**

- (1) Unless the constitution provides otherwise, any notice to members may be sent by ordinary post to the address that the member most recently reported to the union.
- (2) Except as otherwise provided in this constitution, the inadvertent failure of the union to give notice of a meeting to a member does not invalidate the notice, the meeting or any business conducted at that meeting.

#### **88. Transition from Prior Constitution**

- (1) Prior to this Constitution being registered by the Registrar, the provisions of the previous Constitution will prevail.
- (2) On registration of this Constitution the previous Constitution is repealed.
- (3) Any action taken in terms of a previously adopted constitution must be regarded as being taken in terms of the corresponding provision in this constitution.

#### **89. Commencement of this Constitution**

- (1) This constitution takes effect following the Registrar of Labour Relations, appointed in terms of section 108 of the Act, accepting the constitution in terms of section 101(3) and (4) of the Act.

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We, the President and the General Secretary of the Union, certify that the provisions and regulation of the adoption of this constitution have been complied with.

Signed in Johannesburg on the ----- day of -----  
2004.

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**President**

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**General Secretary**