



# labour

Department:  
Labour  
**REPUBLIC OF SOUTH AFRICA**

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Labour Relations Act 1995  
Section 96(7)(a)

## CERTIFICATE OF REGISTRATION OF A TRADE UNION

This is to certify that

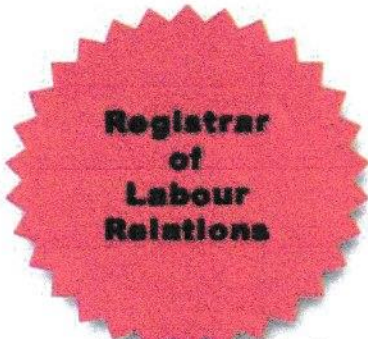
***Allied workers Union of South Africa (AWUSA)***

(Name of trade union)

has in terms of section 96(7)(a) of the Labour Relations Act, 1995, been registered as a  
trade union with effect from

31 July 2024

Reference number: LR 2/6/2/3541



(Official stamp of Registrar)

Date 31 July 2024

**CERTIFIED TRUE COPY,  
OF THE ORIGINAL**

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## **PREAMBLE**

We, the members of the **Allied Workers Union of South Africa** fully understand that disorganised and divided workers cannot meaningfully improve their working conditions. We reject without reservation any attempts to sow disunity among the workers on the basis of colour, nationality, sex, religion or creed. We declare that all workers share common long-term interests, regardless of such differences. 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, Union members exercising our democratic and constitutional rights, firmly commit ourselves:

- to building a strong, democratic organisation controlled by its members;
- to unity, comradeship and solidarity of all workers;
- to fight and oppose discrimination and exploitation in all its forms within the union, the workplace and in society;
- to co-ordinate, 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 in order to build a better life for the working class and all South Africans; and
- together with these organisations, to fight for these ideals and establish a future South Africa free from unemployment, poverty and disease, racial oppression or economic exploitation.

We firmly resolve that this union will seek, further and protect the Interests of its members and workers in general. Our guiding motto are the universal statements of working-class solidarity:

**"a working class united for socialism."**

We call on all those who identify with this commitment to join us as comrades in the struggle ahead.

## CHAPTER 1 - FOUNDING PROVISIONS

### 1. Establishment and name

- (1) An association of workers, to be known as the **Allied Workers Union of South Africa**, which is a trade union as defined in the Act, is hereby established.
- (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 **Allied Workers Union of South Africa**.
  - (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 **AWUSA**.

### 2. Objectives

The aim and objectives of the union are-

- (a) to recruit and unite workers 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 domestic and international trade unions, trade union federations and labour organizations for the benefit of members of the union;
- (e) to regulate relations between employees and employers, including any employer organizations;
- (f) to promote, support or oppose legislative or other measures affecting the interests of members;
- (g) to establish and administer funds for the benefit of its members and their dependants; and

- (h) to encourage the settlement of disputes between members and employer's organizations whether by way of conciliation, mediation or arbitration or any other lawful means.

### **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 sectors specified in the annexure to this constitution.
- (2) The NEC may from time to time amend the scope of the sectors specified in the annexure to this constitution,

### **4. Offices**

The National Executive Committee of the union-

- (a) may determine the location of the union's head office and regional and local offices; and
- (b) must maintain at least one office in the Republic at all times.

### **5. Authority of the constitution**

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**

The union is organised into the following structures and general spheres of authority-

- (a) members, who collectively are the foundation of democratic
- (b) shop stewards and shop steward committees, which operate within the different business enterprises in which members work.
- (c) local shop stewards councils (referred to as "LSSC"), which operate in groups of business enterprises within a local area.
- (d) regional executive committees (referred to as "REC"), a regional office bearers committee (referred to as the "ROBC") and regional congresses (referred to as "RC") which operate within each region.

- (e) a national executive committee (referred to as "NEC"), a national office-bearers committee (referred to as "NOBC"), and a national congress (referred to as "NC"), which operate nationally.

## **7. Spheres of authority within the union**

- (1) Within the union, authority is allocated as follows-
  - (a) within the plant sphere of operations, the Shop Stewards Committee for that plant exercises all authority of the union, subject to the decisions of the NOBC, RC, REC, LSSC, and policies of the NEC and NC.
  - (b) within the local sphere of operations the management of the affairs of the union between meetings of the LSSC is exercised by the local office-bearers, subject to the decisions and policies of its NEC and NC including the decisions of the, REC and RC.
  - (c) within the regional sphere of operations-
    - (i) the management of the affairs of the union between meetings of the RC, is exercised by the REC and ROBC subject to the decisions of the RC, NOBC, and the policies of the NEC and NC; and
  - (d) within the national sphere of operations-
    - (i) the policy making authority of the union is exercised by the NC & NEC.
    - (ii) the management of the affairs of the union between meetings of the NC is exercised by the NEC and the NOBC, subject to the decisions and policies of the NC;
    - (iii) the executive authority of the union is exercised by the NOBC, subject to the decisions of the NEC and policies of the NC;

## **PART 2 - 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 in terms of Annexure A; and
  - (b) 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 worker may apply for membership in the union by doing the following:
  - (a) an application in the prescribed form must to be submitted to the shop stewards committee at the workplace and the LSSC,
  - (b) the shop stewards committee enrol the applicant
  - (c) in the event that the application is rejected by the SSC or LSSC, the applicant may appeal to the REC
  - (d) in the event that the REC uphold the decision to reject the Application, the applicant may appeal to the NEC and the NEC decision will be final and binding
- (2) New Company
  - (a) an application in the prescribed form for membership to be submitted to the LSSC which has jurisdiction over the applicant's workplace of employment
  - (b) the application may be processed by the LOB's an Organiser or the Local Administrator
- (3) An unsuccessful applicant for membership -
  - (a) is entitled to a refund of the subscription fee paid with their application; and

- (b) may make a fresh application after at least twelve (12) months has elapsed from the date on which their previous application was rejected by the REC or the appeal was turned down by the NEC, whichever is the later.

## **10. Monthly Subscription/Levy Fee**

- (1) The NEC must from time to time -
  - (a) Establish a common basis for determining the monthly subscription/levy fee for members; and
  - (b) subject to subsection (2), determine the monthly subscription fee payable
- (2) Upon the Constitution taking effect, the monthly subscription fee for members will be 1 % of the salary/wage of the member concerned except that the monthly subscription fees
  - (a) may not be less than 1% or minimum of R50.00 per month whichever is the greatest of my basic wage to the maximum of R100.00.
- (3) A member may pay the monthly subscription fee through a debit order facility which provides for direct payment to the union's national account as may be determined by the NEC from time to time. There will be no hand subscription collections either by the shopstewards or organisers. Payment of subscription will either be through both the stop order or debit order facilities.
- (4) The NEC may exempt 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) a member intentionally causes or permits the member's subscription fee not to be paid to the union;
  - (b) the member's subscription fees are more than three months in arrears; or
  - (c) the member has been suspended in terms of section 12.

- (2) Despite subsection (1)(a), a member who has been exempted in terms of section 10(4) from paying subscription fees remains in good standing during the period of that exemption.
- (3) Only a member in good standing is entitled to the benefits of membership.
- (4) 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 and in decision-making processes of the union;
  - (d) voting-in elected representatives;
  - (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 LSSC, after holding an inquiry at which the member concerned is afforded an opportunity to be heard, may recommend to the REC that a member be suspended or expelled for conduct that is against the interests of the union and its members.
- (2) The REC, on its own initiative or upon receipt of a recommendation from a LSSC, may suspend or expel a member for-
  - (a) acting against the interests of the union and its members;
  - (b) failing to pay the required monthly subscription fees.
- (3) 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 national office-bearers who must appoint a committee to consider the appeals and make recommendations to the NEC. The NEC is the structure that finalises all appeals and its decisions are final and binding.

- (4) A member may resign from the union by giving 30 days written notice to the NOBC, REC, and LSSC stating the reasons for resigning.
- (5) The NEC or REC may waive the notice period required for a resignation in terms of subsection (4).
- (6) 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) after serving the notice period contemplated in section 12 (4) and 12 (5) above, 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.
- (7) Any member who has resigned or been expelled from the union may be re-admitted to membership if at the time of application for readmission provided they meet the requirements of section 8(1).

### **13. Termination of membership arising from a labour dispute**

- (1) 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, remains a member of the union unless that person notifies the REC concerned in writing within 30 days of the date of dismissal of the intention not to remain a member.
- (2) A person who remains a member of the union in terms of subsection (1)-
  - (a) is not required to pay any subscription fee until the date on which they are re-employed or reinstated;
  - (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 fairness of their dismissal have begun, until those proceedings are finalised; and
  - (c) ceases to be a member of the union-

- (i) the date on which that person chooses not to challenge the fairness of the dismissal;
  - (ii) the date on which that person's membership expires in terms of paragraph (b);
  - (iii) the date on which that person requests not to remain a member; or
  - (iv) the date on which the person begins to work outside the registered scope of the union.
- (3) Where legal action results in the termination of member/s Contract of employment, the Union shall;
- (a) asses the merits of the case and make a decision on further proceedings
  - (b) the decision of the Union shall be final and binding on the member

#### **CHAPTER 4 - PLANT STRUCTURES**

##### **14. Members meetings at a plant**

- (1) The union members in a plant must hold a meeting at least once every month.
- (2) The organiser responsible for the plant must ensure that information on all union campaigns and relevant decisions are made available to members and assist in resolving disputes affecting members of the plant.
- (3) The plant shop steward committee office bearers are responsible for convening and conducting general meetings.
- (4) For the purpose of commencing a plant general meeting at least one third of members must be present.

##### **15. Shop Stewards**

- (1) The members of the union in good standing in each plant 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 REC must regulate the election of the shop stewards in each plant, including specifying the number of shop stewards to be elected.

- (3) The shop stewards shall have meetings at least once every month with members.

## **16. Shop Stewards Committee**

- (1) At every plant, the members must elect a Shop Stewards Committee and alternate Shop stewards 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 REC, after consultation with the members of the plant, may increase or decrease 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, subject to any additional requirements provided by the REC.
- (4) The Shop Stewards Committee must meet at least once every month and is responsible for-
  - (a) conducting the affairs of the union in relation to members at that plant;
  - (b) to negotiate with the employer on all matters affecting members at the plant;
  - (c) to negotiate collective agreements for the plant subject to the union's collective bargaining policy or procedure except that these agreements are not binding on the union unless signed by the General Secretary or any other person designated by the NEC.
  - (d) ensuring that collective agreements are observed by members and employees;
  - (e) receiving and attending to complaints affecting members concerning their employment and, where necessary, report such complaints to the LSSC;
  - (f) reporting any improper employment practice or any matter within the jurisdiction of a shop steward in terms of any legislation to the LSSC; and

- (g) defending the individual and collective interests of the membership at the plant.
- (5) For the purpose of commencing a shop stewards committee meeting at least one third of the shop stewards must be present in order for the meeting to continue.
- (6) The shop stewards' committee must elect from its number a chairperson, vice chairperson and secretary on nominations duly seconded by the majority of a quorate shop stewards committee meeting, provided there are more than three (3) shop stewards in the plant for election.
- (7) The procedure to elect the shop stewards committee office bearers will be as follows-
  - (a) if only one person is nominated for a particular office bearer post that person must be declared elected;
  - (b) if more than one person is nominated for that particular position a vote must be taken for that office by ballot or show of hands and the candidate with the highest number of votes must be appointed to that office; and
  - (c) in the event that no candidate receives a majority of the votes cast, further rounds of balloting must be held until one candidate receives a majority of the ballot cast.
  - (d) in each round of balloting the candidate who receives the least votes, will be eliminated from the next round of balloting. The results of each balloting must be disclosed to the meeting before the following round commences.
- (8)
  - (a) The chairperson of the shopstewards committee will convene meetings once a month.
  - (b) Meetings in each plant will be convened through the chairperson who will co-ordinate with the rest of the shopstewards.
  - (c) Special meetings of the shopstewards committee will be convened by the chairperson and in his absence the vice-chairperson.
  - (d) The REC or LSSC will direct an Official/s to conduct shopstewards committee Office Bearers by-elections in terms of the procedures set out in clause 7 above.

- (e) A person elected to fill a vacant position will hold office for the unexpired period of the term of office of that person's predecessor.

## **CHAPTER 5 - LOCAL OFFICES**

### **17. Establishment of locals**

The NEC may establish and demarcate locals of the union.

### **18. Local office-bearers**

- (1) In each local, the office-bearers are -
  - (a) the Local Chairperson;
  - (b) the Local Vice-Chairperson; and
  - (c) the Local Secretary.
- (2) Local office-bearers -
  - (a) must be elected by the LSSC; and
  - (b) serve a term of office of three years.
- (3) The procedures for election of local office-bearers are the same as those of the national office-bearers as set out in section 36 and read with the changes required by the context except that
  - (a) the provisions of section 36(3)(a)(i) and (ii) are not applicable; and
  - (b) any reference to the NC, must be read as a reference to a LSSC.
- (4) The local office-bearers must meet at least every two weeks to attend to the day to day functioning of the union at local level.
- (5) The chairperson of the LSSC must convene and preside over LSSC meetings.
- (6) In the absence of the chairperson the vice chairperson must deputise for the chairperson.
- (7) The secretary of the LSSC must take and compile minutes of these meetings and cause the members in the local to be informed of its contents.

- (8) The quorum to commence meetings is two thirds of the members present.
- (9) Should the vacancy arise due to the removal or resignation by an Office Bearer, the REC must-
  - (a) arrange and empower the ROBC to conduct by-elections in accordance with the procedure set out in section 36; and
  - (b) a person elected to fill a vacant position will hold office for the unexpired period of the term of office of that person.

## **19. Powers and duties of local office-bearers**

- (1) The powers and duties of the local office-bearers are -
  - (a) to encourage all employees at the local who are eligible for membership to become members;
  - (b) to enroll new members;
  - (c) to attend meetings of the LSSC or any other meetings as delegated by the members of the Union and convey resolutions of the members to the Union.
  - (d) to convey decisions of the Union to members in the local;
  - (e) to attempt to settle disputes in the local by lawful methods;
  - (f) to report to the Local or Regional Secretary or REC any dispute arising at the factory, or any grievance of the members which the Shop Stewards Committee has not been able to resolve;
  - (g) to ensure that all members pay subscriptions;
  - (h) to recommend to the REC that a local general meeting be convened to consider matters appropriate to the interest of the union at local level; and
  - (i) to maintain order, discipline and harmony amongst members of the union within the area of the local.
- (2) The local office-bearers must liaise with their respective regional counterparts and keep them generally informed about the affairs of the local.

## **CHAPTER 6 - LOCAL SHOP STEWARDS COUNCIL**

### **20. Powers and duties**

The LSSC is empowered to –

- (a) Implement decisions of the NOBC, RC, REC, ROBC, LSSC and the policies of the NEC and NC;
- (b) Recruit members in a particular local and to generally promote their interests;
- (c) Supervise the affairs of the union in plants within its area of jurisdiction;
- (d) Elect the Local Chairperson, Local Vice-Chairperson, and Local Secretary, all of whom must be members in good standing;
- (e) Appoint ad-hoc committees to assist the LSSC to carry out its functions; and
- (f) Do all further things as it deems are in the interest of the union and which are not in conflict with the decisions of the NOBC, RC, REC, ROBC and the policies of the NC and NEC nor inconsistent with the provisions of this constitution.
- (g) Appoint one of the union officials to be a local co-ordinator to assist the LOB's
- (h) deal with disputes amongst themselves;
- (i) review and co-ordinate shopstewards committee activities;
- (j) review decisions of shopstewards committees and to confirm or reverse such decisions;
- (k) provide assistance to members;
- (I) submit regular reports to REC on all activities of LSSC and SSC.

### **21. Composition**

The LSSC is composed of-

- (a) all shop stewards of the local;
- (b) the Local Chairperson, Local Vice-Chairperson and Local Secretary; and
- (c) all local officials as appointed in terms of Section 42(2)(b).

## **22. Meetings**

- (1) The LSSC must meet at least once a month at the place and on the date and time fixed by the local office-bearers.
- (2) A special meeting of the LSSC must be called if requested by not less than one third of the Shop Stewards Committees within the local.
- (3) Subject to subsection (4), notice of a LSSC meeting, along with the agenda for the meeting, must be circulated to each plant within the local by the Local Secretary-
  - (a) at least 7 days before an ordinary meeting; and
  - (b) at least 4 days before a special meeting.
- (4) For purposes of commencing a meeting of the LSSC and, in order for the meeting to continue-
  - (a) shop-stewards from at least one third of the plants in the local must be present; and
  - (b) a majority of the shop stewards present must be members in good standing.
- (5) If, in terms of subsection (4), a meeting cannot commence within 1 hour after the time fixed for it to begin, the local office-bearers must fix a new time and date for the meeting, which must be not more than 7 days later.
- (6) Despite subsection (4), a meeting scheduled in terms 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 persons present.

## **CHAPTER 7 - REGIONAL OFFICES**

### **23. Establishment of regions**

With due regard to section 42(2) (n), the NEC may establish and demarcate regions of the Union.

## **24. Regional office-bearers**

- (1) In each region, the office-bearers are-
  - (a) Regional Chairperson;
  - (b) Regional Vice-Chairperson;
  - (c) Regional Treasurer and
  - (d) the Regional Secretary
- (2) The powers and duties of the regional office-bearers are generally the same as those of the national office-bearers, as set out in section 37 and 39 and read with the changes required by the context.
- (3) The regional office-bearers must liaise with their respective national counterparts and keep them generally informed about the affairs of the region.
- (4) In addition to those duties assigned by reference to the national counterparts in terms of subsection (2), the Regional Treasurer must;
  - (a) present a financial statement to each ordinary meeting of the RC and REC; and
  - (b) together with the Regional Secretary, present the annual budget of the region to the REC.
- (5) The regional office-bearers must meet at least once a month to attend to the day to day functioning of the union at regional level.
- (6) It is the duty and full responsibility of regional office bearers to give feedback on national decisions and campaigns to the regions to facilitate co-ordination and implementation of these decisions and campaigns.
- (7) Regional office bearers must at all times promote a national perspective among members and the union leadership in their respective regions

- (8) (a) the regional secretary will convene meetings of the region office bearers
- (b) the meetings must be chaired by the regional chairperson and in his absence, by the vice-chairperson
- (c) the quorum to commence meetings Is two thirds of members present.

## **25. Election of regional office-bearers**

- (a) The procedures for election of regional office-bearers are the same as those set out in section 36 and read with the changes required by the context.
- (b) should the vacancy arise due to the removal of an office bearer, the REC will arrange for by-elections in accordance with the procedure set out in section 36 with the changes of the context
- (c) a person elected to fill a vacant position will hold office for the unexpired period of the term of office of that person's predecessor

## **CHAPTER 8 - REGIONAL EXECUTIVE COMMITTEE**

### **26. Establishment and Powers**

The REC exercises the management of the affairs of the union between meetings of the RC within the regional 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) determine the annual budget of the region subject to the approval of the NEC;
- (b) approve monthly financial statements;
- (c) open, operate and close banking accounts in the name of the region, subject to approval, direction and ultimate control by the NEC;
- (d) recruit members in the region and generally promote the interests of the members and the union;
- (e) supervise the financial affairs of the region;

- (f) ensure that proper communication occurs between the region, its locals and the national office; and
- (g) do all further things as it considers are in the interest of the union and which are not in conflict with the decisions of the NOBC, RC, and any policy of the NC, NEC, nor inconsistent with the provisions of this constitution.
- (h) the REC/ROBC may assess legal cases within the region and make Recommendations to the Secretariat on appropriate action to be Taken

## **27. Composition**

The REC is composed of-

- (a) the Regional Chairperson, Regional Vice-Chairperson, Regional Treasurer, Regional Secretary, Redeem coordinator, Benefits Coordinator and worker Gender Coordinator
- (b) the local office-bearers or any other alternate appointed by the LSSC if a local office-bearer is unable to attend, and,
- (c) one (1) representative for each one thousand (1000) members in The Local appointed by the LSSC.

## **28. Meetings**

- (1) The REC must meet at least once every two months, at the place and on the date and time fixed by the REC at its previous meeting.
- (2) The date of the meeting may be changed by the regional office bearers and the Regional Secretary must give all REC members 14 days notice of any change of date of an ordinary meeting.
- (3) A special meeting of the REC must be held if called on the request of a majority of LSSC's or if called by the regional office-bearers.
- (4) Subject to subsection (2), notice of a REC meeting must be circulated to each LSSC by the Regional Secretary-
  - (a) at least 21 days prior to an ordinary meeting, along with the agenda and minutes of the previous meeting and after relevant documentation; and

- (b) at least 7 days before a special meeting, together with a written agenda specifying the issues requiring such a meeting.
- (5) The notice and agenda meeting requirements of a special meeting may be waived with prior consent of the majority of the locals, 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.
- (6) A special meeting of the REC may consider only that special business which necessitated the meeting.
- (7) 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;
  - (b) at least half of the delegation or their alternates, from at least two-thirds of the local delegation must be present; and
  - (c) a majority of the delegates present must be members in good standing.
- (8) If, in terms of subsection (7), a meeting cannot commence within 1 hour after the time fixed for it to begin the regional office-bearers must fix a new time and date for the meeting, which must be not more than 7 days later.
- (9) Despite subsection (7), a meeting scheduled in terms of subsection (8) 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 - REGIONAL CONGRESS**

### **29. Supremacy of the Regional Congress**

The Regional Congress is the supreme decision-making body of the union in the region concerned.

### **30. Powers**

Each RC inter alia has the power and duty to-

- (a) implement policies of the NC or NEC and decisions of the NOBC
- (b) elect a Regional Chairperson, Vice Chairperson and Regional Treasurer from among its members every 3 years;
- (c) elect a Regional Secretary every 3 years;
- (d) consider reports of the activities of the locals in the region;
- (e) consider reports of the activities of the REC and the regional office-bearers;
- (f) formulate policy for the region which must be consistent with the decisions of the NOBC, and policies of the NC, NEC or the provisions of this constitution; and
- (g) generally, carry out the aims and objectives of the union with regard to the Organization of workers in the region.

### **31. Composition**

- (1) The RC is composed of-
  - (a) the Regional Chairperson, Regional Vice-Chairperson, Regional Treasurer and Regional Secretary;
  - (b) delegates from each local as specified in this section; and
  - (c) all regional and local officials, except that they do not have voting rights at the RC meeting.
  - (d) Each local may appoint one delegate for each 200 members, or portion thereof, in that local, 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.
  - (e) (i) The number of members in each local shall be taken from the national membership register. The month prior to the notice for the Regional Congress as per section 35 (3) shall be deemed to be the basis for the determination of the Local delegation as per section 34 (1) (d).

- (ii) Locals will have the right to make corrections provided They have the necessary proof within fourteen (14) days as per section 34 (1) (e) (i) above.
- (f) The RC is entitled to request proof of the membership on which a local has decided its delegation.

### **32. Meetings**

- (1) The RC must meet at least once every three (3) years at the place and on the time fixed by the REC.
- (2) A special meeting of the RC must be called by the REC on the written request of not less than one third of the LSSC's.
- (3) The Regional Secretary must give notice of a RC meeting in writing to each local in the region-
  - (a) at least 30 days before an ordinary RC meeting; or
  - (b) at least 14 days before a special RC meeting.
- (4) 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 locals must be present, and, for the purpose of this section, the calculation of the number of delegates representing a region may include only persons-
  - (a) who are shop stewards in good standing; and
  - (b) whose names were previously provided to the Secretary in terms of this section.
- (5) If, in terms of subsection (4), a meeting cannot commence within 2 hours after the time fixed for it to begin-
  - (a) the ROBC 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 local of the region.
- (6) Despite subsection (4), a meeting scheduled in terms 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 persons present.

## **CHAPTER 10 - NATIONAL OFFICE**

### **33. National Office-bearers**

- (1) The national office-bearers of the union are-
  - (a) the President;
  - (b) the First and Second Vice-Presidents;
  - (c) the National Treasurer; and
  - (d) the General Secretary and the Deputy General Secretary;
  - (e) the NOB's must be the shopstewards at the workplace where they are employed except for the elected officials of the union, and any shop steward may be nominated for the election of Secretary including in regions.
- (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 immediately upon 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 Chapter 16; or
    - (iii) their successor assumes office after being elected by the NC.
- (3) The procedure for electing national office-bearers are as follows-
  - (a) at an ordinary meeting of the NC, any shop steward who is a member in good standing may be nominated and seconded for election as a national office-bearer indicated

in subsection (l)(a), (b) or (c) and any shop-steward in good standing may be nominated and seconded for election as General Secretary or Deputy General Secretary if-

- (i) the nomination is supported by a resolution of any REC or RC; and
  - (ii) the nominees written acceptance and motivation for the nomination is circulated to all regions at the union and the NEC at least 30 days before the relevant NC meeting.
  - (iii) an independent body agreed to by the NEC preceding the. NC shall conduct the nominations, conduct of elections and counting of votes for National Office Bearers at the NC. This body should announce the results of the elections immediately after the counting of votes.
- (b)
- (i) a nominee need not be present at the NC meeting whilst the election is being conducted
  - (ii) in the event that a nominee/s for whatever reason is Unable to stand for elections in terms of subsection (3) (a) (i) and (ii), regions will be allowed to place a new Nomination at the National Congress
  - (iii) such new nomination must be seconded
- (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 appointed to that office; and
- (e) in the event that no candidate receives a majority of the votes cast, further rounds of balloting must be held until one candidate receives a majority of the ballots cast. In each round of balloting the candidate who received the least votes, will be eliminated from the next round of balloting. The results of each round of balloting must be disclosed to the Congress before the following round is commenced.

### **34. Powers and duties of national office-bearers**

- (1) The President must-
  - (a) preside over meetings of the NC, NEC and NOBC and conduct those meetings in accordance with this constitution;
  - (b) ensure enforcement and observance of the rules and orders of this constitution;
  - (c) exercise supervision over the work of the General Secretary and the Deputy General Secretary;
  - (d) co-sign the national banking accounts and sign minutes of meetings of the NC, NEC, and NOBC;
  - (e) generally, supervise the affairs of the union and perform duties usual to the office of the President.
- (2) The First and Second Vice-Presidents must each-
  - (a) assist the President, and perform any duties of the President that are delegated to them; and
  - (b) perform the duties of the President if for any reason the President is unable to perform them.
- (3) If neither the President nor either Vice-President is unable to perform the duties of the President, the NEC must appoint someone from the NEC to act as President until-
  - (a) the President or one of the Vice-Presidents is able to perform the duties of the President; or
  - (b) a new President or Vice-President is elected.
- (4) The National Treasurer must-
  - (a) prepare and submit annual budgets of the union for approval by the NEC;
  - (b) supervise the financial affairs of the union;
  - (c) endorse all accounts for payment and sign cheques;

- (d) submit and present financial statements of the national accounts for each month to the NEC
  - (e) submit the final audited report to the NC; and
  - (f) perform duties usual to the office of the Treasurer, or as are reasonably required by the NC or NEC.
- (5) The General Secretary Is an official of the union and-
- (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 and NEC;
  - (c) is responsible for preparing, and circulating to the 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, NEC and NOBC and any other committee;
    - (iii) to supervise the work of the regional secretaries and all officials of the union through appropriate regional structures; 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, NEC and NOBC.
- (6) The Deputy General Secretary is an official of the union and must-
- (a) assist in the performance of the duties of the General Secretary;
  - (b) perform those duties if the General Secretary is unable to perform them and;
  - (c) perform any other function that the NEC may assign.

### **35. National Officials and Sector Co-ordinators**

- (1) The NEC may appoint National Officials for:
- (i) development of policy;
  - (ii) development of organizational capacity;
  - (iii) educating and training of members.
- (2) The NEC or NOBC must develop guidelines to facilitate the accountability of the national and regional officials to the relevant structures of the union.

## **CHAPTER 11 - NATIONAL OFFICE-BEARERS COMMITTEE**

### **36. Establishment and powers**

The NOBC exercises the day to day administrative functions of the union between NEC and meetings and must carry out the functions and duties assigned to it by the NEC. In addition, the NOBC may –

- (a) take decisions on administrative and organisational matters of the union;
- (b) set dates for and convene national meetings; and

- (c) recruit staff to assist in the administration of the union after consultation with the relevant structures;
- (d) NOB' s and ROB' s will jointly shortlist; interview and recommend staff employment to the NEC.
- (e) NOBC must be required to submit copies of their deliberations to the NEC and consistency is needed.

### **37. Composition**

The NOBC is composed of national office-bearers.

### **38. Meetings**

- (1) The NOBC will meet at least once a month and must determine its own rules of procedure.
- (2) The General Secretary or Deputy General Secretary in consultation with the President must convene NOBC meetings. These meetings must be presided on by the President or in his absence by one of his Vice-Presidents.
- (3) The quorum to commence meetings is two thirds of members present.

## **CHAPTER 12 - NATIONAL EXECUTIVE COMMITTEE**

### **39. Establishment and powers**

- (1) The NEC exercises the executive functions of the union within its national sphere of operations. The NEC-
  - (a) may make or amend any policy decision of the union;
  - (b) must carry out union policy as determined by the NC; and is responsible for conducting the affairs of 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 and hire union employees through national office bearers and to determine employment terms and conditions for employees and officials of the union, except that regional and local employees and officials may only be employed after consultation with the regional office-bearers;
- (c) consider members or appeals the relating discipline to and the removal suspension of or shop expulsion stewards, of office-bearers and officials;
- (d) determine the annual budget of the union;
- (e) approve monthly financial statements of the union as well as annually audited financial reports;
- (f) open, operate and close bank accounts of the union;
- (g) generally, control the funds and finances of the union;
- (h) borrow or raise money and invest the funds of the union;
- (i) allocate float amounts and other funds to respective RECs;
- (j) institute and defend legal proceedings in the name of the union;
- (k) Appoint attorneys to act for the union and appoint any person to sign a document in connection with or on behalf of the union;
- (I) acquire, deal with or dispose of any property on behalf of the union;
- (m) make constitution awards to and regulate determine union affairs procedures such as-consistent with this
  - (i) election, balloting, injury or meeting procedures; or
  - (ii) union discipline and appeals;
- (n) establish or dissolve local and regional structures of the union and demarcate areas of jurisdiction for these areas;

- (0) intervene and take over the full operation of a region if it deems the region not to be functioning in accordance with the provisions of the constitution and the policies of the union;
  - (p) delegate powers to the RC, REC, NOBC
  - (q) set-aside any decision taken by any structure of the union except the NC;
  - (r) deal with any matter delegated to it by the NC;
  - (s) take decisions and policies in the broad interest of the union and its members;
  - (t) interpret the provisions of the constitution pending NC ratification; and
- (3) Every decision of the NEC must be consistent with this constitution and with any relevant decision of the NC.

#### **40. Composition**

- (1) The NEC is composed of-
- (a) the national office-bearers;
  - (b) each regional secretary; and
  - (c) delegates from each region, as specified in this subsection (2)'
- (2) The Regional Chairperson, Deputy Chairperson, Treasurer, Regional Secretary and additional representatives as follows-
- (a) a fifth delegate if the region has between 5001 and 10 000 members;
  - (b) a sixth delegate if the region has between 10 001 and 15 000 members; and
  - (c) a seventh delegate if the region has more than 15 000 members.
- (3) Each delegate must be a member in good standing at the time of the appointment and at the time of the NEC meeting for which they are selected as a delegate.

- (4) (a) the number of members in each region shall be taken from the national membership register
- (b) regions shall have the right to make corrections provided they have the necessary written proof

#### **41. Meetings**

- (1) The NEC must meet at least thrice a year at the place and on the date and time fixed by the General Secretary in consultation with the President.
- (2) A special meeting of the NEC may be called at any time by the General Secretary in consultation with the President.
- (3) The General-Secretary must give notice of an NEC meeting in writing, with an agenda attached, to each REC.
  - (a) at least 30 days before a general NEC meeting; or
  - (b) at least 14 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 delegates or their alternates, from each of at least two-thirds of the regional delegation must be present; and
  - (b) 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 President 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 REC 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 13 - NATIONAL CONGRESS**

### **42. Supremacy of the National Congress**

The NC Is the supreme decision making body of the union.

### **43. Powers**

The NC may-

- (a) adopt any policy measures to further the aims and objectives of the union;
- (b) amend the constitution;
- (c) confirm its agenda;
- (d) review credentials of the delegates;
- (e) receive the reports of the NEC and national office bearers, and make any decision arising from those reports;
- (f) receive and consider the financial report and approve the auditor's report and financial statements;
- (g) approve nominations for, and elect national office bearers;
- (h) consider any resolution concerning the removal or reinstatement of a national office-bearer;
- (i) deal with any other matter that is in the interest of the union; and
- (j) interpret the provisions of the constitution where there is a dispute.

### **44. Composition**

- (1) The NC is composed of-
  - (a) the members of the NEC; and
  - (b) delegates from each region, as specified in this section.
- (2) Each REC may appoint one delegate for every 300 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 NC meeting for which they are selected as a delegate.

- (3) (i) The number of members in each region shall be taken from the national membership register. The month prior to the notice for the National Congress as per section 45 (3) shall be deemed to be the basis for the determination of the regional delegation as per section 44 (2)
- (ii) Regions shall have the right to make corrections provided they have the necessary written proof within fourteen (14) days as per section 44 (3) (i) above.

#### **45. Meetings**

- (1) The NC must meet at least every three years, at the place, and on the date and at the time fixed by the NEC.
- (2) The General Secretary in consultation with the President must call a special meeting of the NC if the NEC by a two-thirds majority decides to convene such a meeting.
- (3) The General-Secretary must give notice of a NC meeting in writing to each REC –
  - (a) at least 90 days before an ordinary NC meeting; or
  - (b) In the case of a special meeting, within a number of days determined by the President, which may not be less than 60 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 regional delegations must be present.
- (5) If in terms of subsection (4), a meeting cannot be commenced within 3 hours after the time fixed for it to begin-
  - (a) the President 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 REC of the new date for the meeting.

- (6) Despite subsection (4), 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 region 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 50(3).

### **PART 3 - PROVISIONS COMMON TO SHOP STEWARDS, OFFICE-BEARERS AND OFFICIALS**

#### **Chapter 14 - Removal of shopstewards, Office bearers and Officials from Office**

##### **46. Removal of Officials who hold office**

Any shop steward, or any official 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;
- (f) they are unable to perform their duties;
- (g) they are not re-elected or removed from the workplace where they are employed.

##### **47. Discipline of shop stewards**

- (1) a person who is either employed or is a member; who fails to comply with the terms of this constitution or any other policy of the union in terms of this constitution or who acts in a

manner that is detrimental to the interest of the union and its members or who is found guilty of misconduct will be disciplined in line with the disciplinary procedure of the union by the relevant REC or the NEC.

- (2) The REC or NEC is required to follow the disciplinary procedure set out in an internal code on disciplinary and appeal procedures

#### **48. Removal by ballot**

- (1) In addition to any other provision in this constitution dealing with the removal of office bearers and officials, these persons may be removed from office by a ballot of members.
- (2) This ballot may only be conducted if at least two thirds 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 appropriate executive committee.
- (3) The relevant executive committee must arrange for a ballot of all
- (4) relevant members in good standing to determine the matter.

#### **49. Appeal procedure**

- (1) Shop stewards may appeal against the decision of the REC to a special body established by the NEC for this purpose and the appeal must be considered in accordance with the procedure set out in subsection (4).
- (2) Local and regional office-bearers and officials may appeal against the decision of the REC as the case may be, to a special body established by the NEC for this purpose and the appeal must be considered in accordance with the procedures set out in subsection (4).
- (3) 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.

## **50. Vacancies arising from removal**

- (1) Vacancies in any position must be filled in the manner prescribed for that position except that, in the event of a vacancy amongst national office-bearers, the REC or the NEC as the case may be, may fill the vacant position in accordance with the procedure set out in section 36 with the changes required by the context.
- (2) A person elected to fill a vacant position, will hold office for the unexpired period of the term of office of that person's predecessor.

## **PART 4 - CLAUSES OF GENERAL APPLICATION**

### **CHAPTER 15 - MEETING PROCEDURES**

#### **51. Rules of procedure at union meetings**

- (1) The President, Chairperson is to chair the meeting. In their absence, the First Vice-President or Vice-Chairperson must chair the meeting. In the President and First Vice-President's absence, the Second Vice-President must chair the meeting. In their absence, the meeting may decide who is to chair.
- (2) The person chairing a meeting must establish whether a quorum exists for a meeting. If a quorum does not exist, the meeting must be adjourned and reconvened in accordance with the provisions of the constitution.
- (3) 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 issues 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 majority is needed for a decision made by the NC, NEC, NOBC, RC, REC, or LSSC or any other

committee or structure of the union. A decision will lapse if there is an equality of votes except in the case of an election in which case the procedure set out in Section 36 (3)(e) must be complied with;

- (d) no motion that has already been debated and determined may be considered, varied or debated again or rescinded at that meeting;
  - (e) subject to the provisions of this Constitution, any structure of the union may consider special resolutions at its meeting;
  - (f) no person may speak, interrupt or otherwise take part in a meeting without the permission of the chairperson. All speakers must address only the chairperson and may not speak for more than ten minutes. A mover of a motion cannot speak for longer than ten minutes and all replies and counter-replies may not be longer than five minutes;
  - (g) a chairperson may make a ruling on any matter of procedure and a ruling given by the chairperson is final except that this ruling may be rescinded by a motion supported by a simple 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.
- (4) A resolution confirmed in writing by not less than two-thirds of the persons entitled to attend a union meeting, had it occurred, is of full force and effect, and is binding as if passed at that meeting.

## **52. Resolutions at National Congress**

Resolutions to be moved at any NC must be-

- (a) submitted in writing to the General Secretary at least 60 days before the NC meeting; and
- (b) circulated by the General Secretary to relevant structures of the union not less than 30 days before the meeting.

### **53. Minutes**

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 16 – BALLOTS**

### **54. When must a ballot be taken**

A ballot must be taken-

- (a) when required by any law;
- (b) When required by this constitution;
- (c) if a decision is taken to this effect by any structure of the union; or
- (d) of those members in respect of whom the union intends to call a strike.

### **55. 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) a decision of the NEC.
- (2) Notwithstanding subsection (1), or any other provision in this Constitution, union members may not be disciplined nor has their membership terminated for failing or refusing to participate in a strike if-
  - (a) a ballot was not held about the strike; or
  - (b) a ballot was held, but the majority of the members who voted did not vote in favour of the strike.

### **56. Jurisdiction of ballot**

The REC may confine a ballot to the members of particular regions or locals regarding matters affecting those members.

## **57. Ballot procedure**

The following is the ballot procedure-

- (a) the relevant structures/meeting of the union appoints at least two scrutinisers who-
  - (i) may be members of the union; and who
  - (ii) must supervise the ballots being counted;
- (b) each voter shall, in the presence of a scrutineer, be issued with a ballot paper which-
  - (i) clearly describes the issue; and
  - (ii) makes it impossible to identify the voter;
- (c) the voter must make his/her mark in secret and deposit the ballot paper in a ballot box;
- (d) on completion of the ballot or as soon as possible thereafter, the scrutineer must count the votes. If there is an election the candidates can watch the counting of the votes;
- (e) the scrutineer must then inform the Chairperson of the results;
- (f) the Chairperson must then inform the meeting or committee of the results;
- (g) the Regional and General Secretary must keep local, regional and national ballot papers. These ballot papers must be kept for three years.

## **CHAPTER 17 - REPRESENTATION ON BARGAINING COUNCILS AND DISPUTE RESOLUTION PROCEDURES**

### **58. Appointment of representatives at bargaining councils**

If the NEC resolves that the union is to be a party to a bargaining council, the NEC or NOBC must determine who will represent the union on the council.

### **59. Powers of representatives at bargaining councils**

Representatives of the bargaining councils have full powers to enter into provisional agreements on behalf of the union subject to the

approval of the NOBC and such agreements need not be subject to ratification by a ballot of members.

**60. Appointment of representatives at dispute resolution procedures**

The NEC or NOBC must take such steps as it deems advisable to resolve a dispute involving the union and/or its members and must appoint persons to represent the union at dispute resolution proceedings.

**61. Powers of representatives at dispute resolution procedures**

Representatives at dispute resolution proceedings have powers to enter into provisional agreements on behalf of the union and such agreements need not be subject to ratification or by a ballot of members. Approval of any agreement will be done by constitutional structures.

**CHAPTER 18 - UNION FINANCES**

**62. Receipt and use of union funds**

- (a) 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.
- (b) Union funds received by the General Secretary must be deposited to the union's credit within 5 days of receipt.
- (c) Funds may be used for Investment, payment of expenditure relating to the acquisition of property and for other lawful purposes as may be decided by the NC or the NEC for the achievement of the aims and objects of the union, but no profits or gains will be distributed to any person.
- (d) Float amounts and other funds must be allocated to each regional account by the NEC, or NOBC from time to time.
- (e) Special allocations may be made to a REC by the NOBC for unbudgeted expenditure upon receipt of a written request from the REC concerned. The written request must specify the amount requested and the reason for the request.
- (f) 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. Head Office will receive proof of deposit receipts.

### **63. Financial Year**

The union's financial year is from January 1 to December 31 except that this date may be varied by the NEC from time to time.

### **64. National finances**

- (1) A national financial committee (hereinafter referred to as Fincom) is established and reports to the NEC and NOBC and must act as an internal audit committee.
- (2) Fincom must meet bi-monthly and is composed of –
  - (a) the National Treasurer;
  - (b) the General Secretary or the Deputy General Secretary as may be determined by the NEC or NOBC;
  - (c) regional treasurers and
  - (d) no more than four other officials or employees appointed by the NEC.
- (3) Fincom is responsible for –
  - (a) assisting the national treasurer;
  - (b) preparing financial reports for the NEC or NOBC;
  - (c) recommending amendments or additions to financial policy;
  - (d) monitoring the union's accounts and querying unusual expenditure;
  - (e) making recommendations regarding financial requests from regional bodies of the union;
  - (f) proposing ways of making the union self-sufficient; and
  - (g) preparatory work regarding the union's budget.
  - (h) decide on financial matters according to the 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;
- (6) There must be five signatories to the national banking account, who will be appointed by the NEC, and any cheques issued by the union must be signed by three of the signatories.

## **65. Regional finance**

- (1) All income and expenditure within the regional sphere must be reported to each meeting of the REC for ratification and the report must include a clear statement of any unbudgeted expenditure.
- (2) There must be five signatories to the regional banking account, who will be appointed by the REC, and any cheques issued by the region must be signed by three of the signatories.

## **66. Banking authority**

- (1) No person is authorised to open an account in any bank in the name of "**Allied Workers Union of South Africa**" or any other similar name
  - (a) without the explicit written authority of a resolution of the NEC on official union letterhead signed by at least three of either the President, First Vice-President, Second Vice-President, National Treasurer, General Secretary or Deputy General Secretary; and
  - (b) if any of the three signatories is not the National Treasurer or General Secretary, without the subsequent verbal confirmation of either the National Treasurer or General Secretary.
- (2) The General Secretary must take reasonable steps to draw this provision to the attention of financial institutions.

## **67. Property of the union**

- (1) The NEC, NOBC or REC, as the case may be, holds in trust, as property of the union

- (a) any gift made to an office-bearer or official of the union in the course of service to the union;
  - (b) any revenue raised by the union from any source;
  - (c) any account in a financial institution in the name of the union;
  - (d) anything purchased with any revenue or gift, or exchanged for any property of the union;
  - (e) copyright in any material or publication either –
  - (f) produced at the expense of the union; or
  - (g) contributed to the union by the original creator of that material or publication;
  - (h) anything else that would be generally recognised as being the property of the union in accordance with ordinary commercial conduct.
- (2) NEC 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 required in terms of section 37(S)(c).

## **68. 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 NEC 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 required in terms of section 37(S)(c).

## **69. 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.
  - (e) breach of union decision or policy
- (2) The NEC may indemnify 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 NEC 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 19 - GENERAL PROVISIONS**

### **70. Enhancing the 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 through democratic procedures in this constitution or by policy of the NC or NEC.
- (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.

### **71. Dissolution by resolution**

- (1) The union may be dissolved by resolution supported by not less than two-thirds of those voting on the resolution at a NC or NEC 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 transmit to the labour Court, a signed statement setting forth the resolutions adopted or the reasons for the union's inability to continue to function, and request the labour Court to grant an order in terms of Section 103 (1) of the Act and to appoint a suitable liquidator nominated by the NEC or any available national office-bearer.
  - (b) the liquidator may not be a member or office-bearer of the union and the Registrar of the labour Court must determine the liquidator's fees.
  - (c) the liquidator's fees and expenses rank in order of preference as though the liquidator were a trustee of an estate and as though the expenses were the cost of sequestration of an insolvent estate.

- (d) after payment of all debts, any remaining assets must be given to any other non-profit, tax-exempt organisation, organizations with similar objectives to those of the union or any other trade union.

## **72. Amalgamation and merger**

- (1) The NC or NEC may resolve to amalgamate or merge the union with any other trade union(s) by resolution supported by at least two-thirds of those voting on the resolution.
- (2) The NEC has the authority to negotiate the terms and conditions of the amalgamation or merger and may enter into agreements.
- (3) Upon the amalgamation or merger, the assets of the union will be transferred to the new union subject to the provisions of Section 102 of the Act.

## **73. 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 if –
  - (a) a notice of the proposed amendment has been sent to the General Secretary;
  - (b) the General Secretary has circulated the proposal two months in advance to every Regional Secretary and to the members of the NC and NEC; 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 or NEC 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 certified by the Registrar of Labour relations in terms of section 101 of the Act subject to the provisions of section 102 of the Act.

## 74. 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 NEC may make an interim ruling on constitutional interpretation at any time between meetings of the NC.
- (3) Every person interpreting and applying the constitution -
  - (a) must prefer a reasonable interpretation of its provisions, statement of policy, or decision that is consistent with the constitution over an interpretation that conflicts with the constitution;
  - (b) must give a progressive 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 vice versa.
- (5) Wherever any period between two events is expressed as a number of days, the days on which the first and second event takes place are 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 "region" -
  - (a) when used as a geographic reference, means a particular region specified in column 1 of the Table below comprising the area of the provinces as defined in the

Constitution of the Republic of South Africa, 1996 and the magisterial districts specified in column 2 of that Table; and

- (b) when used to refer to a constituent element of the union means the operation of the union within a region.

**TABLE**

| <b>COLUMN 1</b>            | <b>COLUMN 2</b>  |
|----------------------------|--|
| Kwazulu- Natal             | Kwazulu- Natal   |
| Eastern Cape               | Eastern Cape   |
| Western Province           | Western Province   |
| Mpumalanga                 | Mpumalanga   |
| North-West                 | Northern and North-West and the magisterial district of Pretoria |
| Witwatersrand              | Gauteng, excluding the magisterial district of Pretoria          |
| Free State & Northern Cape | Free State & Northern Cape                                       |

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

**75. 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.

**76. Transition from prior Constitution**

- (1) Every previously adopted constitution of the **Allied Workers Union of South Africa** is repealed.
- (2) Any action taken in terms of these previously adopted constitutions must be regarded as being taken in terms of the corresponding provision in this constitution.

**DATED AT GERMISTON ON THE 5TH DAY OF AUGUST 2023  
CERTIFYING THAT THE PROVISIONS REGULATING THE ADOPTION  
OF THIS CONSTITUTION HAVE BEEN COMPLIED WITH.**

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**PRESIDENT**  
**Mr. Benjamin Ntoagae**

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**GENERAL SECRETARY**  
**Mr. Patrick Kubheka**