

FINANCIAL POLICY AND RULES



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The following outlines a policy and rules for **NTEU** at both national and branch level as approved at the 2013 National Congress.

1. PROLOGUE

1.1 This document was adopted at the 2011 Congress however it has become necessary to amend the document to better reflect the nature and regulation of budgeting processes in the **NTEU**. The document further develops policy to deal with how the income of the **NTEU** is utilised and disbursed. This policy and rule document is motivated by the following:

- The NTEU Constitution;
- The advice and comment of the national auditor;
- The statements and views of the Registrar (Labour Relations);
- The advice of Senior Counsel with regard to agency shop fee funds.

1.2 In all areas addressed below it must be recognised that the expenditures and accountability for the integrity and accounting for expenditure and disbursement of funds lies with the National Office Bearers and the National Administrative Office. Liability for actions, debts incurred and reporting to the Department of Labour lies with the National Executive Committee on behalf of the **NTEU**. Branches that incur liabilities and have not notified these to the National Administrative Office or through the Council of Chairpersons or directly to the NEC place the Union at risk since the **NTEU** is the actionable entity.

1.3 For these reasons it is imperative that these policy and rule statements are made known to all Branch structures within the Union and so that risk is controlled and minimised. Centralisation or consolidation also reduces the overall audit process and cost to a single point of expenditure and reduces the overall number of auditors and the possibility of conflicting audit comments.

1.4 The National Executive Committee stands in trust towards its members and as such accounts to the members through the National Congress in general, not individuals, for use of, and decisions affecting use of, collective funds.

1.5 It is not the intent of this policy to avoid providing support for members. It is, though, the express intent to protect the reserves allocated for specific budgeted or ad hoc purposes as being intended for use in the interests of all members of the Union and not simply those of individuals.

1.6 All funds and income are the property of the **NTEU** and falls within the ambit of authority of the National Treasurer and the National Executive Committee. This is in keeping with the view of the Department of Labour that Branches are simply administrative structures of the Union and that the notion of "independent" accumulation of funds by Branches is not accepted. In the directive of the Department of Labour all funds accrue to the national account of the union and must be consolidated for reporting purposes.

[Ref S.5.3.8; S.7.12; S.15 of the Union's Constitution and A.11; A17 of the Branch Rules; LRA S.99; S100.]

2. BIENNIAL BUDGETING AND BUDGET SUB-COMMITTEES

2.1 The National Executive Committee shall establish a Budget sub-Committee to perform the technical function of budget construction and allocation, chaired by the National Treasurer.

2.2 Similarly, a Branch Executive Committee shall establish a Budget sub- Committee, or, it may elect to take on this role without so doing, chaired by the Branch Treasurer.

2.3 Allocation of any funds to either national or branch budgets shall be driven by the projected means of the Union and in accordance with the Constitution of the Union.

2.4 The National Treasurer shall from time-to-time issue guidelines, instructions and formats for the submission of budgets to the NEC for approval which shall then circulate to the Branch Executive Committees and Treasurers.

2.4.1 The composition of these committees will be as below:

2.4.1.1 **National Budgeting Sub-Committee Composition**

- the National Treasurer (Chairperson);
- the General Secretary [should one have been appointed]
- the National secretary; [as the Administrative head of the Union]
- the National Deputy President – [as the operational head of the Union]
- Ex-officio members:
- the National Finance Officer [ex-officio]; or,
- where an NFO has not been appointed the National Administrative Officer.

2.4.1.2 **Branch Budgeting Sub-Committee Composition**

- the Branch Treasurer (Chairperson);
- the Branch Secretary
- the Branch Deputy Chairperson
- the Branch Administrator [ex-officio should one have been appointed]

2.4.2 **Decision making:** While voting rights apply as above, it is expected that this committee makes its decisions by consensus based on the rational division of funds between budgets and as according to the Union's Constitution regarding biennial budgeting.

2.5 RESPONSIBILITIES OF BUDGETING SUB-COMMITTEES

2.5.1 *THE BRANCH BUDGETING PROCESS*

2.5.1.1 A Branch Executive Committee shall not later than six months prior to a National Congress submit a two-year running and physical asset budget claim to the National Budget sub-Committee in accordance with its planned needs.

2.5.2 *THE NATIONAL BUDGETING PROCESS*

2.5.2.1 The National Budget sub-Committee shall:

- Review the needs of the forthcoming two-year period with respect to the ordinary running expenditure of the Union, the NEC, the costs of the National Congress, the National Administrative Office, its Branch structures, the CoC, its national and CoC sub-committees, standing accumulation funds, contingency allocations for extraordinary events and ad hoc claims etc.
- Allocate amounts as appropriate and within the projected means of the Union.
- Review all budget claims submitted from Branches of the Union;

- Evaluate the claims.
- Negotiate any queries and establish clarity on areas of concern.
- Allocate amounts per Branch from the remaining pool of funds after allocation of national level operational budget needs and standing accumulation funds.
- Submit the final budget to the NEC in preparation for approval at the National Congress.

2.6 FUND ACCUMULATION AT BRANCH LEVEL

- 2.6.1. It is provided that a Branch can accumulate unexpended funds from budget period to budget period; except that:
- 2.6.1.1 should a reserve exist at the end of a budget period this must be reported to the National Treasurer and the National Budget sub-Committee;
- 2.6.1.2 reasons for the failure to apply the funds as per budget must be reported;
- 2.6.1.3 motivation for usage of the reserve in the forthcoming budget period must be supplied;
- 2.6.1.4 reserve funds may not be applied to legal costs or asset purchase expenses, without specific approval from the National Treasurer; and,
- 2.6.1.5 the National Budget sub-Committee reserves the right to adjust the current budget claim submission when the reported reserve has been taken into account.

2.7 AD HOC BUDGET CLAIMS

- 2.7.1 Provision is made for ad hoc claims not submitted in the biennial budgets of branches or the national office. Such claims will not take the form of replacing amounts that should have been budgeted as contingency amounts to cover unanticipated events. Ad hoc claims must represent an extraordinary expense encountered.

3. FUND USAGE POLICIES

3.1 REPORTING OF BRANCH FINANCIAL INFORMATION

- 3.1.1 The Union's Constitution and Branch Rules and this policy prescribe reporting of financial information related to income and expenditure, assets and liabilities and auditor's reports to the National Treasurer through the National Administrative Office. This is required for consolidation purposes and for analysis of, and submission of, relevant reporting to the South African Revenue Service (SARS). Consolidation of financial information is required by the Registrar (Labour Relations). Branches failing to comply with this requirement will be suspended from participation in the Union until information has been supplied as required.

3.2 PURCHASE AND DISPOSAL OF ASSETS REPORTING OF ASSETS

- 3.2.1 All Branch based assets, whether moveable or immovable (fixed) property must be reported to the National Treasurer through the National Administrative Office together with the financial expenditure and liability statements and audit reports where relevant, as provided in the Union's Branch Rules and Constitution.

3.3 PURCHASE AND DISPOSAL OF MOVABLE ASSETS

- 3.3.1 Moveable assets which are to be purchased or disposed of may only be purchased or disposed of under the following authority.
- 3.3.2 Moveable Assets represented as:
- 3.3.2.1 Branch based assets with an individual value of less than R15 000 – the Branch Executive Committee subject to the approved budget.
- 3.3.2.2 Branch based assets with an individual value of greater than R15 000 the National Administrative Office.
- 3.3.2.3 Any asset funded by the national account - the National Executive Committee.

3.4 PURCHASE AND DISPOSAL OF IMMOVABLE (FIXED) ASSETS

- 3.4.1 Purchase or disposal of immovable (fixed) property assets must, in terms of 7.3.12 of the Union's Constitution, be with the approval of the National Executive Committee. All disposals of immovable or fixed property must be notified to the National Administrative Office for removal from the asset register of the Union.

3.5 GENERAL FUND USAGE

3.5.1 PAYMENT FOR SERVICES OF EMPLOYEES OF THE UNION

- 3.5.1.1 Where the Union, through the National Executive Committee, or its Branch structures engages staff on a full- or part-time basis, to perform services on behalf of the Union such persons are employees of the Union.
- 3.5.1.2 The National Treasurer may, as a consolidation issue, come to an agreement with employers that have agreed to full- or part- payment of the salary of union officials at branch level (shop stewards, administrators) through which the emoluments and remunerations are paid directly to the National Treasurer through the National Administrative Office. The appropriate mechanisms for payment of SITE or PAYE to SARS will under these circumstances be made by the National Administrative Office. As a result, all union employee income and benefit payments and related conditions of service must be reported to the National Treasurer through the National Administrative Office and consolidated into appropriate reporting to SARS.
- 3.5.1.3 Where these remunerations and tax payments are managed through the institutional employer proof of payment to SARS of all income taxes and related monies must be provided by Branch structures to the National Administrative Office.

3.5.1.4 Where a court order against an employee of the Union has been made any payments made in terms of that order will be managed at the source point of that individual's salary payment.

3.5.2 *DISBURSEMENT OF FUNDS FROM NATIONAL OR BRANCH LEVEL ACCOUNTS*

3.5.2.1 The accumulation of income into either national or branch level accounts represents reserves which are held in trust by the Union. The consolidated total amounts and financial activity as audited financial statements is reportable to the Department of Labour (LRA: S.100 (b)).

3.5.2.2 As a result, all income and expenditure must be reported and audited according to currently accepted accounting frameworks.

3.5.2.3 All income and expenditure at branch level must be properly budgeted and accepted National Budget sub-Committee on a biennial basis.

3.5.2.4 Income and expenditure must be regularly reported as provided by the Union's Branch Rules and Constitution to the National Treasurer as provided in guidelines established from time-to-time by the National Treasurer.

3.5.2.5 Expenditure that is outside of the aims and objectives of the Union, or relevant budget allocation, will not be accepted and will be subject to either corrective or punitive action.

3.5.2.6 Capital expenditure, either, for moveable, or, immovable property must be budgeted and within the constraints laid down by the Union's Branch Rules and the Constitution and other guidelines provided through the National Treasurer and the National Auditor.

3.5.2.7 Payment for undocumented costs of services or in lieu of services to the Union by any person is not allowed. The clear participation in tax evasion that this represents is a certain risk to the Union.

3.5.2.8 Payment for undocumented out-of-pocket expenses and costs related to authorised Union activities by any person is not allowed. The clear participation in tax evasion that this represents is a certain risk to the Union.

3.5.2.9 Payment for unauthorised costs incurred by any person is not allowed.

3.6 **ALLOCATION AND DISBURSEMENT OF FUNDS FOR NATIONAL LEVEL OFFICE BEARER'S ACTIVITIES**

3.6.1 The funds of the Union will be centralised within the National Administrative Office, and Branches submit budgets for central administration and disbursement through that office, and, the following will apply:

3.6.1.1 In order to facilitate and implement the functions and roles of the National Executive Committee (and by extension the CoC (S.8.2.3)) the National Treasurer shall budget an amount to be utilised for travel, subsistence, accommodation, and other expenses necessary for the NEC to perform its duties and carry out its normal activities, and, relevant exploratory activities, in keeping with the role and function of the NEC and its members. This budget may include those ancillary expenses as required to allow the National Administrative Office staff to perform their functions and duties.

- 3.6.1.2 Such funds may be disbursed by the NEC according to a known activity plan or, on an ad hoc basis, according to the needs at the time the expenditure is contemplated.
- 3.6.1.3 The National President and the National Secretary shall constitute the authorising members of the NEC for ad hoc allocation of NEC personnel and, therefore, disbursements related to the deployment of these personnel.
- 3.6.1.4 Such funds shall be under the day-to-day administrative control of the senior National Administrative Officer in the National Administrative Office.
- 3.6.1.5 In the case of the CoC the budget shall be managed in the same manner as for the National Executive Committee.

3.7 ALLOCATION AND DISBURSEMENT OF FUNDS FOR BRANCH LEVEL OFFICE BEARER'S ACTIVITIES

- 3.7.1 The Branch Treasurers shall similarly budget in relation to Branch Executive Committees and administration offices.
- 3.7.2 In the case of Branch Executive Committees, the above rules shall apply with the exception that the Branch Chairperson and Branch Secretary, and, where one has been appointed, the Branch Administrator shall replace the National President, National Secretary and National Administrative Officer.
- 3.7.3 Expenditures of the above nature will be according to the budgets supplied by Branches and disbursement will be managed from the central point of accounting (ie the National Administrative Office).
- 3.7.2 Where budgets have not included contingency for unanticipated events, then, separate claims must be motivated for approval through the National Treasurer via the National Administrative Office.

4. AGENCY SHOP FEES

- 4.1 Agency shop fee fund accumulations and disbursement therefrom, must be reported to the National Treasurer as part of the Branch expenditure reports for inclusion with the consolidated financial reports of the Union.
- 4.2 Within legal constraints, the National Congress may elect to centralise agency shop fees under the national account. In which case these will be administered by the National Administrative Office and with the exception of 2 below the same principles will apply.
- 4.3 The National Congress may elect to prescribe how these funds will be apportioned back to Branches and for national programmes.
- 4.4 The above notwithstanding, where an agency shop agreement exists the following shall apply. Recognising that there are no discernable guidelines from either the LRA or the Registrar (Labour Relations) the following seeks to place ethical constraints upon the use of these fund reserves.

4.5 GENERAL PRINCIPLES

- 4.5.1 It is established by the LRA that the funds deducted from employees who are not members of the Union are for use in relation to the socio-economic benefit of both members and non-members. This implies that the work of union representatives supports the interests of the non-members and hence any disbursement should be in direct correlation to the work of union representation.
- 4.5.2 The day-to-day management of such funds is the responsibility of the Branch Executive Committees.
- 4.5.3 The agency shop fund, in addition to the provisions of the LRA, is therefore subject to same audit and reporting rules as all fund holdings.
- 4.5.4 With this in mind it is provided that, inter alia, ethical expenditure from agency shop funds embraces the following areas:
- 4.5.4.1 Non-capital purchases.
 - 4.5.4.2 Purchases which enable the administration of branch offices and infrastructure.
 - 4.5.4.3 Training of union representatives and officials.
 - 4.5.4.4 Support of attendance at conferences and workshops directly related to the work of the Union and its aims and objectives (excluding events of interest to individuals alone).
 - 4.5.4.5 Support of attendance at meetings, consultations, conferences and workshops at DHET, SETA, HESA, Council Chairpersons' Forum, or similar events.
 - 4.5.4.6 Legal advice, as opposed to the defence of a case, relating to matters affecting the rights of all employees of the relevant institution.
- 4.5.5 It is provided that the following is, inter alia, considered to be unethical usage of agency shop funds:
- 4.5.5.1 Capital purchases.
 - 4.5.5.2 Legal advice relating to an individual whether or not this is likely to set principles which affect all employees.
 - 4.5.5.3 Expenditure which is not directly related to the use of services rendered for advice, training, or the administration or investment of agency shop funds.
 - 4.5.5.4 Expenditure which should rightfully devolve to the Union for payment.
 - 4.5.5.5 Expenditure which represents a personal gain for any person.

5. HONORARIA AND DISBURSEMENT FOR SERVICES PROVIDED TO THE NTEU

- 5.1 Honoraria in terms of SARS rulings are a form of income and therefore attract commensurate overheads for the Union. It follows that unreported income payments of this nature represent a risk to the Union since this would be actionable by SARS.

- 5.2 The provisions of S3.3 of the Union's Constitution, notwithstanding, the payment of honoraria for services to the NTEU is not allowed.
- 5.3 Honoraria shall only be allowed where the Union wishes to make a once-off payment to a person, or, rank-and-file member of the Union, who has performed an unremunerated honorary task for the union (such as honorary bookkeeper, representative in selection panel work, etc.), and where the task does not represent the rendering of a professional service to the Union.
- 5.4 Payment for services to the Union is covered below: *7. Disbursements for services provided to the NTEU by members of the Union.*

6. ALLOWANCES, SITTING FEES AND/OR PAYMENT OF REMUNERATION-LIKE AMOUNTS TO BRANCH OR NATIONAL OFFICE BEARERS OF THE NTEU

- 6.1 Payment of allowances, sitting fees and/or payment of remuneration-like amounts in terms of SARS rulings are a form of income and therefore attract commensurate overheads for the Union. It follows that unreported income payments of this nature represent a risk to the Union since this would be actionable by SARS.
- 6.2 The provisions of S3.3 of the Union's Constitution, notwithstanding, the payment of allowances, sitting fees or other remuneration-like amounts to sitting elected, or coopted, members of either a Branch Executive Committee or the National Executive Committee, or, for undocumented or unauthorised services to the NTEU is not allowed.
- 6.3 Payment for services to the Union is covered below: *7. Disbursements for services provided to the NTEU by members of the Union.*

7. DISBURSEMENTS FOR SERVICES PROVIDED TO THE NTEU BY MEMBERS OF THE UNION

- 7.1 Where an Office Bearer or a member performs legitimate and authorised professional services for the Union, payment shall be at a tariff rate agreed at CoC and reported to the National Treasurer through the National Administrative Office and any necessary actions in relation to SARS regulations carried out by that office.
- 7.2 Payment for undocumented or unauthorised cost of services or in lieu of services to the Union by any person is not allowed. The clear participation in tax evasion that this represents is a risk to the Union.

8. LEGAL AID AND DEFENCE

- 8.1 The **NTEU** Constitution mandates a National Legal Fund be established and the National Officer Bearers are therefore mandated to take an amount from each member's subscription payment and to place this into a National Legal Fund or insurance benefit. Details of this may be established in consultation with the Council of Chairpersons.
- 8.2 In principle the Union should take a portion of its subscription income and put this towards a fund which would allow the Union's local Branch Committees' access to funds which could be used to take legal advice on critical issues relating to the treatment, defence and relationship between the Union members and the employer.
- 8.3 The policy of the Union in this regard will be that 2% of each subscription paid to the national account will be directed towards accumulating a fund to provide for legal advice, or, defence in accordance with the Legal Assistance and Defence Policy.
- 8.4 Where policy indicates that expense can be incurred with regard to legal action the Union's policy on how the **NTEU** nationally can utilise the Legal Fund, and how members at branch level can receive Legal Advice, Assistance and Support, where appropriate, from the Union's local reserves shall apply.
- 8.5 A separate policy document will deal with specific rules of support; which policy outlines the policy constraints with regard to overall usage of the funds of the Union for the purpose.
- 8.6 The overall principles and funding limitations on usage of this fund are contained within the Legal Assistance and Defence Policy Document.
- 8.7 Use of free services such as the CCMA is strongly encouraged as is the careful consideration of seeking legal advice which can incur significant cost.
- 8.8 No non-member will be supported from this funding **unless** such person agrees to sign membership of the NTEU and pay at least 12 months back dues prior to support being provided.
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