

**2015**

**CONSTITUTION**  
of the  
**NATIONAL TERTIARY  
EDUCATION UNION**  
**November 2015**




**UNITY IN TERTIARY EDUCATION**

**This Constitution of the National Tertiary Education Union is hereby and duly signed on this**

**1st DAY of MARCH 2016**

**Signatory 1 : NATIONAL PRESIDENT**

**(print name DIMOKATSO PEO )**



**Signatory 2 : GENERAL SECRETARY**

**(print name GRANT ABBOTT )**



**November 2015**

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## **PREAMBLE STATEMENT**

To these ends is established an organisation representing employees in tertiary education and related institutions in South Africa.

- To protect and advance the rights, opinions, needs and interests of the Membership of the **National Tertiary Education Union** and by extension the interests of Tertiary Education in South Africa and its communities.
- To eliminate differences in benefit, entitlement and process and provide general protection for employees in the sector.
- To engender the principles of co-determination between employer and employee and foster an environment that ensures current, or higher, standards of excellence in the work, teaching and research of tertiary education institutions.
- To meet and respond to any perceived need to resolve contemporary problems facing society and foster teaching and research in the fulfilment of justice, peace, equality and social harmony and development.
- To uphold the rights of individuals accorded by the Constitution and Laws of the Republic of South Africa.

## **1. NAME**

**1.1. NATIONAL TERTIARY EDUCATION UNION (NTEU)** (*hereinafter referred to as "the Union"*).

## **2. AIMS AND OBJECTIVES**

- 2.1. To organise and represent all employees in the tertiary education sector and related institutions.
- 2.2. To protect, defend, represent and advance the rights and interests of the Members at all levels of the Union.
- 2.3. To act for and on behalf of the Members of the Union.
- 2.4. To make representation to the State, the employer bodies and to any other body, nationally or internationally, on behalf of the Members of the Union.
- 2.5. To promote and engage in collective bargaining with employers, and, where relevant, with the State, on issues which are relevant to the working life of the Members; and, to promote fair labour practices at tertiary institutions.
- 2.6. To ensure the individual and collective representation of the Members on all matters that might affect the working relationship of Members with their employers.
- 2.7. To co-ordinate the actions of the Members regarding matters of concern to them; and, to settle disputes affecting Members as individuals or as an organised group.
- 2.8. To advance the democratic participation of Members in the structures of governance at institutions of tertiary education and related institutions.
- 2.9. To critically examine the role of institutions of tertiary education in a changing society in an effort to promote the equitable and fullest utilisation of the resources of these institutions.
- 2.10. To equip Members with the relevant skills for effective participation in bargaining, policy-making and governance structures, and skills for the effective representation of their constituents.
- 2.11. To liaise, and co-operate, with other organisations in the tertiary education sector, nationally and internationally, which have similar objectives and policies.
- 2.12. To promote the efficient functioning of the tertiary education and related institutions in South Africa, promote critical thinking and education; defend academic freedom and autonomy, intellectual, creative and other property rights.
- 2.13. To ensure the recognition by all tertiary institutions of the fundamental human rights, including labour rights, of their employees, as set out in the current Constitution of South Africa.
- 2.14. To promote equitable educational opportunity and sound educational practices at tertiary institutions.



- 2.15. To promote communication, interaction and unanimity between Branches of the Union in order to ensure the proper implementation of the objectives and policies of the Union.
- 2.16. To issue media statements on behalf of the Members.
- 2.17. To strive for the fulfilment of every person's fundamental right to enjoy full and equal opportunity towards self-development by fostering an equitable and effective use of tertiary institution resources.
- 2.18. To perform any other functions incidental to the promotion, aims, objectives and mission of the Union.

### **3. NOT FOR GAIN ORGANISATION**

- 3.1. The Union shall be an independent organisation not for gain or profit.
- 3.2. No Office Bearer or Member shall enjoy monetary gain from the Union and/or its activities except that legitimate and documented expenses incurred in exercise of their legitimate duties, or co-opted duties, on behalf of the Union may be reimbursed to them.
- 3.3. Provided that an honorarium payment may be made to any Member in accordance with a policy approved, and as may be amended from time-to-time, by the National Congress.

### **4. ORGANISING PRINCIPLES**

- 4.1. The Union shall be an organisation operating within the terms of the Labour Relations Act No. 66 (1995).
- 4.2. The Union will seek to ensure that democracy operates at all levels of its structure.
- 4.3. The orientation of the organisation will be towards its Members. It will establish internal communication mechanisms to maintain contact between its Members at all levels of the organisation and ensure that the needs and interests of the Members remain its primary concern.
- 4.4. The Union recognises the diverse nature of its Membership, and will seek to be sensitive and responsive to the needs of all its Members.
- 4.5. At all levels within the Union, as far as possible, any Office Bearer whose portfolio deals with affairs of a particular constituency shall be elected from amongst Members of that constituency, who shall be able to recall the Office Bearer if they feel their interests are not being served.
- 4.6. The Union will be apolitical and maintain an independent identity within the broad parameters of the Trade Union movement.
- 4.7. The Union will seek to move towards financial self-sufficiency and take what actions necessary to diminish or eliminate dependence on donor funding.

### **5. THE NATIONAL CONGRESS**

- 5.1. The National Congress shall be the highest decision making body of the organisation. Control of the Union shall be exercised through the following in this order of precedence :
  - 5.1.1. National Congress;
  - 5.1.2. the National Office Bearers; and,
  - 5.1.3. National Council of Chairpersons (*hereinafter referred to as the CoC*).

### **Powers and functions of the National Congress**

- 5.2. The National Congress shall consider all matters submitted to it; or, any other matter to which the National Congress agrees may be added to the agenda, provided that such matters are only discussed at the end of the agenda and within the available time constraints, but no decision shall be taken at the meeting unless the majority of the delegates present agrees thereto.
- 5.3. The National Congress will have the following functions, to:
  - 5.3.1. elect the National Office Bearers as required under section 7 below (7.14-7.25);
  - 5.3.2. consider reports from the National President and portfolio National Office Bearers (which may be consolidated);
  - 5.3.3. consider the National Secretary's report on the activities of the Union;



- 5.3.4. consider the report of the National Treasurer regarding the statement of income and expenditure, the balance sheet, any other financial information or statements; consider any reports of the appointed auditors, and appoint registered auditors for the following financial period;
- 5.3.5. consider the report of the General Secretary (should one have been appointed) on the status and activities of the National Administrative Office;
- 5.3.6. consider any written motions or resolutions proposed by member Branches, individual Members or from the floor during the conduct of a National Congress;
- 5.3.7. formulate the policy of the Union and to decide on appropriate programmes of action;
- 5.3.8. approve the budget, and utilisation of accumulated funds, for the Union for the following congressional session in accordance with section 15 below of this Constitution;
- 5.3.9. determine subscriptions payable by Members in accordance with section 10.16 below as recommended by the National Treasurer and the NEC;
- 5.3.10. appoint the National Congress Appeals Board;
- 5.3.11. review, when necessary, or requested, and amend, confirm or reverse any decision of the CoC or a Branch meeting which is or may be in conflict with the aims, objectives and principles of this Constitution;
- 5.3.12. suspend any Branch Executive Committee for any action which contravenes the provisions of this Constitution; or, which is contrary to the interests of the Union, and, to arrange for the taking over of the management of the affairs of the Branch until a Branch General Meeting can be held and a new committee is elected;
- 5.3.13. suspend a member, or official, of any Branch Executive Committee for any action which contravenes the provisions of this Constitution; or, which is contrary to the interest of the Union, and to ensure that a new member or official is elected;
- 5.3.14. make amendments to this Constitution in accordance with section 18 below;
- 5.3.15. do whatever it deems necessary to advance the aims and objectives of the Union.

#### **Eligibility to Attend a National or Special Congress**

- 5.4. Subject to 5.6 below any Branch which has been declared not in good standing or is not in good standing with its subscription payments for at least, or during, the three months prior to the date of a National or Special Congress is not eligible to attend.
- 5.5. Any Member who has been declared not in good standing either by a BEC or the NEC, for whatever reason, for at least, or during, the three months prior to the date of the National or Special Congress shall not be eligible to be nominated as a delegate on behalf of any Branch or to attend the National or Special Congress.
- 5.6. A Branch not in good standing :
  - 5.6.1. may petition the Council of Chairpersons, which must unanimously agree, to attend in a non-voting observer capacity;
  - 5.6.2. shall be restricted to two attending delegates only;
  - 5.6.3. may petition, with motivations, to be accorded speaking rights, which rights may be granted by consensus of a quorate meeting. The times, circumstances and restrictions on these rights shall also be decided by consensus.

#### **Composition**

- 5.7. The constituent members of the National Congress shall consist of the following:
  - 5.7.1. The National Office Bearers (*who represent no branch*).
  - 5.7.2. The Council of Chairpersons (*who represent their respective Branches*) who are included in the calculation of delegates under 5.7.3 below.
  - 5.7.3. Each Branch in good standing shall be entitled to send to a meeting of the National Congress one delegate for every one hundred (100) or part thereof paid up Members in good standing of that Branch, subsidised according to 5.11 and 6.2.1 below, who shall each have one vote in person or by written proxy in accordance with 5.15.4 below.
    - 5.7.3.1. The total number of delegates per Branch to be determined using the average membership number for the Branch for the preceding financial year.



5.7.3.2. A Branch shall only be entitled to the maximum number of delegates, to any National or Special Congress, as calculated under 5.7.3 above.

5.7.4. An Honorary Life Member shall be a non-voting member of the National Congress, shall not represent a Branch, but shall have the benefit of similar nationally funded sponsorship as provided for NEC constituent members attending such meetings.

5.7.5. The General Secretary and National Administrative Office Staff in a non-voting capacity.

### Meetings

5.8. The National Congress will meet at least every two years to determine matters relating to the policy and direction of the organisation.

5.9. The National Congress shall normally be chaired by the National President.

5.9.1. On that person's absence, or inability to attend, the National Deputy President will chair the National Congress.

5.9.2. Should these arrangements (either 5.9 above or 5.9.1 above) be contested delegates at the National Congress may vote, on a correctly proposed, seconded and numbered motion in accordance with 5.16.3 below, to elect a person, nominated and seconded from amongst and, by, delegates at the National Congress, who shall vote on the matter in accordance with the procedures in paragraphs 7.19 below to 7.24 below.

5.10. The members of the National Congress and/or the CoC may agree to invite any Union Member other than provided for in 5.7 above or any other person, but such Union Member or other person shall act only as an observer or in an advisory capacity and shall have no vote and may speak only at the discretion of the Chairperson.

5.10.1. The cost of attendance of such invitee as approved by the NEC shall be funded from national fund sources.

5.11. The Union shall subsidise the cost of attendance of the constituent members of the National Congress, according to the financial means of the Union, however, the NEC may elect to subsidise more delegates and / or observers, provided this is within the means of the Union and on the same basis as the constituent members.

5.11.1. The average Branch membership for the previous financial year shall be used as the basis for allocating such financial assistance.

### Quorum

5.12. The National Congress shall be quorate, if, both (a) a half of all the voting delegates (5.7.3 above), and (b) half of all the National Office Bearers are present at all times.

5.13. A written power to exercise a proxy vote on behalf of any not present Branch delegate shall be counted into the quorum, provided the mandated member nominated by the proxy voter is present at the time.

5.14. If a quorum is not present within 1 (*one*) hour of the time fixed for the meeting, the meeting shall be adjourned.

5.14.1. In the event of an adjournment the meeting shall reconvene within fourteen (14) days but not later than forty-five (45) days from the date of the adjournment.

5.14.2. The National Secretary shall within 7 days give notice of the new date, time and place of the meeting.

5.14.3. At such reconvened meeting the members present shall form a quorum.

### Voting

5.15. When voting is required at a meeting of the National Congress the voting power shall be conducted as follows.

5.15.1. When voting for the election of office bearers and officials each Branch shall have voting powers in accordance with 5.7.3 above.

5.15.2. Delegates of Branches in good standing shall have the right to cast one vote each in respect of any voting taking place at a National or Special Congress.

5.15.2.1. NEC and CoC members will carry only one vote each.

5.15.2.2. A delegate granted leave to attend in terms of 5.6 above carries no vote and will be an observer.





- 5.15.3. The meeting Chairperson shall have a casting vote.
- 5.15.4. A written power to exercise a proxy vote on behalf of any not present Branch delegate shall be allowed provided the mandated member nominated by the proxy voter is present at the time.
- 5.15.5. Voting shall be by ballot on an appropriate ballot form specifying:
  - 5.15.5.1. the year of the National Congress;
  - 5.15.5.2. the motion or resolution number;
  - 5.15.5.3. blocks providing for a vote for, against or abstaining from the voting.
- 5.15.6. Any vote, unless otherwise required elsewhere in this Constitution, shall be carried by a majority.
- 5.15.7. A ballot form shall be considered spoilt if more than one voting block has been or, appears to have been, marked by the voter.
- 5.15.8. Ballot forms shall be folded and placed in a ballot box which at the conclusion of the voting period shall be opened and vote counting commence.
- 5.15.9. The General Secretary or a nominee or independent person shall act as Electoral Officer and cause the votes to be counted and shall record the number of votes in favour of, against and all abstentions and such result shall be minuted.

#### **Agenda, Motions, Resolutions, Proposals and Petitions**

- 5.16. Notice of agenda, motions, resolutions, proposals or petitions:
  - 5.16.1. The National Office Bearers, through the General Secretary, will inform all Branches of the date of the National Congress and call for nominations for National Office Bearers, at least forty-five days (45) before the Congress.
  - 5.16.2. A simultaneous call for the text of motions, resolutions, proposals and petitions shall accompany the call for office bearer nominations.
  - 5.16.3. Motions, resolutions, proposals, or petitions must be submitted to the General Secretary in writing either by post at least thirty (30) days before the date of the Congress, or, during the conduct of a National Congress, indicating:
    - 5.16.3.1. the proposer's and seconder's names and signatures; and,
    - 5.16.3.2. the year of the Congress to which it is being submitted.
    - 5.16.3.3. Clear text in motivation of the proposal; and.
    - 5.16.3.4. a clear statement of the motion proposal; or, in the case of proposed constitutional changes
      - a clear statement of the proposed additional text; or
      - the original constitutional text followed by the proposed text additions or corrections
  - 5.16.4. The General Secretary will assign each motion, resolution, proposal or petition a unique identifier which shall indicate it as a motion, a resolution, a proposal, or, a petition, a sequential number, and the year.
  - 5.16.5. The agenda sheet shall be sent to delegates ten days (10) before the date of the National Congress.
  - 5.16.6. At other meetings of the National Congress any matter included in the agenda of which due notice has been given, may be dealt with, excluding the matters mentioned in 5.3.1 above, 5.3.2 above, 5.3.3 above, 5.3.4 above, and 5.3.8 above.

#### **Minutes**

- 5.17. Minutes of the National Congress shall be taken in an appropriate manner by the National Administrative Office staff under the direction of the General Secretary and shall be disseminated to the Branches within one (1) month of the National Congress.
- 5.18. Minutes of a National Congress shall be ratified at the next National Congress and a corrected version signed as such by the National President and General Secretary.
- 5.19. Minutes of National Congress shall be stored for the life of the Union.



## **6. SPECIAL CONGRESSES**

- 6.1. Special Congresses, to address urgent decisions through motions, may be called under the following conditions, if:
  - 6.1.1. either, the National Office Bearers, in consultation with the CoC, or, more than half of the Branches in good standing, deem it necessary to hold a Special Congress; or,
  - 6.1.2. more than half of the total Member individuals petition the National Office Bearers, through the NEC, to convene a Special Congress:
    - 6.1.2.1. the NEC shall organise and convene a Special Congress setting a congressional meeting date which is not more than forty (40) days after the date of them receiving that petition.
  - 6.1.3. A Special Congress called in terms of 6.1.1 above will be held unless at least half of the Branches in good standing object to this in writing within twenty (20) days of the last acknowledgment of receipt of notice by eligible Branches.
  - 6.1.4. Failing sufficient objection the Special Congress shall be held within twenty (20) days of the lapse of the 20-day objection period.

### **Composition**

- 6.1.5. The constituent members of a Special Congress shall be as stipulated in 5.7 above except that no Branch or Member not in good standing shall be allowed nor any other observer who is not invited by the NEC in an advisory capacity to assist the Special Congress.

### **Procedure and Process**

- 6.1.6. To arrange a Special Congress the following procedures are required, providing motivations, a draft agenda and the proposed motion/s to be presented to the Special Congress:
  - 6.1.6.1. the Special Congress may only address the items submitted in the following manner during its proceedings, no further motions, or business will be called for, or accepted, during the course of the meeting nor will be discussed;
  - 6.1.6.2. the National Office Bearers shall, through the National Administrative Office, notify the Branches of the date that a Special Congress will be held, which date shall not be more than forty (40) days from the date of dispatch of the notice;
  - 6.1.6.3. the proposed date of, and the motion/s of business for, a Special Congress shall be transmitted to the Branches by the quickest communication method available, and the Branches shall acknowledge receipt within one (1) working day of receipt of the communication;
  - 6.1.6.4. a simultaneous call for counters to the motion/s of business shall accompany the notice of meeting date, which counters to the motion/s must be notified to the National Office Bearers, and the General Secretary, through the National Administrative Office, not less than fourteen (14) days prior to the announced date of a Special Congress;
  - 6.1.6.5. the General Secretary shall, at least one (1) week before the Special Congress, supply to each Branch a final agenda, motion/s of business and any counter motions for that Special Congress;
  - 6.1.6.6. the rules for representation, quorum, voting rights and voting procedure shall be the same as for a National Congress as stated in sections 5.6 above, 5.12 above, and 5.15 above except that no proxy voting shall be allowed.

### **Subsidy on Attendance of Congresses**

- 6.2. The Union shall subsidise the cost of attendance of the constituent members (5.7.3 above) of a Special Congress, according to the financial means of the Union, however, subject to 6.1.5 above, the NEC may elect to subsidise observers from national funding, provided this is within the means of the Union, and on the same basis as the constituent members.
  - 6.2.1. The average Branch membership for the previous financial year shall be used as the basis for allocating such financial assistance.
  - 6.2.2. Members of the NEC and National Administrative Office staff shall be sponsored by the National Office to attend Congress.



## Minutes

- 6.3. Minutes of the Special Congress shall be taken in an appropriate manner by the National Administrative Office staff under the direction of the General Secretary and shall be disseminated to the Branches within one (1) month of the Special Congress.
- 6.4. Minutes of a Special Congress shall be ratified at the next National or Special Congress and a corrected version signed as such by the National President and General Secretary.
- 6.5. Minutes of a Special Congress shall be stored for the life of the organisation.

## 7. NATIONAL EXECUTIVE COMMITTEE (NEC)

- 7.1. The National Office Bearers and the National Administrative Office staff (who shall be non-voting members) shall together comprise the NEC which shall be accountable and exercise decision making in terms of section 7.6 and shall:
  - manage the affairs of the Union as mandated by the National Congress;
  - consult, when appropriate, with the Council of Chairpersons on matters relating to the aims and objectives of the Union;
  - attend to any administrative and general business directed to it by the Membership, Branch Committees or, from any other source, either through the National Administrative Office or the National Secretary.
- 7.2. The day-to-day management of the Union shall vest in the NEC which shall have the following powers.

## National Executive Committee Powers and Functions

- 7.3. The NEC shall be empowered to :
  - 7.3.1. receive reports, requests and recommendations from the Council of Chairpersons relating to the aims and objectives of the Union;
  - 7.3.2. to enter into any lawful general agreements (subject to provisions elsewhere herein) in furtherance of the aims, objectives and activities of the Union;
  - 7.3.3. open and operate a banking account and invest surplus funds in the name of the Union;
  - 7.3.4. appoint and discharge employees of the Union, fix their remuneration and other conditions of employment and define their duties;
  - 7.3.5. they shall ensure that proper banking, sound and proper accounting and responsible investment strategies are adhered to;
  - 7.3.6. admit to the organisation any Branches or individuals seeking membership of the Union;
  - 7.3.7. provide support to Branches so that organisational tasks and functions may be effectively and efficiently executed;
  - 7.3.8. convene the National Congress and any Special Congresses in accordance with sections 5 above and 6 above;
  - 7.3.9. set up working groups to further the aims of the organisation; these may be separate working groups on issues affecting particular sectors of the Membership;
  - 7.3.10. take any lawful decisions in accordance with the aims, objectives and policies of the Union;
  - 7.3.11. co-opt any Union Member in a non-voting advisor capacity;
  - 7.3.12. subject to 15.12 below, acquire, either by purchase, lease or otherwise, any movable or immovable property and also to sell or otherwise alienate or deal with any movable or immovable property belonging to the Union;
  - 7.3.13. delegate any of its functions as it deems fit.



### **National Office Bearers**

- 7.4. The following National Office Bearer portfolios shall be elected at each National Congress after due nomination (7.14 below) by one Branch in good standing and seconding by another Branch in good standing:
  - 7.4.1. National President
  - 7.4.2. National Deputy President
  - 7.4.3. National Office Bearer (Recruitment and Marketing)
  - 7.4.4. National Office Bearer (Policy and Strategic affairs)
  - 7.4.5. National Office Bearer (Legal affairs)
  - 7.4.6. National Treasurer
  - 7.4.7. National Secretary
  - 7.4.8. National Officer Bearer (Gender and Transformation Affairs)
- 7.5. National Office Bearers shall, in accordance with 5.8 above and 7.25 below, hold office for two years calculated from one National Congress to the following National Congress.
- 7.6. The National Office Bearers represent no Branch and shall be accountable to the National Congress, shall manage the affairs of the Union for the period between National Congresses in terms of the mandate given by the National Congress and, shall implement the approved motions, resolutions, proposals and petitions of the National Congress.

### **National President**

- 7.7. The National President shall:
  - 7.7.1. attend all meetings of the National Congress, NEC and the CoC and preside at such meetings;
  - 7.7.2. enforce observance of this Constitution;
  - 7.7.3. sign minutes of meetings of the National Congress, NEC and CoC when they have been verified in terms of 5.18 above and 6.4 above;
  - 7.7.4. exercise supervision generally over the affairs of the Union;
  - 7.7.5. perform such other duties pertaining to the office in terms of legislation, usage, practice and this Constitution;
  - 7.7.6. report to the National Congress, NEC and CoC meetings.

### **National Deputy President**

- 7.8. The National Deputy President shall assist the National President and shall perform such duties as are delegated by the National President or this Constitution.

### **Acting National President**

- 7.9. The National President shall, during a temporary absence, for a stipulated period, appoint the National Deputy President to deputise and perform such duties as are delegated to the National President by this Constitution.
- 7.10. In the event of the National President being permanently unable to perform the duties assigned herein, the National Deputy President shall act as National President and shall hold office for the remaining term of office until the next National Congress.
  - 7.10.1. Should the National Deputy President also not be available the remaining voting members of the NEC shall appoint a person from amongst their number to act as National President for the remaining term of office until the next National Congress.

### **National Secretary**

- 7.11. The functions of the National Secretary, noting that items under 7.11.7 below, 7.11.9 below and 7.11.13 below may be delegated to any member of the National Administrative Office staff, shall include:
  - 7.11.1. attend all meetings of the National Congress, NEC and the CoC;
  - 7.11.2. report to the National Congress, NEC and the CoC on the activities of the Secretariat;
  - 7.11.3. in general be responsible for
    - 7.11.3.1. the proper administration of the Union;



- 7.11.3.2. co-ordinating and organising all activities of the Union;
- 7.11.3.3. co-ordinating the negotiation of any collective agreement to which the Union is a party; and, shall sign such agreements on behalf of the Union; and,
- 7.11.3.4. co-sign any Branch level agreements which function may be delegated to the General Secretary should one have been appointed;
- 7.11.4. giving direction to any National Administrative Office staff and in doing so ensure that the provisions of Sections 98, 99 and 100 of the Labour Relations Act No 66 (1995) are complied with;
- 7.11.5. supervise the National Administrative Office if no General Secretary has been appointed;
- 7.11.6. receive reports on Branch activities from the Branch Secretaries;
- 7.11.7. co-ordinating the negotiation of National level agreements and sign to such agreements on behalf of the organisation;
- 7.11.8. ensuring that the official notifications for NEC and CoC meetings, National Congresses and Special Congresses and, any other meetings of a national nature are timeously and correctly dispatched and, to table minutes or other documents and correspondence for the notice of, and/or ratification of, any such by any of these meetings;
- 7.11.9. attend to such correspondence as is directed to the National Secretary's office either by the correspondent or, the General Secretary or the National Administrative Office;
- 7.11.10. ensure that the original hardcopy or electronic correspondence received and copies of correspondences despatched are stored, preserved and accessible, and on request of the NEC and CoC present correspondence received since any previous meeting;
- 7.11.11. ensuring that appropriate and open office practices are pursued by the National Administrative Office staff in the day-to-day operation of the National Administrative Office;
- 7.11.12. cause officials and Members of the Union to be trained as and when necessary;
- 7.11.13. attend to any other business as directed by the National President or, the NEC or, a National Congress of the Union.

#### **National Treasurer**

- 7.12. The National Treasurer, in addition to the duties contained in section 15 below, shall:
  - 7.12.1. attend all meetings of the National Congress, NEC and the CoC;
  - 7.12.2. report to the National Congress, NEC and the CoC on the activities of the Treasury and the financial status of the Union;
  - 7.12.3. keep proper books of account, statements of income and expenditure, balance sheets and such other documentation as is necessary to verify the true financial status of the Union;
  - 7.12.4. prepare a two-year budget for the Union in accordance with sections 15.5 and 15.6 below with the assistance of the National Administrative Office staff and the CoC where necessary;
  - 7.12.5. inspect all finances of the Union, including the financial expenditure records of the Branches, and shall ensure that the provisions of this Constitution with regard to finances are complied with;
  - 7.12.6. cause all financial statements of the Union to be audited at least once a year;
  - 7.12.7. co-sign all cheques, or electronic transactions drawn on the banking account of the Union;
  - 7.12.8. sign together with the external auditor all financial statements;
  - 7.12.9. take responsibility for regular submissions to the Registrar (Labour Relations) as required, perform such other duties as are imposed by this Constitution, by the NEC, CoC or National Congress or by any law.



## **Nomination and Election of Office Bearers**

- 7.13. Any Member who has previously served either at Branch or National level as an office bearer is eligible to be nominated for election as a National Office Bearer. The activities associated with the National Office Bearer position is not reliant on a relationship with its branch, but administrative support should be provided from National level for activities undertaken in the National Office Bearer capacity.
- 7.14. The National Secretary shall call upon all Branches in good standing to submit in writing or by facsimile nominations of Members who are eligible and in good standing for the positions of National Office Bearers at least fourteen (14) days before the commencement of the National Congress and such nominations shall be seconded and be accompanied by the acceptance of the person so nominated.
- 7.15. Nomination of Office Bearers shall be proposed by one Branch in good standing and seconded by another Branch in good standing.
- 7.16. Nominations received prior to the National Congress shall be circulated with the agenda sheet for the National Congress; and,
  - 7.16.1. a further call may be made for additional nominations for the positions required at the start of the election process at the National Congress.
- 7.17. For the purposes of the election process the General Secretary shall be the Electoral Officer, or where one has not been appointed, a member of the National Administrative Office staff, or if none is available a Constituent member of the Congress who is not a nominee shall be appointed.
- 7.18. The Electoral Officer shall read out the nominations received including any late nominations in terms of 7.16.1 above.
- 7.19. Voting for these Office Bearers in accordance with 5.12 and 5.15 above shall be under an appropriately numbered motion at the National Congress.
- 7.20. In the event of only one nomination for a position that person shall be duly elected.
- 7.21. Whenever more than one candidate has been duly nominated for any office voting shall take place by secret ballot, in which event the Electoral Officer, shall
  - 7.21.1. record the total number of possible votes;
  - 7.21.2. distribute the appropriate number of ballot forms;
  - 7.21.3. collect and count the completed ballot forms;
  - 7.21.4. record the number of votes for each candidate and disclose the name of the successful candidate.
- 7.22. In the event of there being more than two candidates and on the final ballot no candidate obtains a majority of the votes, then the candidate with the least number of votes shall be eliminated and successive ballots be conducted until such time as a candidate obtains a majority.
- 7.23. If no majority is achieved new nominations for that position shall be called for and voted upon.
- 7.24. Ballot papers shall be retained for 3 (three) years.

## **Term of office**

- 7.25. The term of office of the National Office Bearers shall be calculated from the date of the National Congress at which they were elected until the date of the following National Congress.
  - 7.25.1. An office bearer is eligible for re-election subject to 7.26 below.
- 7.26. A National Office Bearer may serve a maximum of two successive terms of office in a particular portfolio.

## **Vacancies of Office Bearers Positions Occurrence**

- 7.27. A member of the NEC may vacate office :
  - 7.27.1. by resignation on one (1) month's notice or immediately in any of the following circumstances:
    - 7.27.1.1. expulsion from office in writing in terms of 7.30 below;
    - 7.27.1.2. on termination of membership of the Union, whether by resignation or by



expulsion;

7.27.1.3. on ceasing to be a Union Member in good standing;

7.27.1.4. on being absent from 2 (two) consecutive meetings of the NEC or of the National Congress without submitting a written apology which is acceptable to the NEC.

7.28. When a National Office Bearer's position becomes vacant the General Secretary shall immediately also inform the CoC.

### **Replacement**

7.29. Vacancies on the NEC shall be filled as follows:

7.29.1. If a National Office Bearer's position becomes vacant, other than under 7.30 below, the remaining National Office Bearers shall be able to co-opt a replacement from amongst the members of the CoC and the person so co-opted shall be replaced on CoC by a Vice-Chairperson from the Branch from which the co-opted person comes.

7.29.2. All Branch Executive Committees must be notified of the vacancy and of the co-option seeking objection to the co-option, and, unless a National or Special Congress is scheduled within the next nine (9) months after the vacancy becomes open, Branch Executive Committees objecting may, with written motivations, submit counter-nominations within one (1) month.

7.29.3. Should counter-nominations be received, and, unless a National or Special Congress is scheduled within the next nine (9) months after the vacancy becomes open, a postal ballot of all Branch Executive Committees will be conducted. Each Branch Executive Committee shall have one vote in favour of, or, against, per candidate.

7.29.4. If no counter-nominations are received the person co-opted under 7.29.1 above shall hold full right and office for the unexpired term of the outgoing person.

### **Removal of National Office Bearers**

7.30. A voting member of the NEC may be removed from office before the expiration of the term of office should any Member, or group of Members, including one or more of the National Office Bearers, consider that any National Office Bearer is

- failing to abide by the provisions of this Constitution;
- completely failing to perform the duties ascribed to them;
- is suspected of gross misconduct in managing the affairs of the Union; or is
- convicted of a serious criminal offence; and,

the following procedure may be invoked:

7.30.1. the remaining National Office Bearers shall be requested by any of the parties mentioned in 7.30 above to call for a maximum of two nominations from the CoC for the formation of an Ad Hoc Investigation Committee within ten (10) days of the request;

7.30.2. the nominees to this committee shall not consist of National Office Bearers;

7.30.3. should more than two (2) nominations be received, the first two received by the General Secretary shall, subject to 7.30.2 above, be appointed.

7.31. The Ad Hoc Investigation Committee shall have the power to suspend any person found guilty of any offence mentioned in 7.30 above or, elsewhere in this Constitution relating to conduct of the office of National Office Bearer, pending a motion and vote of no confidence after the person or persons on both sides have presented their case at the next National or Special Congress, which vote will be carried by a majority in favour.

7.32. The Ad Hoc Investigating Committee shall conduct its proceedings according to 7.33 below and with the assistance of the General Secretary.

7.33. The Ad Hoc Investigating Committee shall gather whatever information they require, conduct any hearings they deem necessary and endeavour to come to a decision within thirty (30) working days of being appointed.

7.33.1. Hearings related to the charge of misconduct or dereliction of duty shall be according to the rules of natural justice, and recorded on audio tape and transcribed in full under similar conditions as in 11.16 below and stored for three years after the final resolution of the issue.



7.33.2. Appeal against any such decision shall follow the rules stated in section 11 below and should such an appeal be upheld then the co-opted person shall stand down.

#### **Co-option upon Removal of National Office Bearers**

- 7.34. Any person suspended from office under this section shall immediately vacate the position and the vacancy so created shall be filled by co-option from amongst the members of the CoC and the person so co-opted member shall be replaced on CoC by a Vice-Chairperson from the Branch from which the co-opted person comes.
- 7.34.1. The co-opted person shall hold full right and office pending the outcome of an appeal, or, for the unexpired term of office, as the case may be.
- 7.34.2. If a Special Congress elects to reinstate the suspended Office Bearer before the term of office expires the co-opted person shall stand down.

#### **Meetings**

- 7.35. A meeting of the NEC shall normally be chaired by the National President. In the event that person is not available the National Deputy President will act in this capacity; if both these persons are not available a member selected from amongst the other National Office Bearers shall chair the meeting.
- 7.36. In the prolonged absence of the National President the National Deputy President shall act as National President.
- 7.37. The NEC shall meet at least three (3) times per year or more frequently as may be necessary.
- 7.38. The rules of quorum shall apply to telephonic and electronic meetings.
- 7.39. The members of the NEC may agree to invite any Union Member or any other person to its meeting, but such Union Member or other person shall act only as an observer or in an advisory capacity and shall have no vote.

#### **Quorum**

- 7.40. No meeting of the NEC shall be quorate unless at least two-thirds of the National Office Bearers, excluding vacant positions, are present at the start of the meeting.
- 7.41. A meeting of the NEC shall remain quorate should any person, or persons, have to vacate their seat for the rest of the duration of that meeting or, a period of time during that meeting, and at least two National Office Bearers and the National Administrative Office staff are still present.
- 7.42. If a quorum is not present within one (1) hour of the time fixed for the meeting, the meeting shall continue non-quorate provided that any decisions made will be subject to approval at a subsequent quorate meeting.
- 7.43. Subject to urgency, the National Secretary shall give notice of the new date, time and place of a replacement meeting, as decided, within seven (7) days of the date of the meeting which failed to reach quorum.
- 7.44. At such reconvened meeting the members present shall form a quorum.

#### **Voting**

- 7.45. Decisions at a meeting of the NEC shall be by consensus, unless, the National President or, the acting National President, decides the need has arisen for an issue to be voted upon at which time the decision shall be carried by majority vote.
- 7.45.1. In the event a vote has been decided upon by the National President, or the acting National President, at a NEC meeting that vote shall be by a show of hands and the counting recorded as votes for, against or abstaining.
- 7.46. The votes, in terms of 7.45 above, of any absent persons, regarding any decisions forthcoming shall be recorded in a clearly marked sealed vote or, their proxy, to act for or as instructed, shall be handed to the Chairperson for that particular meeting, in writing.

#### **Minutes**

- 7.47. Minutes of NEC meetings shall be taken and recorded in an appropriate manner by the National Administrative Office staff, under the direction of the National Secretary, and shall be disseminated to the Branches within one (1) month of the NEC meeting.
- 7.48. In the event that a meeting continues non-quorate as provided in 7.42 above such meeting shall be minuted in the normal manner and under the normal rules for minuting meetings of the Union.
- 7.49. Minutes of a NEC meeting shall be stored for the life of the organisation.





## **8. NATIONAL COUNCIL OF CHAIRPERSONS (CoC)**

8.1. The Council of Chairpersons shall with the National Office Bearers form a governing body subject to the directions and control of the National Congress.

### **Powers and functions of the CoC**

8.2. The CoC shall be empowered to :

- 8.2.1. consult with the NEC when requested, submit reports, requests and recommendations relating to the aims and objectives of the Union to the NEC and the National Congress;
- 8.2.2. assist the NEC with policy and response documents as requested;
- 8.2.3. submit to the National Treasurer a proposed budget for its activities for approval through the NEC at a National Congress;
- 8.2.4. establish sub-committees and institute programmes of action, Membership development, Member training, and other responses as it may deem fit, and within the means of the Union, and define the terms of reference and functions and duties of such sub-committees;
- 8.2.5. regulate the form of procedure in a sub-committee;
- 8.2.6. nominate persons, on request from the NEC, to represent the Union at any negotiations or discussions or at any body constituted in terms of any law or at any body on which it is desired that the Union shall be represented;
- 8.2.7. deal with instituting and defending all legal proceedings by or against the Union;
- 8.2.8. where possible and within the means of the Union, provide for legal advice to a Branch Executive Committee; and, at the CoC's discretion legal assistance to Members on matters related to their employment according to terms provided by Union policy;
- 8.2.9. on request from a Branch advise on, and where necessary or, requested, deal with disputes arising between
  - the Union and an employer or employer organisation; or,
  - a Member or Members of the Union and their employer;and, to endeavour to settle these disputes by conciliatory methods, provided the CoC will assist an individual Member or Members at a Branch only once the BEC referred to in section 12 below has exhausted all locally available methods in an attempt to resolve the dispute;
- 8.2.10. delegate any of its functions as it deems fit;
- 8.2.11. take such other lawful action as in the opinion of the CoC may appear to be in the interest of the Union and/or its Members and which is not inconsistent with the objectives or any matter specifically provided for in this Constitution, subject to consultation with the NEC and where appropriate, to the approval of the National Congress.

### **Composition**

8.3. The CoC shall consist of

- 8.3.1. the Branch Chairpersons of any branches of 70 or more members;
- 8.3.2. the National Executive Committee.

8.4. The CoC shall be Chaired by the National President, or the Acting National President, in the event of either not being available the CoC shall elect a chairperson from amongst their members.

8.5. The CoC may at any time co-opt any Member to assist it, but such Member shall act in an advisory capacity only and shall have no vote.

### **Term of office**

8.6. The term of office of an individual member of the CoC shall run for as long that individual serves as Branch Executive Chairperson.

### **Removal**

8.7. Any member of the CoC may be suspended from office before the expiration of the term of office by

- 8.7.1. the Members of the Branch which elected that person if it has been determined by a two thirds majority at a Branch Annual General Meeting;



8.7.2. the NEC if the majority of the remaining CoC members determine:

that, the Branch Chairperson has

- failed to abide by the provisions of this Constitution;
- completely failed to perform the ascribed duties of a Chairperson;
- acted with gross misconduct in managing the affairs of the Branch; or, has,
- been convicted of a serious criminal offence.

8.8. The provisions of 7.29 above to 7.34 above shall mutatis mutandis apply to the process of determining the removal of a CoC member.

#### **Vacancies on the CoC : occurrence**

8.9. A member of the CoC may vacate office by resignation on one (1) months notice or immediately in any of the following circumstances:

8.9.1. expulsion from office in writing in terms of 8.7 above;

8.9.2. on termination of Union Membership, whether by resignation or by expulsion;

8.9.3. on ceasing to be a Union Member in good standing;

8.9.4. on ceasing to be the Branch Chairperson at a Branch;

8.9.5. on being absent from two (2) consecutive meetings of the CoC or of the National Congress without submitting a written apology which is acceptable to the CoC.

#### **Vacancies on the CoC : replacement**

8.10. Vacancies on the CoC shall be filled as follows:

8.10.1. Regardless of how a vacancy occurs a vacancy shall be filled by the incoming Branch Executive Chairperson of the relevant Branch.

8.10.2. In the event of a vacancy occurring as a result of the provisions of 8.7 above then the procedure as detailed in 11 below shall mutatis mutandis apply.

#### **Meetings**

8.11. The CoC shall meet at least twice per year at such times, dates and places as the Chairperson may decide.

8.12. The National Secretary shall, with the assistance of the National Administrative Office, notify the members of the CoC of the date, agenda items, and any other business to be dealt with at least one (1) month prior to a meeting.

8.13. Special meetings of the CoC may be called whenever the Chairperson deems it expedient or upon the written requisition of two thirds of the voting members of the CoC.

8.13.1. In either event the National Secretary shall within fourteen (14) days of such notification issue a notice to members concerning the Special Meeting. The notice shall be accompanied by the date, agenda items, and any other business to be dealt with.

8.14. The members of the CoC may agree to invite any union Member or any other person to its meeting, but such Union Member or other person shall act only as an observer or in an advisory capacity and shall have no vote.

8.15. At a meeting of the CoC all members shall each have one vote and the Chairperson shall have an additional casting vote.

8.16. A meeting of the CoC shall normally be chaired by the National President.

8.17. If the Chairperson is unable to be present at a meeting then the **National** Deputy President shall chair the meeting, if both are unavailable, the National Secretary must be notified in writing and the meeting shall elect a Chairperson for that meeting from the voting members.

#### **Quorum**

8.18. The quorum for a meeting of the CoC shall be two-thirds of the voting members of the CoC.

8.19. Those present at the duly notified start time for a meeting of the CoC shall form a quorum.

#### **Minutes**

8.20. Minutes of the CoC meetings shall be kept by the National Secretary or an appropriate National Administrative Office staff member.

8.21. A copy of such minutes shall, within 1 (one) month after the meeting, be forwarded to each member of the CoC.



- 8.22. Such minutes shall be subject to ratification at the next meeting of the CoC.
- 8.23. All minutes shall be retained for the life of the Union.

## **9. NATIONAL ADMINISTRATIVE OFFICE**

- 9.1. The National Administrative Office may consist of whatever positions the NEC or, a National Congress, deem to be necessary and within the means of the organisation.
  - 9.1.1. Should it not be within the means of the organisation to establish a National Administrative Office or, should the National Administrative Office become dysfunctional for whatever reason, the National Office Bearers shall amongst themselves take responsibility for all functions that might have been delegated to such an office.

### **General Secretary**

- 9.2. The National Executive Committee may with the guidance of the National Congress, appoint a General Secretary, who shall be the senior Union Official in the National Administrative Office as defined in the Labour Relations Act no. 66 (1995), under such conditions and emoluments as determined by the National Executive Committee, provided that such appointment falls within the means of the Union.
  - 9.2.1. Should a General Secretary have been appointed under 9.2 above, that person shall be accountable to the National Office Bearers (NEC) and the National Congress, perform any tasks and represent the Union when and, as delegated by the National Secretary or the National Office Bearers, NEC or a Congress and shall exercise general day-to-day supervision and direction over the National Administrative Office staff.
  - 9.2.2. The General Secretary shall act as Permanent Secretary to the National Congress, NEC and the CoC; but, in accordance with 5.7.5, 7.1, 7.45 and 8.15 above, shall carry no vote.
- 9.3. Should a General Secretary not have been appointed under 9.2 above, or, should that person fail in this duty, or, be unable for whatever reason to carry out this duty, the National Secretary shall under the direction of the National Office Bearers delegate this function to another member of the National Administrative Office staff, or assume those functions pending the return of the General Secretary or resolution of any problem.

### **Other National Administrative Office Staff**

- 9.4. The National Administrative Office staff shall be employed under such conditions and emoluments as determined by the National Office Bearers, under the guidance of the National Treasurer in consultation with the General Secretary, and, as guided by general principles approved by a National Congress.
- 9.5. Such persons shall be known as National Union Officials as defined in the Labour Relations Act no. 66 (1995).
- 9.6. The National Administrative Office staff shall attend meetings of the Union but in a non-voting capacity.

## **10. MEMBERSHIP OF THE UNION**

### **Conditions of Admission to the Union**

- 10.1. Any person employed in any capacity in an institution of tertiary education or related institution shall be eligible to join the Union subject to any agreed restriction on active or associate Membership contained in a Recognition Agreement, and, provided that:
  - 10.1.1. that person undertakes to uphold and endeavour to further the aims and objects of the organisation;
  - 10.1.2. that person is not also a member of another organisation, which is also registered and certified by the Registrar (Labour Relations) at the Department of Labour and directly representing employees or employers in the same institution;
  - 10.1.3. that person has completed the approved current membership form and payroll deduction authority and the latter has been submitted to, and accepted by, the employer.
- 10.2. Once the conditions provided for in the admissions and subscriptions procedure have been complied with a membership card will be issued and mailed to the Member under the authority of the National Secretary.



- 10.3. The NEC shall have the right, within reason, to refuse to admit an applicant Member to the Union subject to 10.13 below.
- 10.4. Associate Membership of the Union is for :
  - 10.4.1. those contracted, part-time and casual employees who may not fall within the Scope of Representation of a Recognition Agreement of the relevant institution, but, who may require disciplinary and / or grievance procedure support;
  - 10.4.2. While an employer may elect not to count such Members towards the institutional representative percentage of a Branch, they shall enjoy full right and representation within the Union.

#### **Transfer of Membership**

- 10.5. A Member who moves between institutions in the sector may transfer Membership between Branches in which case no initiating or administrative fee is required for such transfer.
  - 10.5.1. Should no Branch exist within the new institution a Member may request to fall under the auspices of the NEC in which case alternative arrangements for payment of subscriptions shall be stipulated by the NEC as necessary.

#### **Honorary Membership**

- 10.6. Honorary Life Membership may be awarded to an outgoing Member whose contribution has had a sustained national impact within the Union in general and specifically in achieving the aims and objectives of the Union.
  - 10.6.1. An Honorary Membership shall be forfeited if that Member is found guilty of a serious crime or is found to have undermined the Union or brought its name into disrepute.
- 10.7. Distinguished Membership may be awarded to a current Member whose contribution has had a sustained Branch or National level impact within the Union in general and specifically in achieving the aims and objectives of the Union.
  - 10.7.1. A Distinguished Member remains a standing member of the Union, shall continue to pay the Union's subscription fees, may hold office and hold all rights as a Member.
  - 10.7.2. A Distinguished Membership shall be forfeited if that Member is found guilty of a serious crime or is found to have undermined the Union, brought its name into disrepute, or been found guilty in any disciplinary action brought by the Union.
- 10.8. Any Union Member may nominate a Member for either Honorary Life Membership or Distinguished Membership and such nomination shall be accompanied by a statement of motivation and evidence of sustained contribution level, by the nominee, to the Union.
  - 10.8.1. The NEC and CoC shall consider such nomination and may approve or reject the nomination.
  - 10.8.2. If approved, the NEC and CoC shall add the Member's name to the list of Honorary Life Members or Distinguished Members, as the case may be.

#### **Admissions and Subscriptions Process**

- 10.9. Prospective Members shall be required to complete the prescribed current Payroll Debit Authority together with an Application for Membership of the Union and forward these to the Branch Secretary who, subject to 10.3 and 10.8.1, and any conditions set by the NEC, will record the Member and forward the Membership Application Form to the National Secretary through the National Administrative Office.
  - 10.9.1. Subject to 10.3 above, the National Administrative Office shall, immediately on receipt of any application, assign a membership number to that applicant's name which number must reflect the applicant's Branch Recognition Code.
  - 10.9.2. If no Branch exists then a code shall be created as if a Branch were in existence and reflecting the Member as under the auspices of the National Office.
- 10.10. Once the National Secretary is satisfied that the action contained in 10.19 below has been properly and successfully completed a membership card will be authorised in terms of 10.2 above.
- 10.11. The National Administrative Office shall maintain and administer a list of members' names, members' Branch, members' workplace addresses, and any other details as the NEC under the guidance of the National Secretary shall direct.
- 10.12. A member's membership card may be used to enter all subscriptions and other monies paid and shall be endorsed by the Branch Secretary if the Member is no longer a Member in good standing or if the Membership ceases for whatever reason, provided that the entry of



subscriptions or any endorsements may be made on the membership list which must be kept by each Branch.

10.13. If admission to Membership is unreasonably refused by the NEC, the applicant shall be notified and shall have the right to appeal to the next Branch General Meeting, which shall have the right to confirm or reverse the NEC's decision. If such an appeal is unsuccessful the applicant shall have the right to appeal to the CoC whose decision shall be final.

10.13.1. An applicant to whom Membership is refused shall be entitled to a refund of any subscription already paid.

10.14. A Member who has resigned or has been expelled from the Union may be re-admitted to Membership on such conditions as the CoC may determine.

10.15. Every Member shall notify the Branch Secretary in writing of residential and postal addresses or any change thereof within 14 (fourteen) days from the date of becoming a Member or from the date of the change of address.

### **Subscriptions**

10.16. The National Congress, through a motion to accept or amend the National Treasurer's recommendations in accordance with sections 5.3.8 and 5.3.9 above, shall determine according to the needs of the organisation, and may review and amend from time to time, a monthly national subscription payable by all Members, which shall not exceed R120-00.

10.17. National level subscriptions payable for the credit of the Union shall take place in accordance with the provisions of 10.19 below.

10.18. The National Administrative Office shall collect all subscriptions and levies of a national nature accruing from the national Member list under the guidance of the National Treasurer.

10.19. The National Administrative office shall, under the direction of the National Treasurer, arrange for the automatic forwarding of Members' national subscriptions portions to an appropriate national banking account of the Union at monthly intervals from the Members' institution.

10.20. An amount in accordance with 15.5.1 below shall be allocated, per Branch per Congressional session to support day-to-day Branch operations, from the balance of total subscriptions income after national operations and standing accumulation funds have been allocated.

10.21. All subscriptions collections shall be subject to any general financial controls contained in this Constitution and, any additional controls as the National Treasurer or the National Congress shall direct.

10.22. A Member in dispute over dismissal from employment, or suspension without pay, however that has occurred, shall remain in good standing until the matter is resolved or the Member resigns as a Member and that Member's national level subscription shall not be payable until the dispute is resolved provided that the subscription that would have been outstanding must be fully paid immediately upon reinstatement of the Member's employment.

### **Paid-Up Membership / Member in good standing**

10.23. Only paid-up Members shall be entitled to the benefits of Membership, including the right to vote.

10.24. A paid-up Member shall be regarded as a Member whose subscriptions and other charges due to the Union are not in arrears.

10.25. A paid-up Member is a Member in good standing.

10.26. A Member shall cease to be a paid-up Member or Member in good standing if:

10.26.1. subscriptions or other charges due to the Union are more than one (1) month in arrears;

10.26.2. the debit order authorisation is unilaterally cancelled;

10.26.3. expelled from the Union or during a period of suspension in terms of 11.4 below. of more than one (1) month;

10.26.4. no longer employed by a tertiary institution.

### **Termination of Membership**

10.27. A Member may voluntarily terminate Membership of the Union by resignation from the Union after one (1) month's notice and by signing a Termination of Membership form.



- 10.27.1. The notice term shall run from the beginning of the first month in which it is practicable to cancel the monthly Payroll Deduction.
- 10.27.2. The Member's membership card shall be returned to the National Secretary for cancellation
- 10.28. Provided that no resignation shall take effect until all monies due to the Union have been paid;
- 10.29. Membership will terminate if resignation is received through the agency of the Member's employer.
- 10.30. Membership of the Union shall terminate when the Member leaves employment within the tertiary education sector. The Member's membership card shall be returned to the National Secretary for cancellation.

## **11. DISCIPLINE**

### **Branch Ad Hoc Disciplinary Committee**

- 11.1. A Branch Executive Committee shall, when necessary or required, appoint an Ad Hoc Disciplinary Committee to hear disciplinary matters consisting of two (2) members of the Branch Executive Committee and at least three (3) ordinary Members of the Branch within ten (10) working days of receipt of any complaint of lack of discipline or transgression within the provisions of this Constitution or a Branch Disciplinary Code.
- 11.2. A Branch Ad Hoc Disciplinary Committee will only have the power to recommend the termination of a Membership to the NEC but may suspend a Membership subject to 11.3 below and 11.4 below.

### **Conditions for Suspension or Termination of Membership**

- 11.3. Membership of the Union may only be suspended or terminated with the approval of the NEC which may act in its own right, or, receive and consider a recommendation from a Branch Ad Hoc Disciplinary Committee.
- 11.4. Any Member found by a Branch Ad Hoc Disciplinary Committee and/or the NEC, after fair review according to the rules of natural justice, and, on the balance of probabilities to have:
  - 11.4.1. not upheld the aims and objectives of the organisation;
  - 11.4.2. made financial gain from any associations with the Union subject to 3.2 above;
  - 11.4.3. attempted to influence any other Member in their participation in the activities of the Union by coercive, violent, threatening or intimidatory actions or, by an act in violation of any provision contained in the Labour Relations Act No. 66 (1995);
  - 11.4.4. fallen into arrears, as defined in 10.26 above, as an individual Member of the Union without alleviation from the NEC;
  - 11.4.5. wilfully contravened the provisions of this Constitution;
  - 11.4.6. seriously harmed the name or reputation of the Union;
  - 11.4.7. used conduct which, in the opinion of the NEC, justifies the termination of Membership;shall be suspended, or terminated from, Membership of the Union depending on the severity of offence as adjudged by the NEC, according to the following scheme:
  - 11.4.7.1. *in the case of 11.4.1 above:* one (1) month's suspension in the first instance; two (2) months in the second; three (3) months in the third and thereafter termination of Membership;
  - 11.4.7.2. *in the case of 11.4.2 above:* termination of Membership;
  - 11.4.7.3. *in the case of 11.4.3 above:* six (6) months suspension in the first instance and termination after a second offence;
  - 11.4.7.4. *in the case of 11.4.4 above:* suspension whilst subscription payments are in arrears plus one (1) month following payment in full of the arrear subscription;
  - 11.4.7.5. *in the case of infringement of a Branch Disciplinary Code other than 11.4.1 to 11.4.4 above:* impose a fine not exceeding R50,00 (fifty rand) for the first offence and not exceeding R100,00 (one hundred rand) for any subsequent offence. The NEC or Branch Ad Hoc Disciplinary Committee, as the case may be, may suspend a Member from Membership until such fine is paid,



without prejudice to the right of action of the Union to recover such monies by civil proceedings.

- 11.5. Upon the termination of Membership by the NEC that Member's membership card shall be withdrawn by the Branch Committee and returned to the National Secretary for cancellation.
- 11.6. A Member who has been expelled shall have the right to apply for re-admission as a Member after a period of three (3) months from the date the expulsion became effective.

#### **Process : general**

- 11.7. Should a Member be expelled from the Union all monies owing to the Union shall immediately become payable.
- 11.8. Should a Member be suspended from Membership of the Union for a period determined by the NEC or a Branch Ad Hoc Disciplinary Committee, Membership subscriptions shall continue to be payable.
- 11.9. A Member shall cease to be entitled to the benefits of Membership, including the right to vote, during any period while under suspension and shall be considered a Member not in good standing.
- 11.10. If the NEC or a Branch Ad Hoc Disciplinary Committee, as the case may be, is satisfied that the Member charged has, though absent, received the prescribed notice, the hearing may be conducted in absentia.
- 11.11. If the Member charged is present the NEC or a Branch Ad Hoc Disciplinary Committee, as the case may be, may proceed to deal with the charge by reading out and explaining the charge, call witnesses, afford the Member the opportunity to state a case and to call witnesses and to consider all relevant information, provided that such proceeding may only be conducted if the representative of the Member is present or if the Member has waived the right of representation.
- 11.12. Any member of the committee trying the charge or dealing with an appeal shall be competent to give evidence in connection with the charge, provided that for the rest of the proceedings such member must be recused and shall have no vote in the matter and be replaced by another member.

#### **Process : notifications and conduct**

- 11.13. The NEC or a Branch Ad Hoc Disciplinary Committee, as the case may be, shall advise the person concerned by not less than three (3) days notice in writing of the charge and of a time and place of a hearing to be held. Such notice must be hand delivered to the Member concerned, and receipt obtained for delivery, or may be sent by registered mail to the Member's last known postal address.
  - 11.13.1. The notice referred to in 11.13 above shall include a reference to the rights of the Member, namely the right of representation by a fellow Member, the right to present and state a case and call witnesses and the right to cross-examine any witnesses called to testify in support of the charge.
- 11.14. The NEC or a Branch Ad Hoc Disciplinary Committee shall conduct a hearing on any matter referred to it not more than ten (10) working days after the group has been constituted and, endeavour to come to a decision within twenty-one (21) working days or less of closure of their final hearing session.
- 11.15. The Branch Secretary or National Secretary, as the case may be, shall notify the Member concerned in writing of the decision taken by the NEC or Branch Ad Hoc Disciplinary Committee, as the case may be, and such notification shall also advise the Member of the right to appeal.
- 11.16. All proceedings under section 11 above shall be recorded on audio tape and transcribed in full from those audio tapes and, both records shall be stored for a period not less than three (3) years after the final decision of the proceedings.
  - 11.16.1. It shall be the responsibility of any presiding person to ensure the audio recordings are continuous and of a clear quality such that transcription is easily achieved.

#### **The National Congress Appeals Board (NCAB)**

- 11.17. Each National Congress shall appoint a National Congress Appeals Board (NCAB) consisting of three Members who are not Office Bearers or paid employees of the Union, though those employees must provide administrative and logistical support to the Board.
  - 11.17.1. The method of appointment shall be by nomination and consensus.



11.17.2. The term of office of the Board shall be from National Congress to National Congress and a member's term may not exceed two terms in total.

### **Appeals Against Suspension, Consequent Loss of Benefits, Termination as a Member or as an Office Bearer**

- 11.18. Proceedings of the NCAB shall be according to the rules of natural justice.
- 11.19. If the Branch Committee's suspension is ratified by the NEC appeal against suspension and consequent loss of Membership benefits resulting from this decision shall be to the National Congress Appeals Board (section 11.17) which may confirm, amend or reverse the decision. If the Member is not satisfied with the outcome of that process the Commission for Conciliation, Mediation and Arbitration (CCMA) (as established in the Labour Relations Act No. 66 (1995)) may be approached for an arbitration decision which shall bind both parties.
- 11.20. Appeal against suspension and consequent loss of Membership benefits or termination of Membership in the case of suspension or termination by the NEC shall be to the National Congress Appeals Board (section 11.17). If the Member is not satisfied with the outcome of the process the CCMA may be approached for an Arbitration decision which shall bind both parties.
- 11.21. An appeal as allowed and referred to in 11.19 above and 11.20 above shall be lodged within fifteen (15) working days of receipt of notification by the Member. An appeal shall be lodged via the General Secretary who shall immediately refer the appeal directly to the National Congress Appeals Board and the National Secretary.
- 11.22. The National Congress Appeals Board may appoint a legal advisor for the Union when and if necessary at the expense of the Union.
- 11.23. Members shall have the right to the assistance of any person or persons of their own choice to assist with defence of their appeal.
- 11.23.1. Responsibility for the reasonable documented costs of such assistance shall be decided according to the final outcome of the appeal.
- 11.24. All proceedings under section 11 shall be recorded on audio tape and transcribed in full from those audio tapes and both records shall be stored for a period not less than three (3) years after the final decision of the proceedings.
- 11.24.1. It shall be the responsibility of any presiding person to ensure the audio recordings are continuous and of a clear quality such that transcription is easily achieved.

## **12. BRANCHES**

### **Establishment of a Branch**

- 12.1. A Branch of the Union may be established at any tertiary institution in the education sector, or any related institution, as defined in section 25 below of this Constitution.
- 12.2. A Branch of the Union shall consist of an organised group of members employed at a campus, or group of campuses, of a tertiary institution as defined in section 25 below, who have constituted themselves as a Branch according to 12.3 below or, previously joined or formed a staff association which elects to apply to become a Branch of the Union.
- 12.3. A group of individuals as defined in 12.2 above applying to the NEC for admission as a Branch of the Union shall in writing :
- 12.3.1. commit to adopting the Constitution, Standard Branch Rules and policies of the Union at a Branch Inaugural Meeting; and,
- 12.3.2. the election of a Branch Executive Committee according to 12.9 below;
- 12.4. The NEC, after satisfying themselves that any conditions for Branch acceptance and formation have been met and that the aims and objectives of this Constitution have been accepted, shall instruct the General Secretary to issue a Certificate of Compliance to the Branch certifying the acceptance of that Branch into the Union which shall reflect the allocated Branch Recognition Code for that Branch.
- 12.5. The Standard Branch Rules read in conjunction with this Constitution shall, together with 12.2 above, be the minimum requirement for the formation and acceptance of a new Branch of the Union.





### **Branch, Structure, Control and Composition of the Branch General meeting**

- 12.6. Branch Structure and Control shall be exercised through the following in this order from highest to lowest precedence:
- Branch Annual General Meeting;
  - Branch Executive Committee;
  - Trade Union Representatives Council (where established in terms of the Union's Standard Branch Rules).
- 12.7. The Branch General Meeting shall be the ultimate authority of the Branch which shall be overruled only by a ballot of all Branch Members in good standing, conducted in accordance with the provisions of this Constitution.
- 12.8. The Branch shall within one (1) month of receipt of the Certificate of Compliance arrange for an inaugural meeting at which the Branch Committee will be elected and this Constitution and its associated Standard Branch Rules will be formally adopted and will establish when the Branch's Annual General Meetings will be held.

### **Branch Executive Committee (BEC)**

- 12.9. The Branch Executive Committee, subject to Standard Branch Rule A.7.1 shall consist of :
- the Chairperson;
  - 2 (two) Vice Chairpersons, one to represent (Academic staff affairs and the other to represent General staff affairs);
  - the Branch Secretary;
  - the Branch Treasurer;
  - at least two other Members in capacities as the Branch may determine; and,
  - the Branch Legal Advisor; and
  - In addition, ex-officio, the full-time shop steward, should one have been elected or appointed, in a non-voting capacity, who shall also not be, or act, as Chairperson of the BEC.
- 12.10. The term of office of the Branch Executive Committee shall be calculated from the date of the Annual General Meeting at which they were elected until the date of the following Annual General Meeting.
- 12.11. The BEC may at any time co-opt any person to assist it with a specific matter, but such person shall act in an advisory capacity only and shall have no vote.
- 12.12. Voting for these positions at a Branch level shall reflect the same procedures as in 7.13 above to 7.24 above.
- 12.13. The nomination and election of the Branch Executive Committee, Trade Union Representatives Council and any other structures introduced, shall be governed by the procedures contained in the Standard Branch Rules and as they relate to the provisions of this Constitution.
- 12.14. The Branch Secretary shall maintain a list of the current Members of the Branch at all times and report this list to the National Secretary through the National Administrative Office monthly.
- 12.15. The Branch Treasurer shall maintain the financial records of expenditure of, and take responsibility for documentary proof of all expenditure by, the Branch, in accordance with the provisions of this Constitution, any controls and mechanisms put in place by the National Treasurer and the Standard Branch Rules, and, report on these as required to the National Treasurer in accordance with section 12.21 below.

### **Discipline of Branches**

- 12.16. In the event that:
- 12.16.1. upon investigation it is found by the NEC a Branch persists in behaviour inconsistent with the aims and objectives of the Union and this Constitution that Branch may be declared to be not in good standing;
- 12.16.2. at least 25% (twenty five per cent) of the Membership of a Branch have signed a motivation of complaint;
- the relevant party may petition the CoC requesting an investigation or enquiry into the affairs of the Branch.
- 12.16.3. Such request shall be submitted to the General Secretary who shall forward it immediately to the CoC.



- 12.16.4. The CoC shall deputise one or more of its members or any suitable person to investigate the affairs of such Branch.
- 12.16.5. Such depute shall
  - 12.16.5.1. have access to all the records and documents of the Branch and shall have the power to seize such records or documents;
  - 12.16.5.2. report all findings to the CoC recommending corrective action.
- 12.16.6. The CoC shall review this report, call for and receive any comment from the Branch, amend and / or apply the recommendation.
- 12.16.7. The final decision of the CoC will be delivered to the Branch immediately it is available and the Branch shall act upon this within the timeframe stipulated.
- 12.17. Upon failure of the Branch to comply the CoC may recommend to the NEC that the Branch be suspended from right and privilege in the Union until the next National Congress, or Special Congress, at which the NEC shall, through the National Office Bearers, introduce a motion of censure to be voted upon according to the voting procedures in section 5.15 above.
- 12.18. Should the motion of censure gain the support of the National Congress, which must have heard the arguments of both sides, that Branch shall lose its certification as member Branch, cede its assets to the NEC, and, give up its Certificate of Compliance for cancellation.
- 12.19. Where a Branch, or individual Member, is more than three (3) months in arrears with subscription payments, that Branch or Member, shall cease to be in good standing, unless granted alleviation by a National Congress or the NEC.

### **Finances**

- 12.20. Subscriptions, and other funds collected or accumulated, shall be subject to all the general controls as outlined in section 15 below, the Standard Branch Rules and Bye-laws of the Union, and any other specific or general conditions set by the National Treasurer as may be necessary.
- 12.21. In order to facilitate compliance with the Act and reporting to the Registrar (Labour Relations) in the Department of Labour, and provisions elsewhere in this Constitution, Branch Treasurers shall on at least a quarterly basis submit expenditure statements together with documentary proof thereof to the National Treasurer through the National Administrative Office; provided that, the National Treasurer may stipulate to a more frequent submission requirement, and, that, failure to comply will result in a Branch being declared not in good standing.
  - 12.21.1. A list of physical assets and individual asset values held within a Branch shall be submitted to the National Treasurer on an annual basis; such assets will remain the property of the Union and on dissolution of a Branch shall revert to the National Administrative Office for reallocation, liquidation or write-off purposes.
  - 12.21.2. The maximum total monetary value or purchase price and acquisition process of physical assets shall be governed by policy, rules and processes set by the NEC through the National Treasurer.
  - 12.21.3. Physical assets shall remain under the primary ownership of the Union and be under the custodianship of the relevant purchasing Branch.
- 12.22. Failure to comply may result in a Branch being declared not in good standing with the Union.

### **General**

- 12.23. Branches shall be free to form cooperative structures with such other Branches as might be formed within their province or region to enhance inter alia: the aims and objectives of the Union, or to co-ordinate negotiations, membership development, training and information exchange within the province or region.
- 12.24. Any Branch may enter into negotiations with the management of the institution employing its Members on any matters which are not negotiated at a national level. This includes, though is not restricted to, negotiations on recognition agreements and, local conditions of service, salary and other workplace matters relevant to that particular workplace.

### **Closure of a Branch**

- 12.25. A Branch seeking to withdraw from the Union shall first ballot all its Members in good standing and provided a 60 percentage poll is achieved and 75 percent of those who voted agree with the motion to withdraw, the NEC shall cancel the Certificate of Compliance of that Branch and the Branch shall return the Certificate for cancellation.
  - 12.25.1. Noting the provisions of 12.29 below, the final



- legitimate and verifiable liabilities shall first be settled by
    - application of unexpended funds to the purpose;
    - liquidation of the physical assets, purchased through approved Branch fundraising or acquired by donation, where transfer to another Branch or the National Administrative Office is not approved; and then,
    - by sub-ventive provision of funds from the national reserves, provided that, the debt liability represents outstanding payments or unintimated claims within the Branch budget planned under the authority of the Branch Annual General meeting and approved by the NEC as directly related to business concerning the Union; and, where legal action undertaken was the cause of the debt, the authorisation of the National Executive Committee;
  - residual financial and physical assets held by such Branch shall revert, and be transferred, to the national banking account and custody of the National Administrative Office;
  - physical assets purchased from budgeted allocations shall revert to the Union through the National Administrative Office.
- 12.26. A ballot under 12.25 above shall be conducted under the guidance of the Registrar (Labour Relations) of the Department of Labour and shall be independently scrutineered.
- 12.27. If a Branch is unable, in the opinion of the NEC, to continue functioning as a Branch it may with the concurrence of the CoC withdraw the Certificate of Compliance of that Branch.

### **Procedure**

- 12.28. When a resolution for the closing down of a Branch has been adopted in terms of 12.25 above or when the NEC, subject to 12.27 above, directs the Branch to be closed down the NEC shall appoint a Liquidator to carry out the closure of the Branch.
- 12.29. The Liquidator shall
- 12.29.1. not be a Member of the Branch and shall be paid such fees as may be agreed with the NEC and such fees shall be a first charge on the assets of the Branch;
  - 12.29.2. call upon the last office bearers and officials of the Branch to deliver the Branch's records of expenditure and documentary proof thereof including a final and comprehensive list of any physical assets, for the twelve months prior to the winding up of the Branch;
  - 12.29.3. call upon the last office bearers and officials of the Branch to hand to over all unexpended funds of the Branch and to supply and deliver the Branch's physical assets, records, membership lists and documents to the National Administrative Office;
  - 12.29.4. take the necessary steps to settle the liabilities and debts of the Branch from its unexpended funds and, if necessary, from other monies realised from any assets of the Branch.
- 12.30. All remaining financial or physical assets and documents after settlement of any liabilities and debts shall be handed to the NEC, through the National Treasurer, which may direct the liquidator to liquidate some or all of the physical assets.

### **13. DISPUTES, INDUSTRIAL ACTION AND STRIKE BALLOTS**

- 13.1. No strike, in respect of whatever sector of the Membership, shall be contemplated unless the provisions of the Labour Relations Act No. 66 (1995) have been exhausted including any processes offered through the CCMA.
- 13.1.1 The trade union shall, before calling a strike, conduct a ballot of those of its members in respect of whom it intends to call the strike
  - 13.1.2 Notwithstanding anything to the contract contained in this Constitution, members of the trade union shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike if –
    - (a) No ballot was held about the strike; or
    - (b) a ballot was held but a majority of the members who voted did not vote in favour of the strike
  - 13.1.3 A pre-determined polling list of the members, in good standing and eligible to vote, in respect of whom the union intends to call to strike must be present at the voting station.
  - 13.1.4 Strike Ballot boxes shall be inspected by the scrutineers and sealed by the independent scrutineers in their presence prior to the issuing of ballot papers.



- 13.2. In case of a dispute on an issue of right a deadlock shall be broken by an arbitration award through the services of the CCMA.
- 13.3. In the case of a dispute on an issue of interest a deadlock may be resolved by mediation through the services of the CCMA without precluding recourse to strike, industrial or protest action.
- 13.4. Failing the resolution of a dispute by mediation under the provisions of the Labour Relations Act No. 66 (1995) strike or industrial action may be advocated by the NEC, the CoC, a BEC or a negotiating committee appointed to address the issue under the following conditions:
  - 13.4.1. that the conditions and provisions of Chapter IV Of the Labour Relations Act No. 66 (1995) [sections 64 to 77] shall not be, or have been, violated;
  - 13.4.2. a ballot of Members or, Members in the specific sector of the Membership, according to section 14 below, has been conducted and a majority of those Members agree to the necessity to enter into a strike or industrial action.
- 13.5. A strike may not be contemplated where the issue is governed by any Branch level collective agreement with an employer or employer's organisation unless that agreement is deemed to have been violated by the employer or the employer's organisation and/or is itself under dispute.
- 13.6. If a dispute arises which is of national concern or of concern to more than one Branch, or a secondary strike or picketing in support of a Branch is proposed, and after following the provisions of this section, a secret ballot to test support must be conducted in terms of the provisions of this Constitution.
- 13.7. Members of the Union may not be disciplined or have their Membership terminated for failure or refusal to participate in industrial action if no ballot was held or a ballot was held, but a majority of the Members who voted did not favour the action.

#### **14. GENERAL, POSTAL AND ELECTRONIC BALLOTING OF BRANCHES OR MEMBERS AS INDIVIDUALS**

##### **National and Branch Ballots**

- 14.1. In addition to matters in respect of which voting by secret ballot is compulsory in terms of this Constitution, a secret ballot shall be taken on any issue, including the removal from or reinstatement to office of an office bearer if:
  - 14.1.1. a Branch Annual General meeting, or General meeting for the purpose, so decides;
  - 14.1.2. the CoC, in conjunction with the NEC, so decides;
  - 14.1.3. the CoC is requested to do so by a National Congress or is requested in writing by Branches representing at least 25% (twenty five per cent) of the total Membership;
  - 14.1.4. the CoC, or a BEC, upon deciding to conduct a ballot shall consider the following options and determine which would be the most secure and effective balloting method under the circumstances : a general ballot according to 14.7 below; or, a postal ballot according to 14.7 below; or, an electronic ballot where the voting form conforms to 14.7.2 below and ballot counting and auditing arrangements are closely related to the provisions for general or postal balloting.
- 14.2. A ballot decided upon or requested in terms of 14.1 above of this Constitution shall be held within thirty (30) days from the date of such decision or request, provided that if some urgency exists to have a ballot taken, the CoC may determine a shorter period for the taking of the ballot.
- 14.3. The CoC shall, when a national ballot is conducted, give notice in writing to all Members who are entitled to vote at least seven (7) days before the ballot is to be taken, but if a ballot is requested in terms of 14.1.3 above such ballot shall be taken immediately.
- 14.4. No ballot shall be invalidated merely by the non-receipt of either notice of the intended ballot or, in the case of a postal ballot, the voting form, by any Member.
- 14.5. Ballots shall be conducted at the various Branches of the Union on a date or dates and at a time and for a period specified in the notice.
- 14.6. The Branch Elections Officer, as appointed under Standard Branch Rules shall take charge of the balloting process and appoint scrutineers as necessary.



- 14.7. The following shall apply to all Branch and National level balloting processes:
- 14.7.1. For a general ballot the Branch Elections Officer shall establish a polling point or points and polling hours during which voting will take place.
- 14.7.2. All ballot voting forms shall reflect:
- the Union's name;
  - a printed, sequential ballot form number;
  - the Branch Recognition Code;
  - the motion or resolution being voted upon;
  - the number of that motion or resolution;
  - provision for a vote for, against or in abstention;
  - in the case of a postal ballot an absolute closing date for return of the voting form to the National Administrative Office or, in the case of Branch level ballot, to the Branch Administrative Office, if one exists, otherwise to the Branch Elections Officer.
- 14.7.3. Sealed ballot boxes shall be provided by the Branch Office Bearers under the supervision of the Branch Elections Officer, which may be inspected by the voters or by appointed scrutineers to ensure that they are properly sealed.
- 14.7.4. Voters shall show their membership cards to the Branch Elections Officer or that person's nominee, who shall record the signature of the Member against the membership number on an appropriate polling list, before issuing a voting form.
- 14.7.5. Each voter shall be issued with a ballot paper which on completion shall be folded and deposited in a sealed ballot box provided for the purpose.
- 14.7.5.1. In the case of a postal ballot the voting form shall be supplied to Members along with a pre-addressed envelope where the first address line indicates the motion or resolution number.
- 14.7.6. Ballot papers shall be marked only in one of the blocks provided for a vote for, against or abstaining and may not bear any mark or sign other than the mark made by the voter. Papers bearing any other marks shall be regarded as spoilt.
- 14.7.7. Counting of votes shall begin on the day following the closing date for return of the sealed ballot boxes, or postal ballot form, and, immediately on conclusion of counting the Branch Elections Officer shall inform the National Secretary in the case of a national ballot, or the Branch Secretary in the case of a Branch ballot, of the outcome.
- 14.7.8. As soon as possible after completion of the ballot the National or Branch Secretary, as the case may be, shall ascertain the results of the ballot and shall make such results known to the voters and the relevant committees.
- 14.7.9. Ballot papers, including spoilt papers and the polling list, shall be placed in a container which shall be sealed after they have been counted and retained by the National Administrative Office under the direction of the National Secretary for not less than three years.
- 14.8. The result of any national level general or postal ballot shall be disseminated to the Branches or, in the case of a Branch level ballot to the Members of the Branch, within fourteen (14) days or less of the termination of counting.
- 14.9. The body responsible for conducting the ballot shall be bound to take action according to the decision of the majority of the Members voting in any ballot, provided that such body shall not be so bound where less than 30% (thirty per cent) of the Members who are entitled to vote, have voted and the majority vote in favour of the motion or resolution being voted on, unless the context otherwise requires a larger than simple majority.

## **15. FUND USAGE AND FINANCIAL CONTROLS**

- 15.1. Any funds accumulated and/or invested in, or on behalf of, the Union and its Membership, shall only be used in the furtherance of the aims and objectives of the Union, exclusive benefit of the Members and their legal defence as provided below or as operational expenditure as budgeted by the NEC through the National Treasurer and approved by a National Congress.

### **Legal Aid Fund**

- 15.2. A legal fund shall be instituted on behalf of the Union for use in any legal defence, action or necessary consultation which can be drawn upon on behalf of the Union by the Council of Chairpersons in consultation with the NEC as the need might arise.



- 15.2.1. This fund shall only be used towards group actions on behalf of the total Membership and not normally be available for the defence of individuals' cases. However, should it seem that an individual Member's case may result in a definitive decision relating to the total Membership this fund may be drawn upon at the discretion of the NEC upon recommendation or request from the CoC.
- 15.2.2. This fund should normally be built from subscriptions income but may take the form of paid up insurances should such a scheme be available. Entry into such scheme shall be ratified by the organisation's auditors.
- 15.2.3. Any such fund investment or insurance premium payments or withdrawals against these shall be subject to annual audit.

#### **General Investment of Funds**

- 15.3. The NEC in consultation with the CoC or the National Congress, as the case may be, may decide to invest any reserve funds in a fixed deposit or any other form of investment which appears to be in the interest of the Union or the Branches.
- 15.4. Any general investment funds or portfolios shall be subject to annual audit by the Union's auditors and in the case of a block sum to be invested exceeding fifty thousand rands (R50 000,00) the investment plan shall be first presented to the CoC for comment.

#### **Biennial Budgeting**

- 15.5. The National Office Bearers must present through the motion to adopt the National Treasurer's recommendation in terms of 5.3.8 and 5.3.9 above, a two year budget addressing the needs of the forthcoming two year period to each National Congress with respect to the ordinary running expenditure of the Union, the NEC, the cost of the National Congress, the National Administrative Office, its Branch structures, the CoC, its national and CoC sub-committees, standing accumulation funds.
  - 15.5.1. A Branch Executive Committee shall, no later than six months prior to a National Congress, submit a two-year running and physical asset budget claim to the National Treasurer, through the General Secretary, for review by the National Treasurer and the NEC who shall allocate proportionately from the projected national subscription income an amount as would be within the means of the Union which amount shall be paid to the relevant Branch's banking accounts as day-to-day running funds under the control of the Branch Treasurer who will, manage such funds on behalf of the Branch and the NEC in terms of 10.21 above and any Standard Branch Rules.
  - 15.5.2. The National Administrative Office shall arrange for the electronic transfer of allocated funds in accordance with the instructions of the National Treasurer.
- 15.6. Such budget must be within the projected income of the Union and subject to alteration and a Motion of Ratification by a National Congress.
- 15.7. A National Congress may, through a Member's motion at that Congress, add to any budget any amount within the means, or the projected means, of the Union for extraordinary or extended operations or projects in the interests of the Membership.

#### **Signatories to Financial Instruments**

- 15.8. The National Office Bearers shall designate four elected Office Bearers as signatories to the Union's banking accounts. These named signatories shall normally include the National President, National Treasurer, National Secretary and one other National Office Bearer.
  - 15.8.1. The Senior National Administrative Officer shall be a fifth signatory.
  - 15.8.2. Any Electronic payments must be co-signed by the National Treasurer, or a nominee, and at least one of the other approved signatories utilising their unique PIN numbers.
  - 15.8.3. Other financial instruments such as investment contracts or contracts of research etc. shall be co-signed by four of these signatories one of whom will normally be the National Treasurer.

#### **The National Treasurer**

- 15.9. The National Treasurer shall ensure that the financial records of the Union are kept in accordance with Section 98 of the Labour Relations Act No. 66 (1995) and that the applicable provisions of Section 100 of the Labour Relations Act No. 66 (1995) are complied with.
- 15.10. The National Treasurer shall
  - 15.10.1. submit to each regular meeting of the NEC a detailed statement of the income and expenditure of the Union;



- 15.10.2. with the assistance of the National Administrative Office prepare a provisional consolidated income statement and balance sheet for audit; such reporting must incorporate and consolidate the financial expenditure information and status of the Branches;
- 15.10.3. with the assistance of the National Administrative Office, prepare and submit audited consolidated statements to the National Congress;
- 15.10.4. endeavour to present the financial statements within three months of the date of the financial "end of year" and the final audited statements within six months of that date for any particular year.
  - 15.10.4.1. It shall not be seen as a failing of the duty of a National Treasurer if the conditions of 15.10.4 above are not met, provided that acceptable proof has been provided to, and in the opinion and judgement of, the remaining National Office Bearers and NEC members that every endeavour was made to meet those conditions.
- 15.11. The National Administrative Office, under the National Treasurer's direction, shall circulate to all Branches the annual financial statements of the Union, including a separate summary of the financial position of each Branch of the Union.
- 15.12. A recommendation, under the aegis of the National Treasurer's Report to acquire or alienate immovable, or, movable (above the value of R50 000) property shall be first submitted to the CoC for comment and shall only be acquired on approval by a 75 per cent supportive vote of the CoC where 75 per cent of the members are present at a meeting of the CoC.

#### **Financial Year**

- 15.13. The date of the financial "end of year" shall be the last day of February of any year.

#### **Income**

- 15.14. The funds of the Union shall be made up of all monies received by means of subscriptions, levies, donations, and fines due to the Union by Members, from functions and other funds received by any lawful manner.
- 15.15. All funds of the Union shall be deposited in national banking account/s maintained for the purpose.

#### **Expenditure**

- 15.16. The National Administrative Office may apply the funds in the Union's national banking account to the payment of such expenses, and such other purposes as may be decided upon or approved by the NEC. This paragraph shall be read with 7.3.12 above, and general provisions of this Constitution regarding financial control.
- 15.17. A Branch may apply funds allocated through the budgeting process which it holds in its own Branch account to the payment of expenses and such other purposes as are consistent with its budget claim and stipulations of the NEC and the National Treasurer as may be attached to such allocation.
- 15.18. The National Treasurer shall determine the amount of funds for petty cash that may be available during any one month in any office of the Union and shall further determine the control mechanisms related to expenditure of, and, accounting for, such monies.

#### **Membership subscriptions**

- 15.19. A Branch shall facilitate, and, ensure that, within seven (7) days of the close of each month an amount representing the total Union subscription per member, as determined by the National Congress for deposit in the Union's national banking account, is forwarded to the National Treasurer.
  - 15.19.1. A Branch which fails to comply with the provisions of 15.19 above for a period of one (1) month shall be deemed to be not in good standing and the National Treasurer shall in such a case levy an amount payable as a penalty equivalent to the Reserve Bank prime rate of the total amount outstanding and such Branch shall have no voting rights in any structure until its subscriptions are paid up.
- 15.20. Any Branch which is not in good standing within fourteen (14) days of the start of any financial year for any portion of the preceding financial year shall have no voting rights at the National Congress or the CoC.



### **Finances : General**

- 15.21. A Member who resigns or who is expelled from Membership shall have no claim on the funds of the Union or of a Branch as and from the date on which the resignation or expulsion takes effect.
- 15.22. All monies collected in the name of the Union shall be handed to the National Treasurer within seven (7) days of collection.
- 15.23. A Branch Treasurer shall prepare a statement of expenditure and submit it, and all relevant documentary proof thereof, to the BEC monthly, and the National Treasurer at least once every quarter, provided that, the National Treasurer may stipulate to a more frequent submission requirement, and, that, failure to comply will result in a Branch being declared not in good standing.

### **Finances : Auditing**

- 15.24. All accounts of the Union shall be audited annually by an appropriately registered auditor appointed by the National Congress.
- 15.25. True copies of the audited consolidated statements shall be made available to all Members at all offices of the Union.
- 15.26. The audited consolidated financial statements of the Union shall be submitted to the National Congress for approval.
- 15.27. All auditors' reports shall be in accordance with generally accepted auditing practice and shall state whether the auditor:
  - 15.27.1. is satisfied with the existence of the securities and has examined the books of account and records of the relevant Branch or the Union as the case may be;
  - 15.27.2. is satisfied that accurate and proper books have been kept;
  - 15.27.3. has obtained all information and explanations required;
  - 15.27.4. is satisfied that the statements of income and expenditure and the balance sheet presented for audit have been properly drawn up so as to exhibit a true and correct reflection of the state of affairs of the Union and its Branch structures, as can reasonably and diligently be determined and according to the explanations given, and as shown in the books of the Union, and the records of its Branch structures as at the date of the balance sheet;
  - 15.27.5. is satisfied that the provisions of this Constitution in so far as they relate to financial affairs have been complied with;
  - 15.27.6. has determined whether the Union has concluded an agency shop agreement in terms of section 25 of the Act or a closed shop agreement in terms of section 26 of the Act and if such agreement has been concluded, the auditor shall express an opinion as to whether or not the Union has complied with the provisions of the relevant sections of the Act.
  - 15.27.7. In the case of an agency shop that has been concluded, the auditor shall audit the account in which the agency fees have been deposited.

### **16. DISPUTES**

- 16.1. In the event of a dispute arising between the Union and any other party, the National Secretary or the Branch Secretary within whose Branch the dispute occurs, shall have the right to take appropriate action on behalf of the Union and take all reasonable steps necessary on behalf of the Union in respect thereof.
  - 16.1.1. Such action taken by a Branch Secretary shall be undertaken after consultation with the National Secretary.
- 16.2. If a dispute or grievance arises within the Union, such dispute or grievance shall be submitted in writing to the CoC or BEC and the CoC or BEC as the case may be shall take the appropriate action to have the dispute or grievance resolved as soon as possible.





## **17. INTERPRETATION OF THIS CONSTITUTION**

- 17.1. In the event of any disagreement over the interpretation of any part of this Constitution, the decision of the NEC shall be sought.
  - 17.1.1. Such opinion shall remain in effect until the next National Congress or Special Congress, at which a motion to confirm that opinion and interpretation shall be presented.
- 17.2. The opinion expressed by the NEC in this respect shall be circulated to all Branches for their information and to ensure the consistent application of that interpretation in the interim period before the matter is confirmed or rejected at a National Congress.
  - 17.2.1. Each Branch must acknowledge receipt thereof within fourteen (14) days of receiving such a notification.

## **18. AMENDMENTS TO THIS CONSTITUTION**

- 18.1. Any provisions of this Constitution may be repealed, changed or added to in any manner by a correctly proposed, seconded, numbered and motivated motion in accordance with 5.16.3 above of the National Congress provided that:
  - at least fourteen (14) days' notice of any proposed change shall first have been given to Branches;
  - if within that period a Branch demands that a ballot of all the Member of the Union be taken on the matter, such a ballot shall be taken.
- 18.2. No changes or additions to this Constitution shall have any force or effect until certified in terms of section 101 (3) of the Labour Relations Act No. 66 (1995).
- 18.3. The provisions of this Constitution relating to meetings of the National Congress, its quorum and the taking of resolutions by the National Congress shall apply in this instance, provided that a two third majority of the National Congress shall be required for any such amendment or addition.

## **19. LEGAL PERSONA**

- 19.1. The Union shall be a body corporate with full legal capacity and perpetual succession.
- 19.2. Union Members and employees shall not be liable for its obligations, nor may its assets be seized in respect of the obligations of its Members or employees.
- 19.3. The Union will only accept liability for actions made legitimate and authorised in good faith by the National Congress or, the National Office Bearers or, the NEC or, the Council of Chairpersons, in the exercise of their mandate from any National Congress and under their authority granted in this Constitution.

## **20. DISSOLUTION OF THE UNION**

### **Winding up of the Union**

- 20.1. The Union shall be wound up when:
  - 20.1.1. for any reason, the Union cannot continue to function, either in the opinion of the Registrar (Labour Relations) or, for reasons of support or insolvency and the following procedure shall apply:
    - 20.1.1.1. a ballot of the total Membership in good standing shall be held according to section 14 above;
      - 20.1.1.1.1. a quorate Special Congress shall vote on a resolution calling for dissolution of the Union and seventy-five (75) per cent of delegates of Branches in good standing vote in favour of dissolution.
    - 20.1.1.2. If the majority of the Branches in good standing at a Special Congress called for the purpose vote in favour of a resolution to dissolve the Union, then application shall be made by the incumbent National Office Bearers to the Labour Court. in terms of Section 103 of the Labour Relations Act No. 66 (1995) for an order giving effect to that resolution.
    - 20.1.1.3. At least thirty (30) days' notice shall be given of a Special Congress proposing to dissolve the Union.



- 20.1.1.4. Dissolving the Union shall be the sole item on the agenda of such a Special Congress and no other business shall be discussed.
  - 20.1.1.5. Any resolution to dissolve the Union shall include in it the selection of a benefactor Union with similar aims and objectives in the tertiary education sector.
  - 20.1.1.6. Should any funds or assets remain after the liabilities of the Union have been settled by the Liquidator those funds or assets shall be transferred to the organisation selected under 20.1.1.5 above under conditions and terms laid out by the dissolving Special Congress. If no organisation is selected Section 103 (5) of the Labour Relations Act No. 66 (1995) shall apply.
  - 20.1.1.7. All current records including membership lists, fee structures, asset and liability and other financial and requested information shall be handed to the Liquidators and any funds in banking accounts, apart from Administration Staff salaries and monetary benefits, shall be frozen.
  - 20.1.1.8. The Special Congress dissolving the Union shall relieve the National Office Bearers of their obligations and posts and elect a Dissolution Committee, which will take control of all records and information as if it were the National Office Bearers, to assist the National Administrative Office and the Liquidators, as might have been appointed under Section 103 (3) of the Labour Relations Act No. 66 (1995), with the dissolution process. The Dissolution Committee shall accede to the demands of the Liquidators and make any decisions required by the Liquidators without referral to the outgoing Membership.
- 20.2. When a resolution for the winding up of the Union has been adopted in terms of section 20.1.1 above or when the Registrar of Labour Relations directs the Union to be wound up the Labour Court may appoint a suitable person as Liquidator on appropriate conditions.

#### **Procedures**

- 20.3. The Registrar of the Labour Court must determine the Liquidator's fees.
- 20.4. The Liquidator shall
  - 20.5. call upon the Dissolution Committee and officials of the Union to deliver to the Union's books of account, showing the Union's assets and liabilities and the register of Members showing the subscriptions paid by each Member for the twelve months prior to the winding up of the Union;
  - 20.6. call upon the Dissolution Committee and officials of the Union to hand-over all unexpended funds, assets and documents necessary in order to liquidate the assets of the Union;
  - 20.7. take the necessary steps to settle the debts of the Union from its unexpended funds and, if necessary, from other monies realised from any assets of the Union.
- 20.8. After the settlement of debts the remaining funds, if any, shall be disposed of in accordance with a decision under 20.1.1.5 above and 20.1.1.6 above.

#### **21. AMALGAMATIONS**

- 21.1. The Union may amalgamate itself with any other union or organisation or more than one other union or organisation, within the Republic of South Africa, by a quorate National Congress or Special Congress subject to agreement of at least 75 percent of all delegates of Branches in good standing.
- 21.2. Such amalgamation shall be according to, but not be limited to, these conditions, that :
  - 21.2.1. its Members become equal Members within the new partnership;
  - 21.2.2. no equality of assets or liabilities or "buying in" levy is sought from either side before any agreement can be concluded;
  - 21.2.3. the general aims, objectives and principles espoused by this Constitution are not substantively changed in the amalgamation of constitutional provisions;
  - 21.2.4. the scope of membership representation and business of the new organisation does not expand beyond the tertiary education sector and its related institutions.



## **22. AFFILIATIONS**

- 22.1. The Union may affiliate itself to any federation within or, outside of the Republic of South Africa, by a quorate National Congress or Special Congress subject to agreement of at least seventy-five (75) percent of all delegates of Branches in good standing.
- 22.2. Any affiliation fee shall be paid out of National funds.
- 22.3. The assets of the Union shall remain the property of the Union.

## **23. INDEMNIFICATION**

- 23.1. The National and Branch office bearers, officials and committee members of the Union shall be indemnified by the Union against all proceeding, costs and expenses incurred by reason of any commission, omission, negligence or other act done in performance of their duties on behalf of the Union and they shall not be personally liable for any liabilities of the Union, provided that they have not acted in a manner which would constitute a serious criminal offence, serious neglect of any allocated duties or acted ultra vires.

## **24. NATIONAL ADMINISTRATIVE OFFICE ADDRESS**

***[the address which has been registered with the Registrar of Labour Relations]***

***41A King Edward Street  
Newton Park  
6055***



## 25. Definitions

Unless otherwise indicated in the text the following shall have the meaning:

**Act**

shall mean the Labour Relations Act No 66 of 1995.

**Branch**

any grouping of members who have collectively applied to the NEC and where a Certificate of Compliance has been approved, in the prescribed manner.

**Branch Committee**

a group of individuals who have been elected by the Members of a Branch to be the Office Bearers of that Branch and perform the functions of leading, co-ordinating and administering the affairs of the Union at Branch level.

**Bye-Laws**

see Standard Branch Rules below.

**co-option**

in this context when any Office Bearers' committee elects to invite the inclusion of a Member of the NTEU on that committee in order to replace a vacancy or to provide some expertise not existent on that committee.

**Day**

a calendar day.

**delegate/s, delegates of Branches**

shall include ordinary Members voting or participating in meetings at Branch level where the context refers a Branch Rule to this main body of this Constitution.

**Employee**

shall have the same meaning as 'employee' in terms of the Act, but shall include only persons who are in the employ of a tertiary institution, whether on a permanent, contract or temporary basis, excluding any person who is employed for less than twenty-four (24) hours per month.

**employer, the employer bodies**

any institution or individual employing people under any contract to do work for remuneration, including the State and its Provincial instruments; state related or private institutions; any federation or grouping of such employer's whether registered as such with the Registrar (Labour Relations) in the Department of Labour or not.

**General Secretary**

any person employed in an employer - employee relationship to do work for remuneration as within the powers of the National Office Bearers and in terms of section 9.2 of this Constitution and performing any function as directed by the National Secretary, the National Office Bearers or a National Congress resolution or motion, and who is in day-to-day supervision of the National Administrative Office and who will act on behalf of the NTEU at such meetings, conferences, seminars or at any other time as delegated by the National Office Bearers, NEC or a National Congress.

**gross misconduct**

in managing the affairs of the Union shall include but not be limited to: bringing the name of the NTEU into disrepute; conviction of committing a criminal act; deliberately attempting or collaborating in attempting to undermine or terminate the activities of the NTEU; defrauding the organisation.

**not in good standing**

any Member or Branch of the Union that is in arrears with subscription payments; under suspension or disciplinary penalty; or, has had any right or privilege withdrawn by any Office Bearers committee or the National Congress to the extent of being declared not in good standing.

**Majority**

majority and majority vote where the result of a ballot or voting process shows fifty (50) percent plus one or more votes cast in favour of, against or abstaining from the motion, resolution or issue being voted on.

**member, members, membership**

any person who has met the requirements of section 10 and has been issued with a membership card by the National Secretary, including any group of such persons.

**membership benefits**

any right to representation; any right claimable in terms of any collective agreements reached by the organisation or its Branches and participation in the benefit of such agreements; any privilege to participate in discount or loan schemes arranged by the organisation or its Branches; any other privileges, benefits or rights negotiated and achieved by the NTEU or its Branches.

**National Office Bearer**

any person elected to a position of trust and placed in control of any part, or all, of the Union and its activities on behalf of the Membership in terms of section 7 of this Constitution and who shall represent no Branch.

**National Administrative Office Staff**

any person or persons employed in an employer - employee relationship to do work for remuneration in the National Administrative Office as within the powers of the National Office Bearers and in terms of



section 9 of this Constitution and performing any function in pursuit of administering and managing the general affairs of the Union as directed by the National Secretary or the General Secretary (if one has been appointed).

**National Administrative Office**

the environs listed in section 24 and any other office environment as might be rented or purchased for the purposes of housing the National Administrative Staff or part thereof.

**new member**

any person who was not at the inception of the Union a member of the Union of Democratic University Staff Associations or, any person who has not previously been admitted to Membership of NTESU or NUTESA and who has not previously held a membership card, or, any person who belongs to an existing unregistered staff organisation in the tertiary education sector which is seeking admission as a Branch of the NTEU under section 12 and which has not previously held a Certificate of Compliance.

**Office bearer, trade union representative**

shall have, or also have, the meaning defined in the Labour Relations Act No. 66 (1995).

**Official**

shall have the meaning as described in the *Act*.

**observer**

any person attending a meeting of the Union who will have no voting right at the meeting and may be accorded speaking rights subject to the consent of the Chairperson of the meeting.

**related institutions**

any institution of learning, teaching, research or advice which operates within the educational sector defined as post-secondary or, higher education, which may be a private or state funded unit and, which may or may not be controlled or regulated by or through the national or provincial State structures and any relevant Act of Parliament governing the activities of those departments and tertiary education in general.

**Standard Branch Rules**

a body of rules ancillary, and complementary, to this Constitution which govern activities of the Union at Branch level, and, which must be adopted by each Branch before a Certificate of Compliance is awarded and the Branch is formally admitted to the Union.

**standing accumulation funds**

fund account into which an amount per subscription is deposited from total monthly subscription income as contingency against events, such as, legal expenses, strike ('loss of income') funds, or, other such accumulation funds as the National Congress or Council of Chairpersons might elect to establish in the interests of the Union and its national membership base.

**tertiary education sector**

any learning, teaching or research structure which is post-secondary or defined as, or related to, higher education by consensus or in terms of any Act of Parliament governing education in South Africa.

**Tertiary Institution**

shall mean any tertiary institution which has been established in terms of the Higher Education Act and includes all campuses of such tertiary institution, including related institutions as defined above.

**Trade Union Representative**

shall have the same definition as "trade union representative" in the Labour Relations Act No. 66 (1995).