

ASSOCIATION OF PROGRESSIVE WORKERS UNION



CONSTITUTION

APWU Constitution

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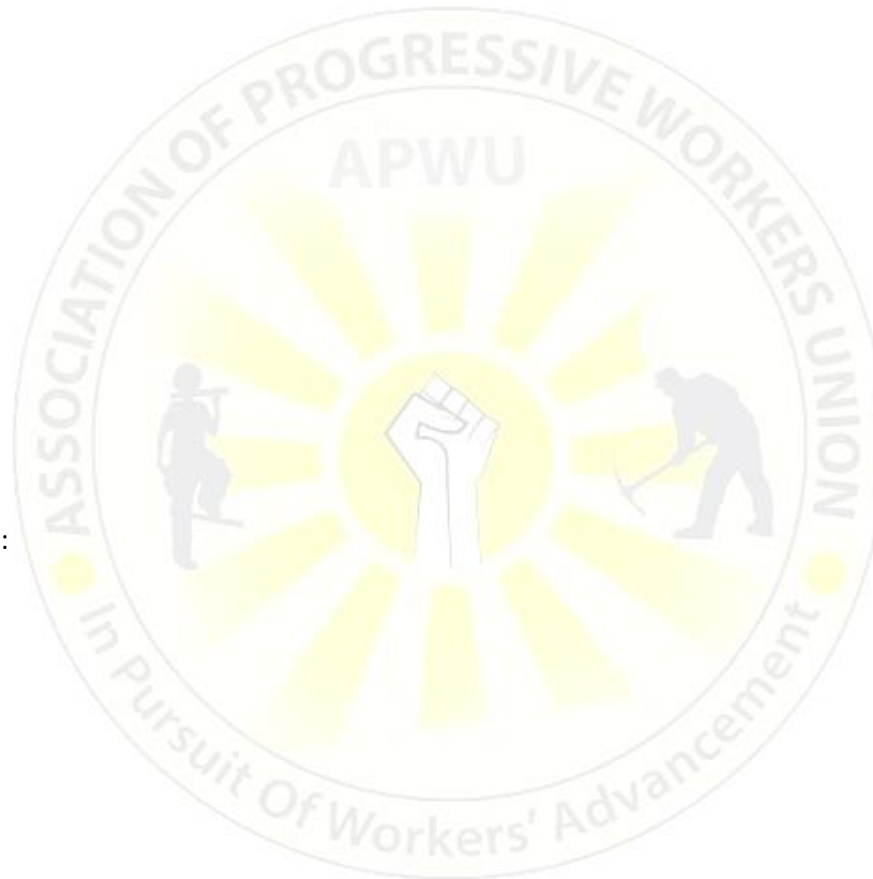
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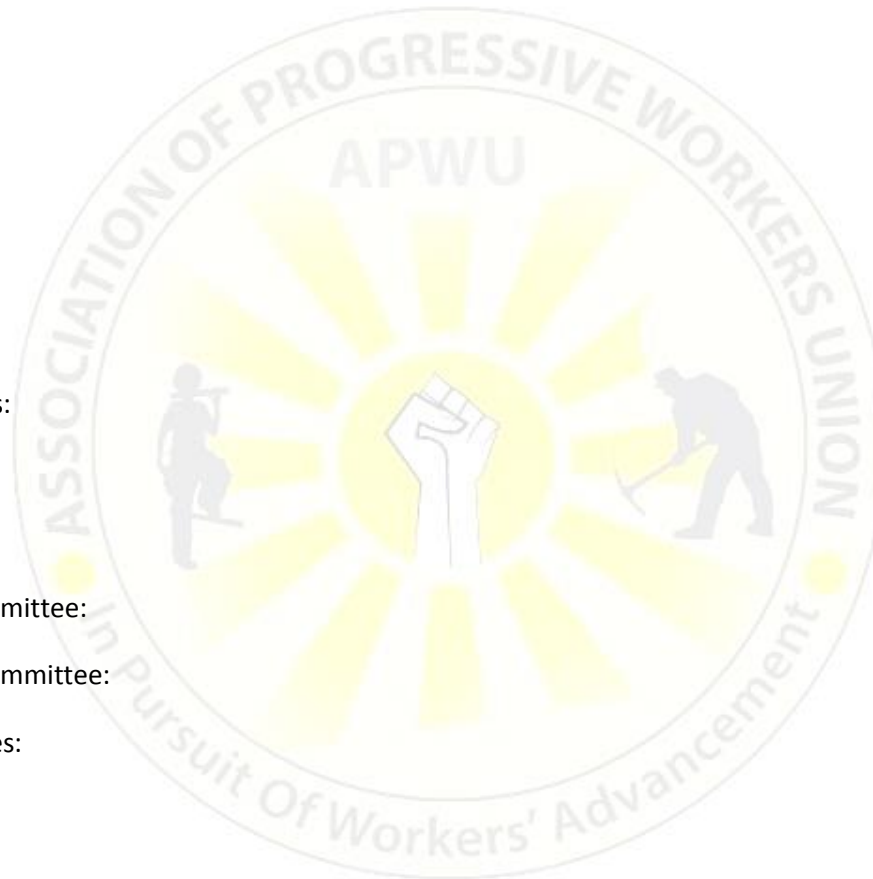
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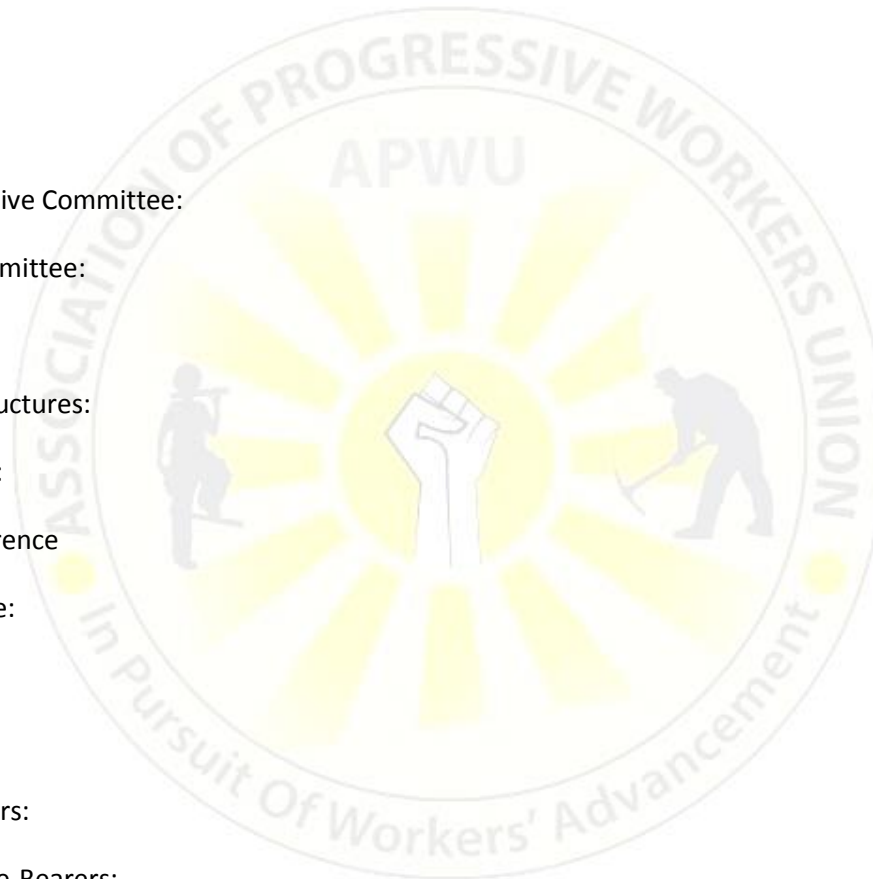
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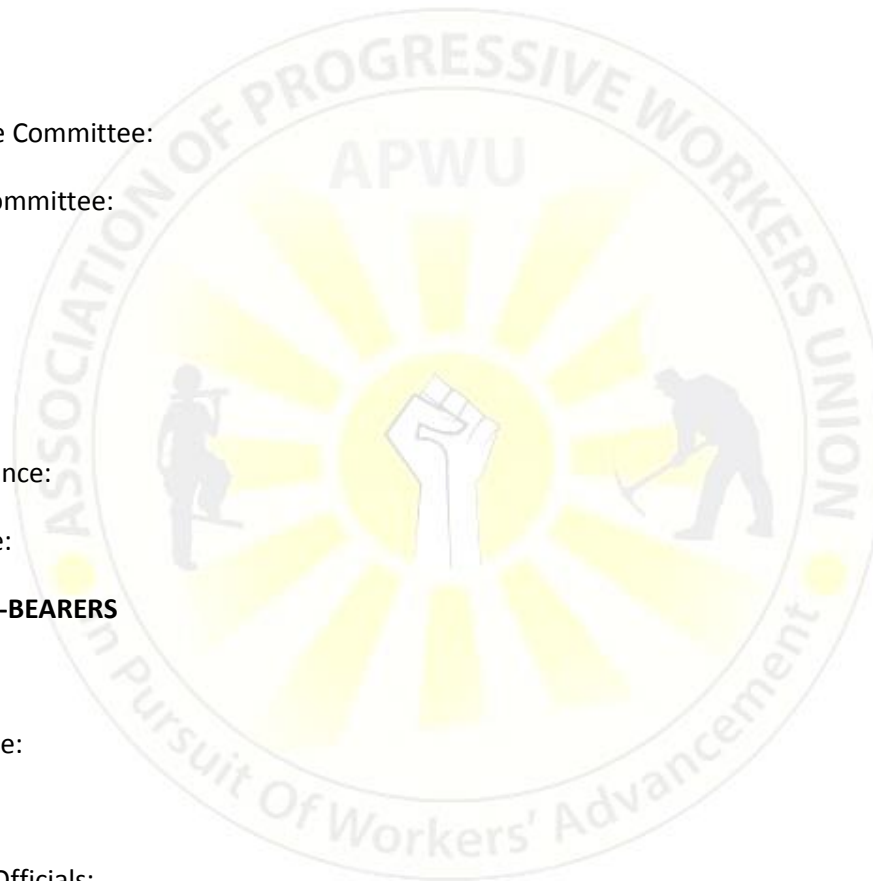
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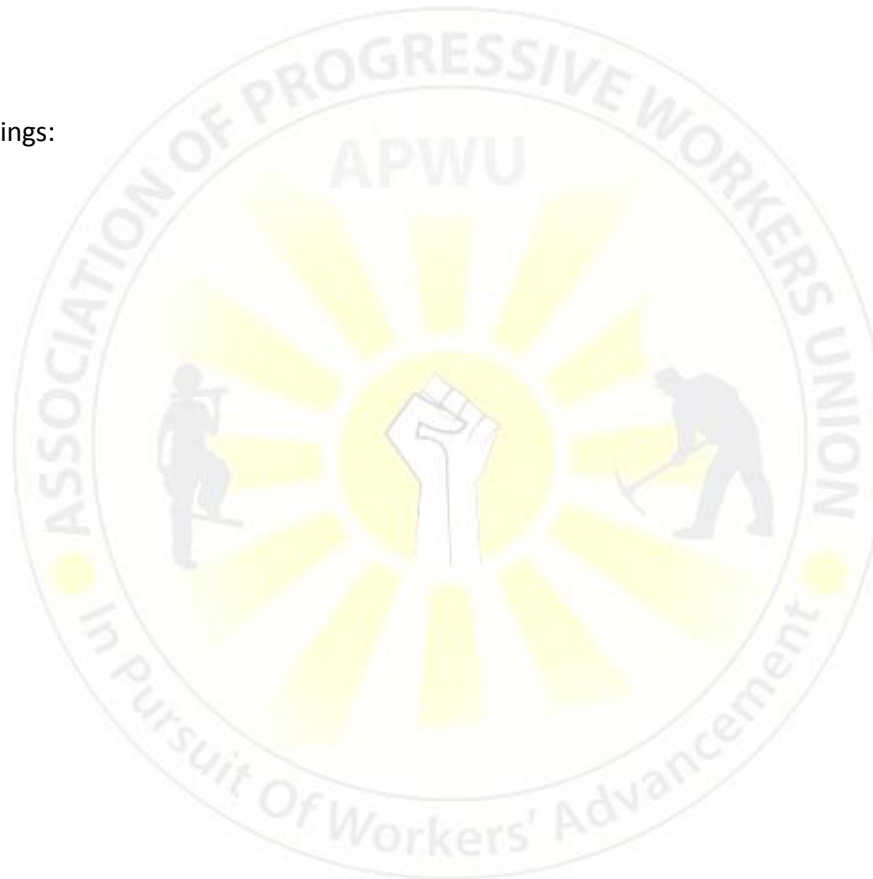
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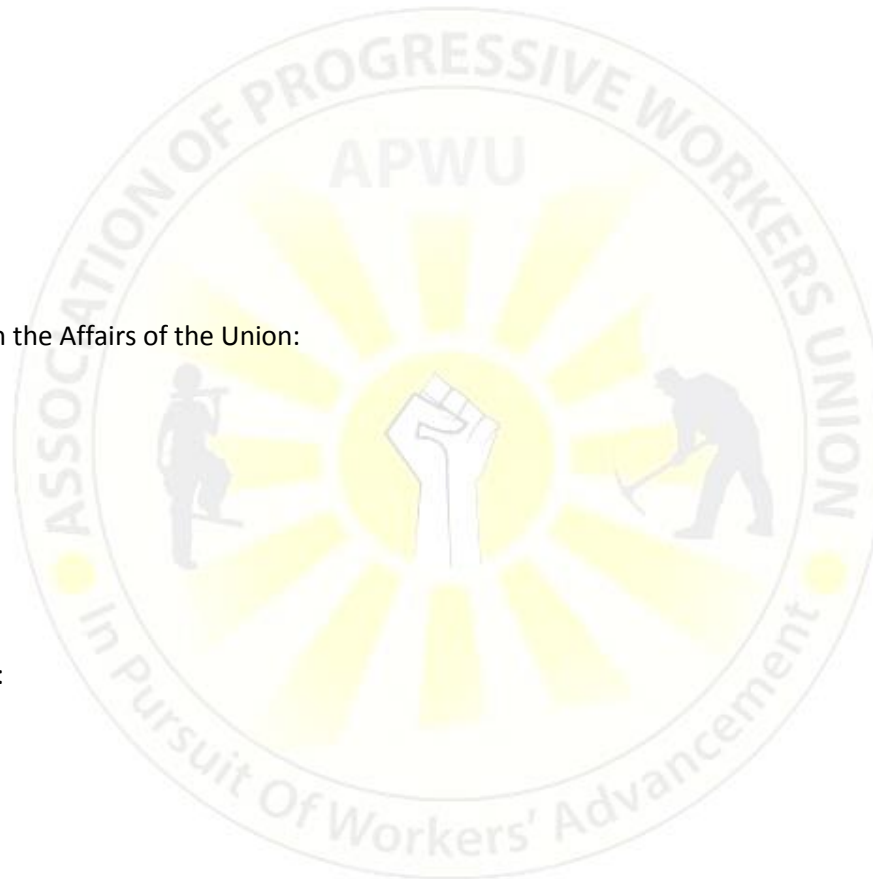
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PREAMBLE

We, members of Association of Progressive Workers Union, solidly commit ourselves to the formation of this radical, progressive and democratic workers' controlled organisation. We further commit ourselves to a united, non-racial, non-sexist workplace, free from oppression, economic and all the other forms of unfair discrimination.

We have observed and learned that workers are being used as political objects. They are fighting enemies of their enemies. This has caused disunity within the working class and heightened the ethnical divisions.

We pledge our support to all the organisations that are working tirelessly to improve the working conditions of the working class, that fight against economic exploitation and all the other forms of unfair discrimination. We therefore commit ourselves to affiliate and bolster workers'-oriented relations with such organisations.

We call on all workers who believe in the founding values of the democratic Republic of South Africa in the terms its Constitution and all those who identify with this constitution commitment to join us as compatriots in this working class struggle. This union firmly undertakes to progressively and continuously protect and improve the needs of its members.

1. IMAGE OF THE UNION

1.1 Name

1.1.1 This trade union shall be known as the Association of Progressive Workers Union, abbreviated as "APWU"

1.1.2 The colours of the union shall be yellow and grey.

1.2 This trade union is:

1.2.1 An association not for gain; and

1.2.2 A corporate body having perpetual succession, legal existence, and all the legal powers of a juristic person.

1.3 The assets belong to the union and not its members

1.4 The union as juristic person is responsible for the debts incurred

1.5 Individual members are only liable for their outstanding subscriptions or any other amount due to the union

1.6 Members and office bearers shall be liable for debts incurred as a result of committed fraud and or gross negligence,

2. Aims and Objectives

2.1 The aim and objectives of the union are:

2.1.1 to recruit and unite workers into a single working class organisation to enhance their economic and social welfare;

2.1.2 to protect the job security of members and to improve their wages, salaries and conditions of service through collective bargaining and other lawful means.

2.1.3 to foster unity, co-operation and companionship amongst all workers in all industries;

2.1.4 to establish relationships and contacts with other trade unions, trade union federations and labour organisations for the benefit of members of the union;

2.1.5 To promote the interest of the union and its members consistent with this Constitution; and

2.1.6 To build international working class solidarity and bi-lateral relations with trade unions and labour organisations internationally for the benefit of the members.

3. Scope

3.1 The union may operate as a trade union in all the economic sectors within the Republic of South Africa, including but not limited to

3.1.1 Cooperate;

3.1.2 Retail;

3.1.3 Engineering;

3.1.4 Mining

3.1.5 Organs of state; and

3.1.6 Parastatals and public entities.

4. Offices

4.1 Must maintain at least one Head Office in the Republic at all times. The location of this Head Office will be determined by the NEC from time to time.

5. Authority of the Constitution

5.1 This constitution confers all rights and responsibilities within the union, and is the final authority concerning any dispute within the union.

6. Structures within the Union

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

6.1.1 Members, who collectively are the foundation of democratic organisation in the workplace and in the union;

6.1.2 Shop stewards and shop steward committees, which operate within the different workplaces in which members work;

6.1.3 Branch executive committees (referred to as "BEC");

6.1.4 Branch congresses (referred to as "BC")

6.1.5 Regional executive committees (referred to as "REC")

6.1.6 Regional congresses (referred to as "REC")

6.1.7 Provincial executive committees (referred to as "PEC")

6.1.8 Provincial congresses (referred to as "PC")

6.1.9 National executive committee (referred to as "NEC")

6.1.10 Central executive committee (referred to as "CEC") and

6.1.11 National congress (referred to as "NC"),

7. Spheres of Authority within the Union

7.1 Within the union, authority to affect the aims and objectives of the union is allocated as follows:

7.1.1 within the workplace sphere of operations

7.1.2 where there are less than 100 members in a workplace, shop stewards exercise all authority of the union, subject to the decisions and policies of their, BEC, BC, REC, RC, PEC, PC, NEC, CEC and NC; and

7.1.3 where there are 100 or more members within a workplace, the Shop Stewards Committee for that workplace exercises all authority of the union, subject to the decisions and policies of their BEC, BC, RC, REC, RC, PEC, PC, NEC, CEC, and NC.

7.2 Within the branch sphere of operations:

7.2.1 The policy-making authority of the union is exercised by the BC subject to the decisions and policies of the REC, RC, PEC, PC, NEC, CEC, and NC;

7.2.2 The management of the affairs of the union and the executive authority of the union, is exercised by the BEC, subject to the decisions and policies of its BC, REC, RC, PEC, PC, NEC, CEC, and NC.

7.3 Within the regional sphere of operations:

7.3.1 The policy-making authority of the union is exercised by the RC subject to the decisions and policies of the PEC, PC, NEC, CEC, and NC;

7.3.2 The management of the affairs of the union and the executive authority of the union is exercised by the REC, subject to the decisions and policies of its RC, PEC, PC, NEC, CEC, and NC.

7.4 Within the provincial sphere of operations:

7.4.1 The policy-making authority of the union is exercised by the PC, subject to the decisions and policies of the NEC, CEC, and NC;

7.4.2 The management of the affairs of the union between meetings of the PEC, and the executive authority of the union, is exercised by the PEC, subject to the decisions and policies of the PC, NEC, CEC, and NC.

7.5 Within the national sphere of operations:

7.5.1 The policy-making authority of the union is exercised by the NC;

7.5.2 The development of union policy, between meetings of the NC is exercised by the CEC, subject to the decisions and policies of the NC;

7.5.3 The NEC, and the national office-bearers (NOB's), exercise the executive authority of the union, subject to the decisions and policies of the CEC, and the NC.

8. MEMBERSHIP

8.1 Qualification for Membership

8.1.1 To be eligible for membership in the union, a person:

8.1.1.1 Must be actively employed

8.1.1.2 Must be associated with the union by virtue of the applicant's employment

8.1.1.3 Must have retired from his/her employment (a retired member)

8.1.1.4 Must be willing to be abided by its constitution

8.1.1.5 Must have paid his/her subscription fee and not been either rejected as a member, or expelled from membership in the union, within the past 12 months.

8.2 No person may be denied membership of the union on any grounds that constitute unfair discrimination of the Constitution of the Republic of South Africa, 1996.

9. Application and Acceptance

9.1 Any eligible person may apply for membership in the union by submitting to the branch of the union which has jurisdiction over that worker's area of employment:

9.1.1 An application in the proper form; and

9.1.2 The prescribed subscription form.

9.2 Upon receiving an application for membership in terms of subsection (1), a BEC must either:

9.2.1 Enrol the worker as a member of the union in a manner prescribed by the union; or reject

9.3 A worker whose application for membership has been rejected by a branch executive committee:

9.3.1 May, within 30 days of the rejection, appeal in writing against that decision to the general secretary of the union by lodging a written notice of appeal

9.3.2 May be required to make representations in person in support of the appeal.

9.4 Upon considering an appeal in terms of subsection 9.3(a) the General Secretary must either:

9.4.1 Confirm the decision of the branch executive committee; or

9.4.2 Compel that the branch executive committee to enrol the worker as a member of the union.

9.4.3 A decision the general secretary in terms of subsection (4) is final.

9.5 An unsuccessful applicant for membership:

9.5.1 is entitled to a full refund of the subscription fee paid with the application; and

9.5.2 may make a fresh application after at least twelve (12) months have elapsed from the date on which his/her previous application was rejected by the BEC after the appeal was turned down by the general

secretary

10. Subscription Fees

10.1 The NEC may set the subscription fees from time to time. At inception the elected office bearers will determine the subscription fees.

10.2 The monthly subscription fees may not exceed:

10.2.1 0.5% of the members' basic salary.

10.3 A member may pay the monthly subscription fee through a check-off facility that provides for direct payment to the union's national account or in cash.

11. Good Standing

11.1 A member remains in good standing unless:

11.1.1 The member's subscription fees are more than three months in arrears; or

11.1.2 The member has been suspended in terms of section

11.2 Only a member, excluding retired members, in good standing is entitled to the benefits of membership.

11.3 Retired members shall not be entitled to the full benefits referred to in section 11.5. The benefits that retired members are entitled to must be determined by the NEC.

11.5 Subject to this constitution, the benefits to membership include:

11.5.1 Attending meetings of the union;

11.5.2 Participating in union activities;

11.5.3 Voting in the election of representatives; and

11.5.4 Enjoying the rights of the workers in terms of the Constitution and Labour Relations Act.

11.5.5 Enjoying any additional benefit from the union

12. Suspension of or Expulsion from Membership and Resignation

12.1 A REC, after holding an inquiry at which the member concerned is afforded an opportunity to be heard, may recommend to the PEC, which will recommend to the NEC, that a member be suspended or expelled for conduct that is against the interests of the union and its members.

12.2 The PEC, on its own initiative, following an enquiry at which the member concerned is afforded an opportunity to be heard, or upon receipt of a recommendation from a REC, may recommend to the NEC that a member be suspended or expelled for conduct that is against the interests of the union and its members.

12.3 The NEC, on its own initiative, following an enquiry at which the member concerned is afforded an opportunity to be heard, or upon receipt of a recommendation from a PEC, may suspend or expel a member for:

12.3.1 Acting against the interests of the union;

12.3.2 Failing to pay the required monthly subscription fees; or

12.3.3 Failing, without a reason or apology acceptable to the particular committee to which the member was on, to attend more than three(3) consecutive meetings of BEC, REC, PEC, NEC or CEC; and

12.3.4 Violation of the constitution, policies, procedures and membership code.

12.4 A suspension or expulsion in terms of subsection 12.1 and 12.2 is not effective until the NEC has made a decision to this effect. Once the decision is made, the member concerned must be notified in writing of the reasons for the suspensions or expulsion, and give that member an opportunity to present a case to the Appeals Committee established and appointed by the CEC.

12.5 The member concerned may appeal a suspension or expulsion by:

12.5.1 lodging an appeal with the General Secretary within 30 days of having been notified of the suspension or expulsion; and

12.5.2 the appeal must be referred to the Appeals Committee appointed by the CEC for consideration. The Appeals Committee is the structure that finalises all appeals and its decisions are final and binding.

12.6 A member may resign from the union by giving 30 days written notice to the NEC, the PEC, REC or the BEC stating the reasons for resigning.

12.7 The NEC, PEC, REC or BEC may waive the notice period required for a resignation in terms of subsection

12.8 When a member resigns or is expelled from the union:

12.8.1 The member remains responsible to the union for any money that the member owes to the union at that time;

12.8.2 The member has no further claim on any assets of the union; and

12.8.3 The NEC must ensure that appropriate steps are taken to recover any money that the member owes to the union.

12.9 Any member who has resigned or been expelled from the union may be re-admitted to membership if:

12.9.1 at the time of application for readmission they meet the requirements of section 9; and

12.9.2 they comply with any conditions determined by the PEC concerned.

13. Termination of Membership due to Termination of Employment Contract

13.1 Subject to subsection 12.2-12.5, a person ceases to be a member of the union 30 days after the date, on which that person's contract of employment within the registered scope of the union terminates.

13.2 A member whose contract of employment within the registered scope of the union has been terminated, but who intends to remain employed within the registered scope of the union, may choose to remain a member of the union by notifying the REC of the BEC concerned in writing within 30 days after that member's contract of employment terminated.

13.3 A person who remains a member of the union in terms of subsection 13.2:

13.3.1 is not required to pay any subscription fee during the period that they are unemployed and intending to return to employment in the industry; and

13.3.2 Ceases to be a member of the union on the earlier of:

13.3.2.1 The date on which the member withdraws their requirements for membership to continue;

13.3.2.2 The date on which the member begins to work outside the registered scope of the union, with the intention to remain outside; or

13.3.2.3 The date that is six months after the date on which that member's contract of employment terminated.

13.4 A member whose contract of employment has been terminated by the employer as a result of a labour dispute or under circumstances which the member believes renders the dismissal unfair, may choose to remain a member of the union by notifying the BEC or REC concerned in writing within 7 days of the date of dismissal.

13.5 A person who chooses to remain a member of the union in terms of subsection (4):

13.5.1 Is not required to pay any subscription fee until the later of:

13.5.2 The date on which they are re-employed or reinstated; or

13.5.3 A date determined by the REC or the BEC;

13.6 May remain a member of the union:

13.6.1 For up to six months after the date on which that member was dismissed; or

13.6.2 If legal proceedings to challenge the lawfulness of their dismissal have begun, until those proceedings are finalised; and

13.6.3 Ceases to be a member of the union on:

13.6.4 The date on which that person's membership expires in terms of paragraph (b);

13.6.5 The date on which that person withdraws their request for membership to continue; or

13.6.6 The date on which the person begins to work outside the registered scope of the union with the intention to remain outside.

14. Members Meetings at Workplaces

14.1 The union members in a workplace must hold a meeting at least once every 30 days.

14.2 The composition of the meeting is the shop stewards and the members of the union at the workplace.

14.3 For purposes of commencing a meeting and in order for the meeting to continue:

14.3.1 At least one third of the members of the union at that workplace must be present; and

14.3.2 a majority of the BEC must be present.

14.3 A meeting scheduled in terms of subsection (1) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

15. Shop Stewards

15.1 Shop stewards are elected by a show hands by hand by members of the union in good standing in each workplace, these shop stewards must:

15.1.1 Members in good standing

15.1.2 Hold office for 5 years; and

15.1.3 Be re-elected.

15.2 The number of shop stewards in each workplace shall be determined in accordance with section 14(2)(a)(b)(c)(d)(e)(f) of the LRA

15.3 The BEC must regulate the election of the shop stewards in each workplace.

15.4 The shop stewards shall have meetings at least once a month with members.

16. Shop Stewards Committee

16.1 All the elected shop stewards shall form a shop stewards committee and the term of this committee shall be 5 years

16.4 The shop stewards committee must meet at least every 14 days and is responsible to:

16.4.1 Conduct the affairs of the union in relation to members at that workplace;

16.4.2 Receive and attend to complaints affecting members concerning their employment and, where necessary, report such complaints to the BEC or the REC;

16.4.3 Report any improper employment practice or any matter within the jurisdiction of a shop steward in terms of any legislation to the BEC or the REC; and

16.4.4 Defend the individual and collective interests of the membership at the workplace.

16.5 A quorum must be formed before a meeting can commence. This means 50% plus 1 of the shop stewards must be present; and

16.7 A meeting scheduled in terms of subsection (1) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present

17. Establishment of Branches

17.1 Branches of the Union are established where:

17.1.1 There are 100 members or

17.1.2 Where the REC or General Secretary directs that a branch be established if there are less than 100 members

18. Branch Office-Bearers

18.1 The branch office bearers consist of:

18.1.1 The Branch Chairperson;

18.1.2 The Branch Deputy-Chairperson;

18.1.3 The Branch Deputy Secretary

18.1.4 The Branch Deputy Secretary.

18.1.5 The Branch Treasurer

19 Elections of Branch Office-Bearers

19.1 At an official BC meeting, the following members qualify to be elected as office- bearers:

19.1.1 Any member in good standing may be nominated and seconded for election as a branch office-bearer

19.2 Election Procedure

19.2.1 If only one person is nominated for a particular branch office-bearer post, that person must be declared elected; and

19.2.2 If more than one person is nominated for a particular branch office-bearer post, a vote must be taken for that office by ballot, and the candidate with the highest number of votes must be declared to that office.

20. Powers of the Branch Office Bearers

20.1 The powers and duties of the branch office-bearers include:

20.1.1 Managing the affairs of the union at the workplace

20.1.2 Deal with all the labour disputes with the workplace.

20.1.3 Attend meetings with the employer.

20.1.4 Negotiate better working conditions for the members

20.1.5 Ensure employer's compliance with all the relevant legislations and law in general.

20.1.6 Uphold and comply with this constitution.

20.1.7 Ensure that union meetings are held with the members and provide effective communication to the relevant structures of the union.

20.2 The branch office-bearers shall be elected during the BC and shall hold the term of office for a period of not more than 5 years.

21. Establishment

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

22. Powers of the Branch Executive Committee

22.1 The BEC has the powers and duties to manage all the affairs of the union within a workplace, including powers to:

22.1.1 Approve monthly financial statements of the branch;

22.1.2 Approve recruitment strategies within its jurisdiction and generally promote the interests of the members and the union;

22.1.3 Supervise the affairs of the workplaces within its jurisdiction; and

22.1.4 do all further things as it considers are in the interest of the union and which are not in conflict with the decisions and policy of the NC, CEC, NEC, PEC, PC, REC, RC and the BC, nor inconsistent with the provisions of the constitution.

22. Composition

22.1 The BEC is composed of:

22.1.1 The Branch Chairperson, Branch Deputy-Chairperson, Branch Treasurer and Branch Secretary; and

22.1.2 The Chairperson and Secretary of each committee at a workplace within the branch.

23. Meetings of the Branch Executive Committee

23.1 The BEC must meet at least 2 times a month,

23.2 The Branch Secretary must circulate notice of a BEC meeting, along with the agenda for the meeting, to each workplace within the branch:

23.2.1 At least 7 days before a general meeting; and

23.2.2 At least 24 hours before a special meeting.

23.4 For purposes of commencing a meeting of the BEC and, in order for the meeting to continue:

23.4.1 At least half of the branch office-bearers must be present; and

23.4.2 At least the majority of the members of the BEC must be present or the majority of the workplaces in the branch must be represented.

23.5 The BC is entitled to request proof of the membership on which a workplace has decided its delegation.

23.6 A meeting scheduled in terms of subsection (1) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present

24. Governing Body for Branch Structures

24.1 The BC is the governing body of each branch structure of the union.

24.2 Each workplace may appoint one delegate for each 100 members, or portion thereof, in that workplace, but every delegate must be a member in good standing at the time of appointment, and at the time of the BC meeting for which they are selected as a delegate.

24.3 Each workplace must advise the Branch Secretary of the number of members in that workplace, the number of delegates appointed from that workplace, and the names of those delegates and their alternates:

24.3.1 At least 30 days before an ordinary meeting of the BC; or

24.3.2 Elect a Branch Chairperson, Deputy Chairperson, Branch Secretary, Deputy Secretary and Branch Treasurer from among its members every 5 years; these members must be in good standing

24.3.3 Discuss reports of the activities of the workplaces in the branch;

24.3.4 Discuss reports of the activities of the BEC and the branch office-bearers;

24.3.5 Discuss the effectiveness of the union within the workplaces in the branch

24.3.6 Determine a mandate, strategies and tactics for the newly elected leadership

25. Powers of the Branch Conference

25.1 Each BC has the powers and duties as may be assigned by the PEC, the NEC and CEC which may include to:

25.1.1 Implement decisions of the NC, CEC, NEC, REC, PC or RC;

26. Composition of the Branch Conference

26.1 The BC is composed of:

26.1.1 The Branch Chairperson, Branch Deputy-Chairperson, Branch Treasurer and Branch Secretary Branch Deputy Secretary; and

26.1.2 Delegates from each workplace as specified in this section.

26.2 Each workplace may appoint one delegate for each 100 members, or portion thereof, in that workplace, but every delegate must be a member in good standing at the time of appointment, and at the time of the BC meeting for which they are selected as a delegate.

26.3 Each workplace must advise the Branch Secretary of the number of members in that workplace, the number of delegates appointed from that workplace, and the names of those delegates and their alternates:

26.3.1 At least 30 days before an ordinary meeting of the BC; or

26.3.2 At least 7 days before a special meeting of the BC.

26.4 The BC is entitled to request proof of the membership on which a workplace has decided its delegation.

27. Meetings of the Branch Congress

27.1 The BC must meet at least once a year at the place and on the time fixed by the BEC.

27.2 The Branch Secretary must give notice of a BC meeting in writing to each workplace in the branch:

27.2.1 at least 30 days before a general BC meeting; or

27.2.2 at least 14 days before a special BC meeting.

27.3 A meeting scheduled in terms of subsection 27.1 may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

28. Establishment of Regions

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

29. Regional Office-Bearers

29.1 In each region, the office-bearers are:

29.1.1 The Regional Chairperson;

29.1.2 The Regional Deputy-Chairperson;

29.1.3 The Regional Secretary;

29.1.4 The Regional Deputy Secretary and

29.1.5 The Regional Treasure.

30. Election of Regional Office-Bearers

30.1 At an official RC meeting, the following members qualify to be elected as office- bearers:

30.1.1 Any member in good standing may be nominated and seconded for election as a regional office-bearer

30.2 Election Procedure

30.2.1 If only one person is nominated for a particular regional office-bearer post, that person must be declared elected; and

30.2.2 If more than one person is nominated for a particular regional office-bearer post, a vote must be taken for that office by ballot, and the candidate with the highest number of votes must be declared to that office.

31. Establishment

31.1 The management of the affairs of the region is vested in the REC.

32. Powers of the Regional Office Bearers

32.1 The powers and duties of the regional office-bearers are:

32.1.1 Manage union affairs at the regional level

32.1.2 Assist branches with union activities and labour disputes

32.1.3 Conduct training and development of shop stewards

32.2 The regional office-bearers must liaise with their respective provincial counterparts and keep them generally informed about the affairs of the region.

32.3 The regional office-bearers shall be elected during the BC and shall hold the term of office for a period of not more than 5 years

33. Powers of the Regional Executive Committee

33.1 The REC has the powers and duties necessary to give effect to the aims and objectives of the union and which are usual in such an executive body, including powers to:

33.1.1 Approve monthly financial statements of the region;

33.1.2 Recruit members within its jurisdiction and generally promote the interests of the members and the union;

33.1.3 Supervise the affairs of the workplaces within its jurisdiction; and

33.1.4 Organise regional events and conferences

33.1.5 Do all further things as it considers are in the interest of the union and which are not in conflict with the decisions and policy of the NC, CEC, NEC, PEC, and the PC, nor inconsistent with the provisions of the constitution.

34. Composition of the Regional Executive Committee

34.1 The REC is composed of:

34.1.1 The Regional Chairperson, Regional Deputy-Chairperson, Regional Secretary, Regional Deputy Secretary and Regional Treasure;

34.1.2 The Branch Chairpersons, the Branch Secretaries; and

34.1.3 Regional officials, except that they do not have voting rights at the REC meeting.

35. Meetings of the Regional Executive Committee

35.1 The REC must meet at least 4 times a year, at the place and on the date and time fixed by the Regional Secretary in consultation with the Regional Office Bearers.

35.2 Notice of a REC meeting, along with the agenda for the meeting, must be circulated to each branch within the region by the Regional Secretary.

35.2.1 At least 7 days before a general meeting; and

35.2.2 At least 24 hours before a special meeting.

35.3 For purposes of commencing a meeting of the REC and, in order for the meeting to continue:

35.3.1 All the branch office-bearers must be present; and

35.3.2 At least a majority of the branches in the region must be represented.

35.4 A meeting scheduled in terms of subsection 35.1 may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

36. Governing Body for Regional Structures

36.1 The RC is the governing body of each regional structure of the union.

37. Powers of the Regional Conference

37.1 Each RC has the powers and duties as may be assigned by the CEC, PC, PEC and NEC which may include to:

37.1.1 Implement decisions of the NC, CEC, NEC, PC or PEC;

37.1.2 Elect a Regional Chairperson, Regional Deputy Chairperson and Regional Treasurer from amongst its members every 3 years;

37.1.3 Elect a Regional Secretary every 5 years;

37.1.4 Consider reports of the activities of the branches in the region;

37.1.5 Consider reports of the activities of the REC and the regional office-bearers;

37.1.6 Formulate policy for the region not inconsistent with the decisions of the PC, PEC, N, C, CEC and NEC or the provisions of this constitution; and

37.1.7 Generally carry out the aims and objectives of the union with regard to the organisation of workers in the region.

38. Composition of the Regional Conference.

38.1 The RC is composed of:

38.1.1 The Regional Chairperson, Regional Deputy-Chairperson, Regional Secretary, Regional Deputy Secretary and Regional Treasure;

38.1.2 Delegates from each branch as specified in this section;

38.1.3 The Chairperson and Secretary of each branch in the region; and

38.1.4 All regional officials, except that they do not have voting rights at the RC meeting.

38.2 Each branch may appoint one delegate for each 50 members, or portion thereof, in that branch, but every delegate must be a member in good standing at the time of appointment, and at the time of the RC meeting for which they are selected as a delegate.

38.3 Each branch must advise the Regional Secretary of the number of members in that branch, the number of delegates appointed from that branch, and the names of those delegates and their alternates:

38.3.1 At least 30 days before an ordinary meeting of the RC; or

38.3.2 At least 7 days before a special meeting of the RC.

38.4 The RC is entitled to request proof of the membership on which a branch has decided its delegation.

39. Planning of the Regional Conference

39.1 The REC must meet at three months before holding a RC

39.2 The Regional Secretary must give notice of a REC meeting in writing to each branch in the region:

39.2.1 At least 60 days before an ordinary RC meeting; or

39.2.2 At least 30 days before a special RC meeting.

39.3 For purposes of commencing a RC meeting and, in order for the meeting to continue, at least half of the delegates or their alternates, from at least a majority of the branches must be present, and, for the purpose of this section, the calculation of the number of delegates representing a branch may include only persons:

39.3.1 Who are members in good standing; and

39.3.2 Whose names were previously provided to the Regional Secretary to determine a number of voting delegates.

39.4 Branch Committees must send nominations for Regional office bearers to the independent electoral commission established by the REC

34.6 Branch Committees must also send their resolutions to the Regional Secretary at least 20 days before the Regional Conference

39.6 The Regional Secretary must send all the Branch Committees at least 15 days before the Regional Conference the following:

39.6.1 Copies of the proposed resolutions from various Branch Committees

39.6.2 The Regional Conference Agenda.

39.7 If, in terms of subsection (3), a meeting cannot commence within 2 hours after the time fixed for it to begin:

39.7.1 The REC must fix a new time and date for the meeting, which must not be more than 7 days later; and

39.7.2 Written notice of the new date for the meeting must be given by the Regional Secretary to each branch of the region.

39.8 A meeting scheduled in terms of subsection (1) may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

40. Provincial Office-Bearers

40.1 In each province, the office-bearers are:

40.1.1 The Provincial Chairperson;

40.1.2 The Provincial Deputy-Chairperson;

40.1.3 The Provincial Secretary;

40.1.4 The Provincial Deputy Secretary and

40.1.5 The Provincial Treasure.

40.2 The powers and duties of the provincial office-bearers are generally the same as those of the national office-bearers, as set out in section 49 and read with the changes required by the context.

40.3 The provincial office-bearers must liaise with their respective national counterparts and keep them generally informed about the affairs of the province.

40.4 In addition to those duties assigned by reference to the national counterparts in terms of subsection (2), the Provincial Treasurer must:

40.4.1 Present a financial statement to each ordinary meeting of the PC; and

40.4.2 Together with the Provincial Secretary, present the annual budget of the province.

41. Election of Provincial Office-Bearers

41.1 At an official PC meeting, the following members qualify to be elected as office-bearers:

41.1.1 Any member in good standing may be nominated and seconded for election as a provincial office-bearer

41.2 Election Procedure

41.2.1 If only one person is nominated for a particular provincial office-bearer post, that person must be declared elected; and

41.2.2 If more than one person is nominated for a particular provincial office-bearer post, a vote must be taken for that office by ballot, and the candidate with the highest number of votes must be declared to that office.

42. Establishment and Powers

42.1 The PEC exercises the management of the affairs of the union between meetings of the PC within the provincial sphere and has the necessary powers usual for such an executive body to give effect to the aims and objectives of the union, including the powers to:

42.1.1 Approve monthly financial statements;

- 42.1.2 Open, operate and close banking accounts in the name of the province, subject to approval, direction and ultimate control by the NEC;
- 42.1.3 Recruit members in the province and generally promote the interests of the members and the union;
- 42.1.4 Supervise the affairs of the regions and branches;
- 42.1.5 Ensure that proper communication occurs between the province, its branches and the national office;
- 42.1.6 Do all further things as it considers are in the interest of the union and which are not in conflict with the decisions and policy of the NC, CEC and any PC, nor inconsistent with the provisions of this constitution; and
- 42.1.7 Consider the reports of the regions.

43. Composition of the Provincial Executive Committee

43.1 The PEC is composed of:

- 43.1.1 The Provincial Chairperson, Provincial Deputy-Chairperson, Provincial Secretary, Provincial Deputy Secretary and Provincial Treasurer;
- 43.1.2 The Chairperson and Secretary of each REC; and
- 43.1.3 provincial officials except that they do not have voting rights at the PEC meeting.

44. Meetings of the Provincial Executive Committee

- 44.1 The PEC must meet at least four times per annum, at the place and on the date and time fixed by the PEC at its previous normal meeting.
- 44.2 The date of the meeting may be changed only with the prior consent of the majority of the regions and the Provincial Secretary must give all PEC members 14 days' notice of any change of date of a normal meeting.
- 44.3 Subject to subsection 43.4, notice of a PEC meeting must be circulated to each region by the Provincial Secretary
- 44.3.1 At least 14 days prior to a scheduled meeting, along, with the agenda and minutes of the previous meeting and any other relevant documentation; and

44.3.2 At least 48 hours before a special meeting, together with a written agenda specifying the issues requiring such a meeting.

44.4 The notice and agenda meeting requirements of a special meeting may be waived with prior consent of the majority of the branches, except that no decision of a special meeting is valid if it is proved to detrimentally affect any delegate who did not receive notice of the meeting.

44.5 A special meeting of the PEC may consider only that special business which necessitated the meeting.

44.6 For purposes of commencing a meeting of the PEC and, in order for the meeting to continue:

44.6.1 at least half of the provincial office-bearers must be present;

44.6.2 At least one delegate from a majority of the regions entitled to representation must be present; and

44.6.3 A majority of the delegates present must be members in good standing.

44.7 If, in terms of subsection 43.6, a meeting cannot commence within 1 hour after the time fixed for it to begin the provincial office bearers must fix a new time and date for the meeting, which must be not more than 7 days later.

44.8 Despite subsection 43.6, a meeting scheduled in terms of subsection 43.7 may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

45. Governing Body for Provincial Structures

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

46. Powers of the Provincial Conference

46.1 Each PC has the powers and duties as may be assigned by the CEC and NEC, which may include to:

46.1.1 Implement decisions of the NC, CEC or NEC;

46.1.2 Elect a Provincial Chairperson, Deputy Chairperson and Provincial Treasurer from among its members every 3 years;

46.1.3 elect a Provincial Secretary every 5 years;

46.1.4 Consider reports from the POBs and officials on activities of each service centre, Union operations in the regions and give direction if necessary;

46.1.5 Consider reports of the activities of the PEC and the provincial office-bearers;

46.1.6 liaise with the National Office-Bearers on the employment of officials, subject to the NEC determining the terms of employment of such officials in line with the CEC decision on the establishment and demarcation of regions;

46.1.7 Formulate policy for the province not inconsistent with the decisions of the NC, CEC and NEC or the provisions of this constitution; and

46.1.8 Generally carry out the aims and objectives of the union with regard to the organisation of workers in the province.

47. Composition of the Provincial Conference

47.1 The PC is composed of:

47.1.1 The Provincial Chairperson, Provincial Deputy-Chairperson, Provincial Treasurer and Provincial Secretary;

47.1.2 Delegates from each region as specified in this section; and

47.1.3 All provincial branch officials, except that they do not have voting rights at the PC meeting.

47.2 Each region may appoint one delegate for each 200 members, or portion thereof, in that region, but every delegate must be a member in good standing at the time of appointment, and at the time of the PC meeting for which they are selected as a delegate.

47.3 Each branch must advise the Provincial Secretary of the number of members in that branch, the number of delegates appointed from that branch, and the names of those delegates and their alternates:

47.3.1 At least 30 days before an ordinary meeting of the PC; or

47.3.2 At least 7 days before a special meeting of the PC.

47.4 The PC is entitled to request proof of the membership on which a branch has decided its delegation.

48. Meetings of the Provincial Conference

48.1 The PC must meet at least once every three years at the place and on the time fixed by the PEC.

48.2 The Provincial Secretary must give notice of a PC meeting in writing to each region in the province:

48.2.1 At least 30 days before a general PC meeting; or

48.2.2 At least 14 days before a special PC meeting.

48.3 For purposes of commencing a PC meeting and, in order for the meeting to continue, at least half of the delegates or their alternates, from at least a majority of the regions must be present, and, for the purpose of this section, the calculation of the number of delegates representing a province may include only persons:

48.3.1 Who are members in good standing; and

48.3.2 Whose names were previously provided to the Provincial Secretary in terms of this section.

48.4 If, in terms of subsection 44.3, a meeting cannot commence within 2 hours after the time fixed for it to begin:

(a) The PEC must fix a new time and date for the meeting, which must not be more than 7 days later; and

(b) Written notice of the new date for the meeting must be given by the Provincial Secretary to each region of the province.

48.5 A meeting scheduled in terms of subsection 44.1 may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

49. National Office-Bearers

49.1 The national office-bearers of the union are:

49.1.1 The President;

49.1.2 The Deputy-President;

49.1.3 The National Treasurer; and

49.1.4 The General Secretary and

49.1.5 The Deputy General Secretary.

49.2 Each national office-bearer

49.2.1 Must be elected for a term of five years by the NC, in accordance with the provisions of subsection (3);

49.2.2 Assumes office on the first working day following the close of the NC meeting at which they were elected; and

49.2.3 hold office until the earliest of the date on which:

49.2.3.1 The office-bearer resigns or dies;

49.2.3.2 The office-bearer is removed from office in terms of

section 64; or

49.2.3.3 Their successor assumes office after being elected by the NC.

50. Election of National Office-Bearers

50.1 At an official NC meeting, the following members qualify to be elected as office-bearers:

50.1.1 Any member in good standing may be nominated and seconded for election as a national office-bearer

50.2 Election Procedure

50.2.1 If only one person is nominated for a particular national office-bearer post, that person must be declared elected; and

50.2.2 If more than one person is nominated for a particular national office-bearer post, a vote must be taken for that office by ballot, and the candidate with the highest number of votes must be declared to that office.

51. Powers and Duties of National Office-Bearers

51.1 The President must:

51.1.1 Preside over meetings of the NC, CEC and NEC and conduct those meetings in accordance with this constitution;

51.1.2 in consultation with NOBs ensure enforcement and observance of the rules and orders of this constitution;

51.1.3 after consultation with the National Treasurer and/or NOBs collective co-sign the national banking accounts and sign minutes of meetings of the NC, CEC and NEC; and

51.1.4 Together with other NOBs, generally supervise the affairs of the union and perform duties incidental to the office subject to the resolution of the NEC, CEC or congress and more importantly in compliance with the constitution of the Union

51.2 First and Second Deputy-Presidents must each:

51.2.1 Assist the President, and perform any duties of the President that are delegated to them; and

51.2.2 Perform the duties of the President if for any reason the President is unable to perform them.

51.3 If neither the President nor Deputy-President is able to perform the duties of the President, the CEC must appoint someone from the CEC to act as President until:

51.3.1 The President or one of the Deputy-Presidents are able to perform the duties of the President; or

51.3.2 A new President or Deputy-President is elected.

51.4 The National Treasurer must:

51.4.1 Supervise the financial affairs of the Union;

51.4.1 Endorse all accounts for payment and sign cheques on the national banking accounts of the union;

51.4.2 Submit and present statements of the national accounts for each month to the CEC and NEC, and for each annual period to the NC; and

51.4.3 Perform duties usual to the office of the Treasurer, or as are reasonably required by the NC, CEC or NEC.

51.5 The General Secretary:

51.5.1 Is responsible for keeping books and accounts of the union as required in terms of the Act, and by the NEC;

51.5.2 Must assist the National Treasurer in submitting statements of income and expenditure of the union to each meeting of the NC, CEC and NEC;

51.5.2 is responsible for preparing, and circulating to the CEC and NEC, the annual report of activities of the union, including in it:

51.5.2.1 Statements of income and expenditure, and a balance sheet, all certified by the union's auditors; and

51.5.2.2 The auditor's report;

51.5.3 is responsible:

51.5.3.1 For the correspondence of the union and for tabling it at meetings of the NEC;

51.5.3.2 For sending out notices and minutes of all meetings of the NC, CEC and NEC and any other committee;

51.5.3.3 To supervise the work of the provincial secretaries and all officials of the union; and

51.5.3.4 For the general organising and co-ordinating of work of the union and for the general office work and administration of the affairs and activities of the union;

51.5.4 May institute and defend legal proceedings in the name of the union in urgent circumstances; and

51.5.5 Must undertake any other duty that is necessary or requested by the NC, CEC or NEC

51.6 The Deputy General Secretary must:

51.6.1 Assist in the performance of the duties of the General Secretary; and,

51.6.2 Perform those duties if the General Secretary is unable to perform them.

52. Establishment and Powers

52.1 The NEC exercises the executive functions of the union within its national sphere of operations. The NEC:

52.1.1 May not make or amend any policy decision of the union;

52.1.2 Must carry out union policy as determined by the NC and the CEC;

52.1.3 Is responsible for the conduct of the day-to-day running of the union; and

(d) May delegate any of its powers and duties to any office bearer in the union.

52.2 In addition to its general authority in terms of subsection 52.1, the NEC has the authority to:

52.2.1 Consider reports from the National office-bearers and officials on activities of each department and union operations in the provinces, and give directions if necessary;

52.2.2 Determine the creation, maintenance and termination of employment posts for the effective running of the union;

52.2.3 Hire, determine employment terms and conditions for, and discharge, employees and officials of the union, other than the General Secretary and Deputy General Secretary;

52.2.4 Open, operate and close bank accounts of the union;

52.2.5 Generally control the funds and finances of the union;

52.2.6 Borrow or raise money, including the imposition of levies, and invest the funds of the union;

52.2.7 Allocate float amounts and other funds to respective PECs;

52.2.8 Institute and defend legal proceedings in the name of the union;

52.2.9 Appoint attorneys to act for the union and appoint any person to sign a document in connection with or on behalf of the union;

52.2.10 Acquire, deal with or dispose of any property on behalf of the union;

52.2.11 Make awards and determine procedures consistent with this constitution to regulate union affairs such as:

52.2.12 Election, balloting, injury or meeting procedures; or

52.2.13 Union discipline and appeals; and

52.2.14 Deal with any matter delegated to it by the CEC.

52.3 Every decision of the NEC:

52.3.1 Must be consistent with this constitution and with any relevant decision of the NC or CEC; and

52.3.2 Is subject to confirmation by the CEC.

53. Composition of the National Executive Committee

53.1 The NEC is composed of:

53.1.1 The national office-bearers;

53.1.2 Each provincial chairperson and secretary; and

53.1.3 Other secretaries and heads of the various departments of the union.

53. Meetings of the National Executive Committee

53.1 The NEC must meet at least twice a year at the place and on the date and time fixed by the General Secretary in consultation with the NOBs.

53.2 A special meeting of the NEC may be called at any time by the General Secretary or at the request of the 2/3 of the provincial executive committees submitting in writing to the General Secretary such a request.

53.3 The General-Secretary must give notice of an NEC meeting in writing, with an agenda attached, to each Provincial Secretary:

53.3.1 At least 14 days before a general NEC meeting; or

53.3.2 At least 3 days before a special NEC meeting.

53.4 For purposes of commencing a meeting of the NEC and, in order for the meeting to continue:

53.4.1 At least half of the national office-bearers must be present;

53.4.2 At least half of the delegates or their alternates, from each of at least two-thirds of the provincial delegation must be present; and

53.4.3 A majority of the delegates present must be members in good standing.

53.5 If, in terms of subsection 53.4, a meeting cannot be commenced within 2 hours after the time fixed for it to begin:

53.5.1 The General Secretary in consultation with the NOBs must fix a new time and date for the meeting, which must be no less than 7 days, and no more than 14 days, after the original date for that meeting; and

53.5.2 The General Secretary must give written notice in writing to each Provincial Secretary of the new date for the meeting.

53.5 Despite subsection 53.4, a meeting scheduled in terms of subsection 53.5 may be commenced at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

54. Establishment and Powers

54.1 The CEC develops the policy of the union between meetings of the NC, and has the necessary powers usual for such a body to give effect to the aims and objectives of the union, including the power to:

54.1.1 Give broad direction concerning organisational, political, educational and policy issues within the union;

54.1.2 Pass resolutions not inconsistent with the resolutions passed by the NC;

54.1.3 Establish and determine the nature, membership and scope of sub-committees;

54.1.4 Ratify decisions of the NEC;

54.1.5 Approve the annual audited financial statements and balance sheet of the union and submit these to the NC;

54.1.6 Determine budget guidelines;

54.1.7 Establish or dissolve branch, region and provincial structures of the union and demarcate the jurisdiction of such branches and provinces and delegate powers to the PC and PEC; and

54.1.8 Appoint acting national office bearers to fill vacancies occurring in the positions of the National office-bearers consistent with this constitution.

54.2 National Office-Bearers and union officials attending meetings of the CEC have full speaking rights but no voting rights.

55. Composition of the Central Executive Committee

55.1 The CEC is composed of:

55.1.1 The national office-bearers listed in section 49.1;

55.1.2 Every other person who is a member of the NEC; and

55.1.3 The chairperson and secretary of each region.

56. Meetings of the Central Executive Committee

56.1 The CEC must meet at least once a year at the place and on the date and time fixed by the NEC.

56.2 The General Secretary must call a special meeting of the CEC if:

56.2.1 On the request of the NEC; or

56.2.2 If at least one-third of the PEC's request a special meeting in writing to the General-Secretary.

56.3 A special meeting of the CEC may consider only the special business that necessitated the special meeting.

56.4 The General-Secretary must give notice of a CEC meeting in writing to each Provincial Secretary and to each Regional Secretary:

56.4.1 At least 30 days before a general CEC meeting; or

56.4.2 At least 7 days before a special CEC meeting.

56.5 For purposes of commencing a meeting of the CEC and, in order for the meeting to continue:

56.5.1 At least two-thirds of the NEC members and regional chairpersons and secretaries must be present; and

56.5.2 A majority of the delegates present must be members in good standing.

56.6 If, in terms of subsection (5), a meeting cannot be commenced within 2 hours after the time fixed for it to begin:

56.6.1 The General Secretary must fix a new time and date for the meeting, which must be no less than 14 days, and no more than 24 days, after the original date for that meeting; and

56.6.1 The General Secretary must give written notice in writing to each Provincial Secretary and Regional Secretary of the new date for the meeting.

56.7 Despite subsection 56.5, a meeting scheduled in terms of subsection 56.6 may be commenced at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.

57. Governing Body of the Union

57.1 The NC is the highest governing body of the union.

58. Powers of the National Conference

58.1 The NC may:

58.1.1 Adopt any policy measures to further the political, socio- economic and organisational policy framework of the union;

58.1.1 Amend the constitution;

58.1.2 Review credentials of the delegates;

58.1.3 Receive the reports of the CEC and national office bearers, and make any decision arising from those reports;

58.1.4 Receive and consider the financial report and approve the auditor's report and financial statements;

58.1.5 Approve nominations for, and elect national office bearers;

58.1.6 Consider any resolution concerning the removal or reinstatement of a national office bearer; and

58.1.7 Deal with any other matter that is in the interest of the union.

59. Composition of the National Conference

59.1 The NC is composed of:

59.1.1 The members of the NEC; and

59.1.2 Delegates from each province, as specified in this section.

59.2 Each PEC may appoint one delegate for every 50 members in that province.

59.3 Every delegate must be either a member in good standing or an official of the union at the time of appointment, and at the time of the NC meeting for which they are selected as a delegate.

59.4 In each province, the Provincial Secretary must advise the General Secretary of the number of members in that province, the number of delegates appointed from that province, and the names of those delegates and their alternates:

59.4.1 At least 30 days before an ordinary meeting of the NC; or

59.4.1 At least 7 days before a special meeting of the NC.

59.5 The General Secretary is entitled to obtain proof of the membership on which a province has decided its delegation.

60. Meetings of the National Conference

60.1 The NC must meet at least once every 5 years, at the place, and on the date and at the time fixed by the NEC.

60.2 The General Secretary must call a special meeting of the NC if at least two-thirds of the PEC's request a special meeting in writing to the General Secretary.

60.3 The General Secretary must give notice of a NC meeting in writing to each PEC:

60.3.1 at least 60 days before an ordinary NC meeting; or

60.3.2 in the case of a special meeting, within a number of days determined by the NOBs, which may not be less than 7 days before that special NC meeting.

60.4 For purposes of commencing a meeting of the NC and, in order for the meeting to continue, at least half of the delegates or their alternates, from each of a least two-thirds of the provincial delegations must be present.

60.5 If in terms of subsection 60.3, a meeting cannot be commenced within 3 hours after the time fixed for it to begin:

60.5.1 The NOBs must fix a new time and date for the meeting, which must be within 30 days after the original date for that meeting; and

60.5.1 The General Secretary must give written notice in writing to each PEC of the new date for the meeting.

60.6 Despite subsection 60.3, a meeting scheduled in term of subsection 60.5 may commence at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of members present.

60.7 For all purposes of this section, the calculation of the number of delegates representing a province may include only persons:

60.7.1 Who are members in good standing; and

60.7.1 Whose names have been provided to the General Secretary in terms of section 58(4).

61. Removal of Members who hold Office

61.1 Any shop steward, or any member holding any position in the union, shall no longer hold that position if:

61.1.1 They are no longer employed in the workplace, which elected them;

61.1.2 They are no longer employed within the scope of the union;

61.1.3 They fail to attend three consecutive meetings of the council and/or committee, which elected that person without sending a written reason;

61.1.4 They fail to be in good standing with the union;

61.1.4 The union suspends or expels them; and

61.1.5 They are unable to perform their duties.

62. Discipline of Shop Stewards

62.1 A shop steward who fails to comply with the terms of this constitution, or who acts in a manner which is detrimental to the interests of the union and its members, or who is found guilty of misconduct, may be disciplined by the REC.

62.2 The REC is required to follow up the disciplinary procedure set out in section 63.

63. Discipline of Office-Bearers and Officials

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

63.2 Where a national office bearer or official fails to comply with any of the terms of this constitution, or who acts in such a manner that is detrimental to the interests of the union and its members, or who is found guilty of misconduct may be disciplined by the CEC.

63.3 The BEC, REC, PEC, NEC or CEC is required to follow the disciplinary procedure set out in this Constitution.

64. Disciplinary Procedure for Shop Stewards, Office-Bearers and Officials

64.1 When intending to discipline shop stewards, office-bearers or officials, the BEC, REC, PEC, NEC or the CEC as the case may be, must:

64.1.1 Advise the person concerned in writing giving not less than 7 days' notice of the charges against him/her and the date, time and place of his/her hearing. This notice may be sent by registered post to the last known address of the person charged or delivered by hand; and

64.1.2 From amongst themselves appoint a person, or persons to preside over the hearing;

64.1.3 From amongst themselves appoint a person to prosecute in the enquiry.

64.2 At the hearing of the charges the person concerned shall have the opportunity to state his/her case personally and to call witnesses in support of his/her case.

64.3 In each case the person concerned must receive written notice of the decision and be advised in this notice that he/she has a right to appeal, which he/she must take up within seven days.

64.4 If the BEC, REC, PEC, NEC or the CEC as the case may be, is satisfied that:

64.4.1 The person charged has although absent received the notice;

64.4.2 The person charged is present;

64.4.3 The BEC, REC, PEC, NEC or the CEC may proceed to hear and determine the charge.

64.5 If, in its opinion, the charge has been satisfactorily proven, the BEC, REC, PEC, NEC or CEC may:

64.5.1 Remove the shop steward or office bearer or official (as the case may be) from office in the union;

64.5.2 Expel the shop steward or office bearer from the union, or dismiss the official from employment by the union;

64.5.3 Suspend him/her for a definite period from membership of/or employment in, the union;

64.5.4 Impose a fine and may suspend a person from membership until such fine is paid;

64.5.5 Impose any other such penalty, not listed above as it deems fit.

65. Removal by Ballot

65.1 In addition to any other provision in this constitution for the removal of office bearers and officials, these persons may be removed from office in the following way:

65.1.1 At least 30% of the members, in good standing, in the constituency in which the affected person was elected or appointed, must prepare a written request for the removal of the office bearer or elected official which is then sent to the higher Executive Committee; and

65.1.2 That Executive Committee must arrange for a ballot of all the members in good standing in such constituency to determine the matter.

66. Appeal Procedure

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

66.2 Branch, regional and provincial office-bearers and officials may appeal against the decision of the BEC, REC or PEC as the case may be, to the NEC.

66.3 National office-bearers may appeal the decision of the CEC to the NC.

66.4 The structure of the union hearing the appeal has the power to confirm, vary or reverse the decision to discipline and this is the final decision of the union.

67. Vacancies arising from Removal

67.1 Vacancies in any position shall be filled in the manner prescribed for that position.

67.2 A member elected to fill a vacant position shall hold office for the unexpired period of the term of office of that member's predecessor.

68. Rules of Procedure at Union Meetings

68.1 The President, Chairperson or other most senior person at the meeting shall chair the meeting. In their absence, the First Deputy-President or Deputy-Chairperson must chair the meeting. In the President and First Deputy-President's absence, the Second Deputy-President must chair the meeting. In their absence, the meeting may decide who is to chair.

68.2 The business of union meetings must proceed in accordance with the agenda, unless otherwise decided by the meeting, subject to the following rules:

68.2.1 no questions other than those appearing on the agenda will be debated, except that the meeting by resolution may agree to discuss a matter not included on the agenda;

68.2.2 Every matter for consideration must be brought by motion duly seconded and will be voted by a show of hands except if the meeting decides on a vote by ballot;

68.2.3 A two-thirds majority is needed for a decision made by the CEC, NEC, and PEC, REC or BEC or any other committee;

68.2.4 A simple majority is needed for a decision to be made by the NC, PC, RC or BC;

68.2.5 No motion that has already been debated and determined may be considered, varied or debated again or rescinded at that meeting, unless the meeting decides otherwise;

68.2.6 A chairperson may make a ruling on any matter of procedure;

68.2.7 a ruling given by the chairperson is final except that this ruling may be rescinded by a motion supported by a majority of members present; and

68.2.8 A delegate must withdraw from the meeting for such a period as the meeting decides, after a vote of the meeting on the issue.

69. Minutes

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

70. Ballot

70.1 A "Ballot" is a method of voting in secrete by marking a paper and putting it in a sealed box

70.3.1 Before calling a strike in respect of the members' whom the union intends to call a strike for;

70.3.2 When required by this constitution; and

70.3.3 If a decision is taken to this effect by any structure of the union.

70.3.4 In addition to those cases in respect of which the taking of a ballot of members of the whole trade union is compulsory in terms of this Constitution, a ballot on any question shall be taken if the executive committee so decides, and shall also be taken:

70.3.5 if demanded in writing by not less 10% of the members of the union or any recognised structure of the union; or

70.3.6 on any proposal to declare or take part in any strike in any strike in which event a strike ballot shall be held.

71 Voting by show of hands

71.1 In the normal course of events all decisions in the union will be taken by way of show of hand of members entitled to vote on such matters.

71.2 The relevant structures shall be bound to act according to the decision of a majority of member voting by show of hands.

72 Voting by postal ballot

72.1 Eligible voting members must inform the union 24 hours prior if they intend to vote by postal ballot.

72.2 The postal ballots must be sent by a registered post 24 hour before the commencement of the voting.

73. Decision of Ballot

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

73.1.1 This constitution; and

73.1.2 The decisions of the CEC and the NEC.

74. Jurisdiction of Ballot

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

75. Ballot Procedure

75.1 The union, before calling a strike, will conduct a ballot in respect of its members who will participate in the strike; and

75.2 No member shall be disciplined or have his or her membership terminated for failure or refusal to participate in a strike, if

75.2.1 No ballot was held about the strike.

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

75.3 The following is the ballot procedure:

75.3.1 Notice of a ballot shall be given to each member in writing by the secretary, at least three days before the ballot is to be taken: Provided that a ballot may be taken without notice at any general meeting on the decision of a majority of the members present.

75.3.2 Two independent scrutineers shall be appointed by the executive committee or the Congress to supervise any ballot and to ascertain the result thereof.

75.3.3 Ballot shall be taken at any general meetings on the decision of a majority of the members present, ballots shall be conducted at any office of the trade union or at such other venue as maybe specified in the notice referred to in paragraph (a) of this sub clause on the date and during the hours specified in the said notice.

75.3.4 Ballot papers shall be prepared and supplied by officials of the union appointed for such purposes by the General Secretary. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify voter.

75.3.5 Ballot boxes shall be inspected by the scrutineers and sealed by the General Secretary in their presence prior to the issuing of ballot papers.

75.3.6 One ballot paper only may be issued to a member who is entitled to vote. The ballot paper shall be issued on demand at the place and during the hours fixed for the taking of the ballot.

75.3.7 Each voter shall, in the presence of the scrutineers, be issued with one ballot paper which he/she thereupon, complete/fold and deposit the ballot paper in a ballot box provided for the purpose.

75.4 Each voter shall, in the presence of a scrutiner, be issued with a ballot paper which:

75.4.1 Clearly describes the issue; and

75.4.2 Makes it impossible to identify the voter.

75.5 The voter must make his/her mark in secret and deposits the ballot paper in a ballot box.

75.6 On completion of the ballot or as soon as possible thereafter, the scrutiner must count the votes. If there is an election the candidates can watch the counting of the votes.

75.7 The scrutiner must then inform the Chairperson of the results.

75.8 The Chairperson must then inform the meeting or committee of the results.

75.9 The branch, regional, provincial and General Secretary must keep branch, regional, provincial and national ballot papers. These ballot papers must be kept for three years.

76. UNION FINANCES

76.1 Receipt and Use of Union Funds

76.1.1 Union funds consist of all money received by means of subscription fees, levies, donations, functions and in any other manner within the framework of this constitution.

76.1.2 Union funds received by the General Secretary must be deposited to the union's credit within 5 days of receipt.

76.1.3 Funds may be used for investment, payment of expenditure relating to the acquisition of property and for other purposes as may be decided by the NC or the CEC for the achievement of the aims and objects of the union, but no profits or gains will be distributed to any person.

76.1.4 Funds contributed by members of the union for a specific purpose must not be used for any other purpose except with the written consent of the contributing member.

76.1.5 Float amounts and other funds must be allocated to each PEC, by the NEC from time to time.

76.1.6 All membership subscriptions and other amounts due to the union collected from members, whether or not through check-off, must be deposited into a national banking account as soon as possible, but in any event within 5 days of receipt.

77. Financial Year

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

78. Financial Committee

78.1. A financial committee (referred to as Fincom) is established and reports to the NEC.

78.2 Fincom must meet three times a year before NECs and before CEC is composed of:

78.2.1 The National Treasurer;

78.2.2 The General Secretary; and

78.2.3 Provincial Treasurers.

78.3 Fincom is responsible for:

78.3.1 Assisting the national treasurer;

78.3.1 Preparing financial reports for the NEC;

78.3.2 Recommending amendments or additions to the financial policy;

78.3.3 Monitoring the union's accounts and querying unusual expenditure;

78.3.4 Making recommendations regarding financial requests from provincial bodies of the union;

78.3.5 Proposing ways of making the union self-sufficient; and

78.3.6 Preparatory work regarding the union's budget.

78.4 All income and expenditure must be reported to each meeting of the NEC and such reports must include a clear statement of any unbudgeted expenditure.

78.5 The NEC is responsible for ratification of all expenditure by the union, except that expenditure on immovable property and vehicles is subject to approval of the CEC.

78.6 There must be 6 signatories to the national banking account, which will be appointed by the CEC, and any cheques issued by the union must be signed by two of the signatories.

79. Banking Authority

79.1 No person is authorised to open an account in any bank in the name of "All Workers Union of South Africa ", "APWU" or any other similar name without:

79.1.1 the explicit written authority of a resolution of the NEC on official union letterhead signed by at least 3 of either the President, First Deputy-President, Second Deputy-President, National Treasurer, General Secretary or Deputy General Secretary; and

79.1.2 Subsequent verbal confirmation by either the National Treasurer or General Secretary.

79.2 The General Secretary must take reasonable steps to draw this provision to the attention of financial workplaces.

80. Provincial Finance

80.1 All income and expenditure within the provincial sphere must be reported to each meeting of the PEC for ratification and the report must include a clear statement of any unbudgeted expenditure.

80.2 Any cheque issued by a provincial body of the union must be signed by the Provincial Secretary or the Provincial Treasurer, and the Provincial Chairperson or Provincial Deputy Chairperson.

81. Regional Finance

81.1 The region has the financial duty and responsibility delegated to it by the PEC or the NEC.

82. Branch Finance

82.1 The branch has the financial duty and responsibility delegated to it by the PEC, the REC or the NEC.

83. Property of the Union

83.1 The NEC or PEC, as the case may be, holds in trust, as property of the union:

83.1.1 Any gift made to the union;

83.1.2 Any gift made to an office-bearer or official of the union in the course of service to the union;

83.1.3 Any revenue raised by the union from any source;

83.1.4 Any account in a financial workplace in the name of the union;

83.1.5 Anything purchased with any revenue or gift, or exchanged for any property of the union;

83.1.6 Copyright in any material or publication either:

83.1.6.1 Produced at the expense of the union; or

83.1.6.2 contributed to the union by the original creator of that material or publication;

83.1.7 Anything else that would be generally recognised as being the property of the union in accordance with ordinary commercial conduct.

83.2 CEC must establish policies for the acquisition, maintenance, insurance, management, use and disposal of property of the union.

83.3 The General Secretary is responsible to maintain a current inventory of the property of the union, and attach a summary of that inventory to the report.

84. Credit and Debt

84.1 The NEC may:

84.1.1 Borrow money on the credit of the union;

84.1.2 Pledge any property of the union as security for any debt, goods or services; and

84.1.3 Pledge the credit of the union in exchange for goods and services.

84.2 The CEC must establish policies:

84.2.1 Regulating the undertaking of debt and pledging of credit;

84.2.2 Regulating the liquidation of debt; and

84.2.3 Limiting the total debt of the union.

84.3 The General Secretary must maintain a current inventory of the debt and credit obligations of the union, noting any item of property of the union that is specifically encumbered by debt, and attach a summary of that inventory to the report.

85. Liability, Indemnity and Insurance

85.1 The union accepts responsibility for any liability incurred in the course of service to the union by any office-bearer or official of the union, unless the liability arose from conduct of the office bearer or official that involved:

85.1.1 Gross or criminal negligence;

85.1.2 Fraud or deliberate deception;

85.1.3 A misrepresentation of the authority of that office-bearer or official; or

85.1.4 That office-bearer or official taking improper personal advantage of an opportunity available to the union.

85.2 The NEC may identify any office-bearer or official of the union for any loss or claim arising out of conduct for which the union accepts responsibility as set out in subsection (1).

85.3 The CEC must adopt a policy setting out:

85.3.1 Rules of conduct for office-bearers and officials of the union; and

85.3.2 The circumstances in which, and the extent to which, the union will assume responsibility within the scope of subsection (1) and provide indemnification within the scope of subsection (2).

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

86. Enhancing Participation of Women in the Affairs of the Union

86.1 When appointing any office-bearer or official of any structure of union or any member to a committee or other organ of the union, or when determining the representatives or alternatives to any meeting of the union, due regard must be given to enhancing the participation of women in the affairs of the union.

86.2 The structures of the union must, by resolution, determine the manner in which the participation of women in the affairs of the union may be perpetually enhanced.

87. Dissolution

8871 The union may be dissolved by:

871.1 Law subject to the requirements set out in section 103 of LRA

87.1.2 A resolution supported by not less than three-quarters of those voting on the resolution at a NC meeting, subject to subsection 1(a) above.

87.2 If a resolution to dissolve the union is passed or if, for whatever reason, the union is unable to continue to function, the following rules apply:

87.2.1 The NEC must apply to Labour Court for an order giving effect to the dissolution resolution

87.2.2 The NEC or any available national office-bearer must appoint a liquidator with appropriate skills and experience to carry out the winding-up of the union's affairs.

87.2.3 The liquidator must not be a member of the union and must be paid such fees as are agreed upon by the national office bearers;

87.2.4 If the liquidator and the national office-bearers cannot agree on the fees, the Registrar of the Labour Court will fix the basis on which the liquidator will be paid.

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

88. Amendments to this Constitution

88.1 Subject to subsection (2) and (3), any provision of the constitution may be repealed or amended by resolution passed by a two-thirds majority at a meeting of the NC:

88.1.1 A notice of the proposed amendment has been sent to the General Secretary;

88.1.2 The General Secretary has circulated the proposal to every Provincial Secretary and to the members of the NC; and

88.1.3 The proposal has been placed on the agenda for that meeting.

88.2 A proposal may not be placed on the agenda of a meeting of the NC if it would result in the repeal of any provision that is required in terms of the Act to be included in the constitution, unless the proposal also includes a replacement provision that satisfies the requirements of the Act.

88.3 An amendment takes effect only upon being approved by the Registrar of Labour Relations in terms of section 101 of the Act.

89. Interpretation

89.1 If any doubt arises as to the meaning of any provision of this constitution the interpretation of that provision is the responsibility of the NC:

89.1.1 Which must decide any matter of interpretation by majority vote; and

89.1.2 Whose decisions are the final interpretation of the provision in question.

89.2 Despite subsection 87.1, the CEC may make an interim ruling on constitution interpretation at any time between meetings of the NC.

89.3 Every person interpreting and applying the constitution:

89.3.1 Must prefer a reasonable interpretation of a by-law, statement of policy, or decision that is consistent with the constitution over an interpretation that conflicts with the constitution;

89.3.2 Must give a liberal construction to the provisions of the Constitution, in a manner consistent with the Bill of Rights, the Act, and the traditions of the union;

89.3.3 May consider applicable legal precedents; and

89.3.4 May consult any recognised authority for the meaning of words not specifically defined in this chapter.

89.4 Words importing the singular include the plural.

89.5 Wherever any period between two events is expressed as a number of days, the days on which the first and second event take place is not to be counted.

89.6 The power to appoint includes the power to replace.

89.7 The power to make a rule or policy includes the power to amend or repeal that rule or policy.

89.8 The word "province", when used as a geographic reference, means a particular province as defined in the Constitution of the Republic of South Africa, 1996 and when used to refer to a constituent element of the union means the operation of the union within a province.

89.9 The words "the Act" mean the Labour Relations Act, 1995, as amended.

90. Notice

90.1 Any notice to members may be sent by any of the following methods of communications; ordinary post, email, and sms to the address the members.

90.2 The inadvertent failure of the members to receive a notice of a meeting does not invalidate the notice, the meeting or any business conducted at that meeting.

91. Commencement of this Constitution

91.1 This constitution takes effect following the Registrar of Labour Relations, appointed in terms of section 108 of the Act, accepting the constitution in terms of section 96(7) of the Act.

We, the President and the General Secretary of the Union, certify that this is a true and correct copy of the Constitution of the All Workers union of South Africa

Signed in Johannesburg on the ----- day of ----- 2017.

General Secretary

President

