

# DEPARTMENT OF LABOUR

HEAD OFFICE PRETORIA



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Reference: LR2/6/2/89

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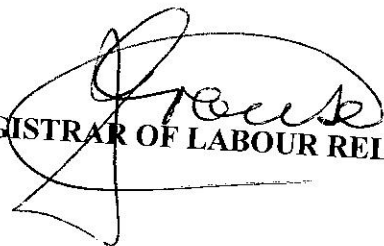
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Dear Sir/Madam

## LABOUR RELATIONS ACT, 1995: AMENDMENT TO THE CONSTITUTION

I refer to your application to amend the Union constitution. Please be advised that the amendments to your trade union's constitution have been approved. Attached for your attention is a copy of the amended constitution.

Yours faithfully

  
REGISTRAR OF LABOUR RELATIONS

# NATIONAL UNION OF FURNITURE AND ALLIED WORKERS OF SOUTH AFRICA

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### RESOLUTION AND CERTIFICATE

This is to certify that at a National Executive Council Meeting held on 24<sup>th</sup> and 25<sup>th</sup> July 2010 it was resolved to amend the constitution.

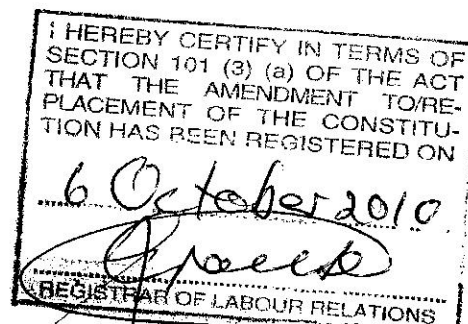
The amendments are submitted as a whole new constitution:

It is further certified that all the provisions of the constitution relating to the adoption of the amendments have been complied with.

.....  
SECRETARY

DATE.....

*[Signature]*  
*12/08/2010*



CONSTITUTION  
OF THE  
NATIONAL UNION  
OF  
FURNITURE  
AND ALLIED WORKERS  
OF  
SOUTH AFRICA

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CONSTITUTION OF THE NATIONAL UNION  
OF FURNITURE AND ALLIED WORKERS  
OF SOUTH AFRICA

PREAMBLE  
WHEREAS THE UNION BELIEVES

That the establishments of an anti-racist / non racial, non-**discriminatory**, non-exploitative and democratic society depends on the unity of the working class directed at the eradication of oppression, exploitation and discrimination as well as the promotion, development and maintenance of an authentic working class leadership.

In workers uniting and developing themselves so that they control their own destiny and take their historic role as the vanguard at the struggle for liberation.

**1. NAME**

The name of the Trade Union is National Union of Furniture and Allied Workers of South Africa.

**DEFINITION**

Any expression used in this constitution and which is defined in the Labour Relations Act (Act no 66 of 1995) as amended, shall have the same meaning as in the Act words importing the masculine gender shall include the feminine gender and vice Versa.

**3. OBJECTS**

The objects of the Trade Union shall be

- a) To regulate relations between employees and employers, including any employers organizations
- b) To promote the interest of members;
- c) To plan and organize collect subscriptions from members and to administer the union's affairs and activities;
- d) To affiliate with and participate in the affairs of any national or international workers organization or international labour organizations;
- e) To promote, support or oppose any proposed legislative or other measures affecting the interest of members;
- f) To use every legitimate means to recruit employees to become members;
- g) To provide legal assistance to members in connection with employment;
- h) To establish and administer funds for the benefits of it's members and their dependants.
- i) To encourage the settlements of disputes between members and employers or employers organization by conciliation, mediation, arbitration and court.
- j) To do such lawful things as may appear in the interest of the trade union and its members and which are not inconsistent with the objects or any matter specifically provided for in this constitution with, and to provide contractual employment as may deem fit for the benefit of the organization and it's members;
- k) To borrow, invest, lend, subscribe or donate money for furtherance of the objects of the trade union.
- l)

**4. STATUS OF THE TRADE UNION**

This trade union shall be a body corporate with perpetual succession capable of entering into contractual and other relation and suing and being sued in its own name and shall be an organization not for gain.

**5. MEMBERSHIP**

- a) Any employee in the Republic of South Africa shall be eligible for membership of the trade union.
- b) Every applicant for admission or re-admission for membership of the trade union shall be made on appropriate form and shall be lodged with the Branch Secretary concerned.
- c) Every applicant for membership shall be considered by the branch executive committee within three (3) weeks of receipt thereof by the branch.

- d) An applicant to whom admission to membership is refused shall be provided with reasons for such refusal and shall be entitled to refund of the membership fee paid by the member or applicant.
- e) If admission to membership is refused by the branch executive committee, the applicant concerned shall have a right to appeal to the Regional Executive Council, who shall attend to the appeal on terms of appeal procedure provided for under discipline.
- f) Every member shall notify the Branch Secretary in writing of his postal address and any other change thereof within seven (7) days of the date on which the change occurred.
- g) An employee who has resigned or been expelled from the trade union may be re-admitted to membership on such conditions as the branch executive committee may determine.

## **6. DISCIPLINE**

A member may be suspended, fined or expelled as may be determined by the branch executive committee, including a member of the executive committee in his/her capacity of a member.

- a) If a member within 30 days of demand, in writing by the branch secretary fails to pay membership fees, fine on levies which are more than two (2) months in arrears.
- b) If a member infringes any of the terms of this constitution or acts in a manner which is detrimental to the interest of the trade union
- c) No member may be suspended, fined or expelled unless the member has been afforded an opportunity to state his/her case personally at a meeting of the branch executive committee, of which the member has received not less than seven (7) days notice in writing from the branch secretary; and the matter with which the member is charged, shall be set out in such notice.
- d) A member who has appeared before the branch executive committee in accordance with sub-clause (6 c), shall if he/she is dissatisfied with the decision of the branch executive committee and has lodged an appeal in the manner herein provided, have the right to restate his/her case personally in the regional executive council, who shall consider the matter.
- e) A member shall be entitled to call witnesses in support of his/her case when attending a meeting of the branch executive committee or regional executive council in terms of sub-clause (6 c & d) as the case may be.

## **7. TERMINATION OF MEMBERSHIP**

- a) A member may resign by giving thirty (30) days notice in writing to the branch administrator. Provided that no resignation shall take effect until all monies due to the trade union by the member concerned have been paid.
- b) A member whose membership fees are more than nine (9) weeks in arrears shall automatically cease to be a member of the trade union. Such person shall, however, be liable for all monies due to the trade union as at the date on which he/she ceases to be a member of the trade union.

## **8. MEMBERSHIP FEES/FINES**

### **A. Membership fees**

- a) A membership fee not exceeding R30 per week shall be payable by each member of the trade union. The fee shall be paid weekly in advance to the branch secretary or to such person as may be authorised by the National Executive Council to receive it.
- b) A weekly membership fee shall be determined by-

- (i) various regional executive councils and reviewed annually by the National Executive Council; such membership fee shall be for the purpose of addressing the administration cost of the trade union as well as.
- (ii) any Bargaining Council/Statutory Council Agreement of which the union is a party to.
- c) A member who in any week has worked less than sixteen (16) hours, shall be exempted from paying membership fee in respect of that week
- d) An ex-member shall not be re-admitted to membership of the trade union unless and until that member has paid all monies due by him to trade union in respect of his former membership.
- e) Legal proceedings in the name of the union may be instituted by the branch executive committee against any member for the recovery of fines and or membership fee and or levies if such monies are more than nine (9) weeks in arrears. In addition the branch executive committee may, after due enquiry in terms of this constitution, suspend or expel such member from membership of the trade union.
- f) In addition to membership fees mentioned in this clause a member shall also be liable for the payment of such other fees payable in terms of the rules governing any fund establishment in terms of clause 3 h (Refer objects)

#### **B. Fines**

- a) Wherever, in this constitution provision is made for the imposition of a fine on a member, such fine shall five percent (5%) of the members' weekly remuneration.

### **9. STRUCTURES OF THE UNION**

#### **A. NATIONAL EXECUTIVE COUNCIL**

- a) The national executive council shall comprise of four (4) delegates from each region consisting of a chairperson, vice chairperson, trustee, (office bearers) and a regional secretary and the National General Secretary (officials).
- b) The NEC members shall from amongst themselves elect the president, vice president and national trustee.
- c) The four delegates per region are elected at the regional level.
- d) The national executive council shall be convened once every three months, provided that the national executive council may decide to call up additional meetings as it deems necessary. Notice of such additional meetings shall be sent to the National General Secretary who shall notify the regions one month before such meetings are held.
- e) Copies of such resolutions and the agenda, for national meeting shall be sent to all regions by the National General Secretary not less than fourteen (14) days or such shorter notice as deemed necessary, but less than twenty four (24) hours prior to the national executive council.
- f) The responsibilities of the national executive council shall primarily be:
  - i. The consideration of reports from the previous meeting by the president, national general secretary; regional secretaries, trustees and other reports
  - ii. The formulation of policy
  - iii. The discussion of matters as per agenda
  - iv. The consideration of appeals
  - v. Adoption of consolidated financial statements
  - vi. To provide a framework for budget allocation and to allocate adequate budget for the running of head office, regions and branches. To consider and authorize the signatories with the powers to sign cheques on behalf of the Union. The framework for budget allocation to head office, regions and branches shall be in terms of Annexure A.

- vii. To direct that all branches shall remit union membership fee and all monies collected on behalf of the union from all sources to be deposited into a general account, managed by the union's head office.
- viii. Amendments to the constitution
- ix. To determine the roles and responsibilities of the various office bearers and officials
  - x. To take the necessary action in terms of this constitution where any member, official and/ or office bearer acts in a manner that undermines the union's constitution, or where any member, official and or office bearer brings the union into disrepute.
- xi. To confirm the appointment of Executive Committee Members and their roles and responsibilities in terms of the constitution.
- xii. To engage and dismiss except where otherwise provided in this constitution any employees of the union including the national general secretary, administrators and the regional secretaries and fix their remuneration and define their duties.
- xiii. To appoint, from time to time, such committees to investigate and report on any matter deemed necessary.
- xiv. To review decisions of regional executive council and to confirm, alter, or reverse such decisions.
- xv. To institute or defend in the name of the union, legal proceeding by or against the union and it's official in their official capacity.
- xvi. To acquire, sell, dispose of, transfer or in any manner alienate any of the assets whether movable or immovable of the union.
- xvii. To let any property belonging to the union on such terms as it may deem fit, to mortgage, bond, pledge in any manner whatsoever to hypothecate any of the assets belonging to the union, provided that immovable property shall be mortgaged, let or leased for a period longer than five (5) years unless at least two weeks written notice to the regional executive councils intention to do so has been given to every branch of the union. If two or more branches request that a ballot of all the members be held to decide the issue, the regional executive council shall within thirty (30) days comply with such request.
- xviii. To open banking accounts in the name of the union.
- xix. To establish or close down regions and branches in any area, and to define the area of jurisdiction of regions and branches.
- xx. To suspend any regional executive council and branch executive committee for conduct contrary to or in conflict with this constitution or for failure to comply with the instructions issued by the national executive council and to take over management and the affairs of the region and branch until another regional executive council and committee is appointed.
- xxi. To make and enforce by-laws consistent with this constitution, the Labour Relations Act 1995 or any other law.
- xxii. To do all such things as in the opinion of the regional executive council are in the interest or conducive to the interest of the union.
- xxiii. The national executive council confirms the appoint of organizer/s who will have as their main duties the responsibility of recruiting and enrolling members, to investigate complaints from the members regarding their employment , and to represent the trade union and its members at the commission and tribunals. Organizers would also be required to collect membership fees and to perform such duties as the National General Secretary and / or National Executive Council may direct.

f) Unless otherwise provided herein, every matter for consideration by the National Executive Council shall be on motion duly second and shall be decided by two, thirds (2/3) majority votes of members present, who shall vote by show of hands

g) The quorum for meetings of the national executive council shall be 50% of the members. If within 30 minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to the same day in the week following (and if that day is a public holiday then to the next succeeding working day) at the same time and place, and at such adjourned meeting the members



present shall form a quorum. Written notice of such adjourned meeting shall be given to members who were absent from the first meeting.

h) If between meetings of the national executive council any question arises which is of extreme urgency and can be answered by a plain "yes" or "no", the president may authorise a vote of the members of the national executive council to be taken by post.

i) A member of the national executive council shall vacate his seat, including appointments, in any one of the following circumstances

- i. if he/she is suspended from membership
- ii. If he/she is expelled from membership
- iii. If he/she is absent without permission from the national executive council for three (3) consecutive meetings of the council.
- iv. If he/she resigns as a member of the national executive council by giving four (4) weeks' written notice to the national general secretary, or ceases to be a member of the union.
- v. She/he/she is not in good standing.
- vi. If he/she is no longer employed in the area of the region which originally elected him.

## **B. REGIONAL EXECUTIVE COUNCIL**

b) The regional executive council shall comprise of a maximum three (3) delegates per branch executive committee, regional secretary, who shall report on all matters of the branch concerned.

c) The branch executive committee, chairman, vice-chairman trustee and administrator would constitute the regional executive council in accordance with the regional structures.

d) The regional executive council may at its own discretion reasonably reduce or increase the number of delegates' dependant on the circumstances prevailing at any given period.

e) The regional executive council shall meet every fourth month or as frequently as it may deem fit.

f) The regional secretary shall give three (3) weeks written notice to each delegate provided that in case of special or urgent meeting shorter notice being not less than twenty four (24) hours may be given by the regional secretary.

g) To every notice of meetings, an agenda shall be attached save and except in the case of special meetings or urgent meetings when any matter connected with incidental to or touching on the subject which led or gave rise to the calling of such special or urgent meetings may be discussed, debated or voted on.

h) Unless otherwise provided herein, every matter for consideration by the regional executive council shall be on motion duly seconded and shall be decided by two thirds (2/3) majority votes of members present, who shall vote by show of hands.

i) The quorum of meetings of the regional executive council shall not be less than fifty plus one (50+1%) of members of the council. If within thirty (30) minutes of the time fixed for any meeting, a quorum is not present the meeting shall stand adjourned for a period of seven (7) days at such time and place as the regional secretary may decide. At such adjourned meetings the members present shall form a quorum. Written notice of such adjourned meetings shall be given to members who were absent.

j) The delegates of the regional executive council shall elect amongst themselves a chairman, vice chairman and trustee, who will hold office for five (5) years and thereafter until the next election which will be held within three months after the term of office has expired.

k) Vacancies occurring on the regional executive council shall be filled by the members of the branch executive committee in the area concerned electing a replacement that will serve for the remaining term period. Member appointed to fill the vacancy shall hold office for the unexpired portion of the period of office of his/her predecessor. A vacancy in the office of chairman, vice president and trustee shall be filled by the manner set out in sub clause (h) above

- l) No paid official of the union shall be eligible to be chairman, vice president or trustee of the regional executive council.
- m) A member of the regional executive council shall vacate his seat, including appointments, in any one of the following circumstances
  - i. if he/she is suspended from membership
  - ii. If he/she is expelled from membership
  - iii. If he/she is absent without permission from the regional executive council for three (3) consecutive meetings of the council.
  - iv. If he/she resigns as a member of the regional executive council by giving four (4) weeks written notice to the regional secretary, or ceases to be a member of the union.
  - v. She/he/she is not in good standing.
  - vi. If he/she is no longer employed in the area of the branch which originally elected him.
- n) The responsibilities of the regional executive council
  - i. The consideration of reports from the previous meetings and from branches.
  - ii. The discussion of matters as per agenda
  - iii. The consideration of appeals from the branches.
  - iv. Consideration and recommendation of financial matters relating to Regions.
  - v. To draft and motivate a budget for the running of regions and branches. The framework for budget allocation shall be in terms of Annexure A.
  - vi. Propose to the NEC amendments to the constitution for consideration.
  - vii. To take the necessary action in terms of this constitution where any member, official and/ or office bearer of the Region or branches under their jurisdiction, acts in a manner that undermines the union's constitution , or where any member, official and or office bearer brings the Region or branches into disrepute.
  - viii. To appoint, from time to time, such committees to investigate and report on any matter deemed necessary.
  - ix. To review decisions of branch executive committee and to confirm, alter, or reverse such decisions.
  - x. To operate the banking accounts in the name of the Region.
  - xi. To establish or close down branches in their area of jurisdiction in conjunction with the NEC, and to define the area of jurisdiction of branches.
  - xii. To recommend to the NEC the suspension of a branch executive committee for conduct contrary to or in conflict with this constitution or for failure to comply with the instructions issued by the regional executive council and to take over management and the affairs of the branch until another branch executive committee is appointed.
  - xiii. To enforce by-laws consistent with this constitution, the Labour Relations Act 1995 or any other law in respect of such Region.
  - xiv. To do all such things as in the opinion of the regional executive council are in the interest or conducive to the interest of the union.

### **C. BRANCH EXECUTIVE COMMITTEE**

- a) Each branch executive committee shall ordinarily meet at least once every month on the date to be fixed by the chairperson. Special meetings of a branch executive committee shall be called by the chairperson whenever he deems it advisable or upon a requisition signed by not less than five (5) members of the branch executive committee in which event the meeting shall be convened within fourteen (14) days of receipt of the requisition by the chairperson.
- b) The branch executive committee comprises of the following positions of chairperson, vice chairperson, trustees and eight (8) additional members who are elected to the different positions at the branch general meeting.

- d) Notice of every branch executive committee meeting showing the business to be transacted thereat shall be given to members in writing no less than three (3) days before the dates of such meetings, provided that in the case of special meetings such shorter notice being not less than twenty four (24) hours as may be decided by the chairperson may be given.
- e) If within seven (7) days of the member's absence from any meeting s the member gives an acceptable explanation for his absence in writing to the branch executive committee, then no fine shall be imposed.
- f) No member shall be allowed to speak for more than ten (10) minutes on any matter unless a majority of those present agrees to an extension of time.
- g) The branch administrator shall give at least three (3) days in writing of the time and place of meetings of the branch executive committee to members of the committee. Shorter notice being not less than twenty four hours may in the discretion of the chairperson be given in respect of special meetings. An agenda shall be attached to every notice of meetings save and except in case of special meetings or urgent meetings when any matter connected with, incidental to or touching on the subject which led or gave rise to the calling of such special or urgent meeting may be discussed, debated or voted on.
- h) All matters for consideration by the branch executive committee shall be decided on a motion duly seconded and voted upon by a show of hands.
- i) Candidates for the positions of the branch executive committee shall be nominated and seconded by members with voting rights at the branch general meetings. The branch executive committee members are elected within the trade union representatives council members. Should there be only one candidate for a position, that candidate shall be regarded as having been duly elected to that position. Should there be two candidates, a ballot of delegates shall be held and the candidate who receives the most votes shall be duly elected. Should there be three or more candidates, two or more ballots shall be held so that the candidates who receive the least votes in each ballot shall be eliminated from the next ballot.
- j) The quorum for meetings of the branch executive committee shall be 50% of the. members. If within 30 minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to the same day in the week following (and if that day is a public holiday then to the next succeeding working day) at the same time and place, and at such adjourned meeting the members present shall form a quorum. Written notice of such adjourned meeting shall be given to members who were absent from the first meeting.
- k) A member of the branch executive committee shall vacate his seat, including appointments, in any one of the following circumstances
  - i. if he/she is suspended from membership
  - ii. If he/she is expelled from membership
  - iii. If he/she is absent without permission from the regional executive council for three (3) consecutive meetings of the council.
  - iv. If he/she resigns as a member of the regional executive council by giving four (4) weeks written notice to the regional secretary, or ceases to be a member of the union.
  - v. She/he/she is not in good standing.
  - vi. If he/she is no longer employed in the area of the branch which originally elected him/her.
- l) The responsibilities of the branch executive committee are the following:
  - i. The consideration of reports from the previous meetings and from trade union representative council.
  - ii. The discussion of matters as per agenda
  - iii. Consideration and recommendation of financial matters relating to Branches.
  - iv. To draft and motivate a budget for the running of the branch to the regional executive council. The framework for budget allocation shall be in terms of Annexure A.
  - v. Propose to the regional executive council amendments to the constitution for consideration.



- vi. To take the necessary action in terms of this constitution where any member, official and/ or office bearer of the branch under its jurisdiction, acts in a manner that undermines the union's constitution , or where any member, official and or office bearer brings the Branch into disrepute.
- vii. To appoint, from time to time, such committees to investigate and report on any matter deemed necessary.
- viii. To review decisions of trade union representative council and to confirm, alter, or reverse such decisions.
- ix. To operate the banking accounts in the name of the Branch.
- x. To oversee the operation of the trade union representative council
- xi. To recommend to the regional executive council the suspension of a branch executive committee member for conduct contrary to or in conflict with this constitution.
- xii. To enforce by-laws consistent with this constitution, the Labour Relations Act 1995 or any other law in respect of such Branch.
- xiii. To do all such things as in the opinion of the Branch executive committee are in the interest or conducive to the interest of the union.

#### **D. BRANCH GENERAL MEETING**

- a) The branch general meeting of each branch shall be held four times in a year which would be once every quarter.
- b) The branch general meeting comprises of all members of the union belonging to that branch.
- c) No motion shall be considered unless seconded. All Matters forming the subject of motions shall, unless otherwise provided herein, be voted upon by show of hands and shall unless otherwise provided be decided by vote of majority of those present except in case of elections when the required number of candidates receiving the highest number of votes shall be elected.
- d) It would be on a date to be fixed by the chairperson. Special branch general meetings shall be called whenever desired by a majority of members of the branch executive committee or upon a requisition signed by not less than percent (30%) of members of the branch in good standing.
- e) Such special meeting shall be held within fourteen (14) days of the receipt of the requisition by the chairperson.
- f) The branch general meeting shall determine the amount branch executive committee members be fined for non attendance at branch general meetings provided however that the amount of such fine shall have received the sanction of a branch general meeting.
- g) The quorum for branch general meetings shall be twenty five percent (25%) of the members of the branch. If within thirty (30) minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to such time and place as the chairperson may decide and at such adjourned meeting the members present shall form a quorum. Written notice of adjourned meetings shall be given to those members who were absent from the first meeting,
- h) At every branch general meeting the minutes of the proceeding branch general meeting shall be read by the branch administrator and signed by the presiding officer after confirmation. Minutes of meetings of a branch executive committee shall be similarly dealt with by the body.
- i) Copies of minutes of branch general meetings and of meetings of branch executive committees shall be sent to the regional secretary immediately after confirmation.
- j) Non-receipt by any member of the notice of the meeting shall not invalidate the proceedings of any meeting.
- k) The responsibilities of the branch general meeting are the following:
  - i. To elect the branch executive committee
  - ii. The consideration of reports from the previous meetings and from branch Executive Council.
  - iii. The discussion of matters as per agenda
  - iv. Consideration and recommendation of financial matters relating to the Branch and the trade union representative council.

- v. To approve a budget for the running of the branch to the Regional executive council. The framework for budget allocation shall be in terms of Annexure B.
- vi. Propose to the Regional executive council amendments to the constitution for consideration.
- vii. To take the necessary action in terms of this constitution where any member, official and/ or office bearer of the branch under its jurisdiction, acts in a manner that undermines the union's constitution , or where any member, official and or office bearer brings the Branch into disrepute.
- viii. Reverse or confirm decisions of the Branch Executive Committee.

## **E. TRADE UNION REPRESENTATIVE COUNCIL**

- a) In the event where a workplace has more than one (1) union representative such union representative shall elect among themselves a chairperson and a vice-chairperson, such elections shall be conducted by show of hands.
- b) The chairperson /vice chairperson of the union representative council, shall perform such duties and functions as prescribed hereunder clause 10
- c) In order to ascertain the good standing of every member at his workplace, such union representative chairperson, vice chairperson shall at least once every three (3) months request every member to produce his membership card
- d) The union representative and or chairperson/vice chairperson shall collect membership fees, fines, levies or any other payments due to the union from members if he/she is do instructed by the administrator arising from a decision of the branch executive committee.
- e) The union representative shall record all monies collected by him/her in prescribed form and remit to the organizers, trustee or any person authorized by the union to receive such payment every week. The person receiving such monies from the union representative, shall issue an official receipt to the union representative.
- f) In the event of a member being in arrears for nine (9) weeks with membership, fines or other levies and payment due to the union in terms of this constitution and such member on demand by the union representative chairperson/vice chairperson refuses or neglects to reduce the amount owing, then the union representative chairperson/vice chairperson shall call a meeting of the union representative council in order to recommend to the branch executive committee that steps be taken against such member for the recovery thereof or for the granting of an extension of time or for disciplinary against such member.
- g) The branch administrator shall immediately be informed of the trade union representative council decision.
- h) In the event of any dispute arising in a workplace, negotiations for a settlement of such a dispute with the employer shall be conducted by the union representative council together with the administrator or organizer. In the event of the negotiations failing, if undertaken by the union representative or organizer, he/she shall immediately summon the regional secretary.
- i) The union representative or administrator or organizer shall not negotiate with or interview any employer alone in regard to any dispute which may arise.
- j) Every union representative may be paid a honorarium as determined by the branch executive committee from time to time.
- k) Election of the union representatives shall be by members of a workplace voting by ballot and show of hands and a majority vote shall prevail
- l) Every union representative shall hold office for five (5) years from the date of being elected and shall be eligible for re-election at the expiration of his term and elections will be held within three months of the expiry of the term of office.
- m) A union representative shall be removed from his office for serious misconduct and for any sufficient reason recognized by law, members may elect another union representative in terms of the constitution.
- n) The branch executive committee shall after consultation with the union representative committee remove a union representative from his office for the reasons provided in this

constitution and any other offences which in the discretion of the branch executive committee is detrimental to the well being of the union.

- o) In the event of a union representative relinquishing his position for any cause whatsoever, then a member shall be elected by ballot and or show of hands on a majority to fill such position and he/she shall hold office for the unexpired portion of his predecessor's period of office.
- p) Such election and nominations shall take place at a meeting of members employed in that workplace concerned for the purpose of electing a union representative.
- q) Any union representative who is absent for two (2) consecutive meetings without valid reasons shall be called upon by the branch executive committee to vacate his office and such fact shall be reported to the union representative council and the general meeting.

## 10. OFFICE BEARERS, OFFICIALS AND TRADE UNION REPRESENTATIVES

### A. Office bearers

The duties of the office bearers shall be the following:

#### 1. President:

The president shall preside at all meetings of the national executive council at which he/she is present; enforce observance of the constitution of the union; sign minutes of meetings after confirmation and generally supervise the affairs of the union and perform such other duties as by usage and custom and by this constitution appertain to the office. He/she shall have a casting vote only.

#### 2. Vice president:

The vice president shall exercise the powers and perform the duties of the president in the absence of the latter.

#### 3. Trustees

Trustees shall be responsible for tabling financial status reports to their respective Executive Committee. The supervision, administration and management of the union's financial affairs shall be the responsibility of the National General Secretary, regional secretaries and branch secretaries..

#### 4. Trade Union Representatives

a. The trade union representatives shall implement and give effect to decisions of the national executive council, regional executive council, branch executive committee and branch general meeting, recruit members and generally promote their interests, represent members in matters before the Commission and collect membership fees.

b. In terms of section 14(4) of the Labour Relations Act, 1995, the trade union representatives shall -

- i. at the request of an employee in the workplace, assist and represent the employee in grievance and disciplinary proceedings;
- ii. monitor the employer's compliance with any law regulating terms and conditions of employment;
- iii. report any alleged contravention of any law regulating terms and conditions of employment to the employer, trade union or any responsible authority or agency; and perform any other functions as the executive committee may direct

## **B. Officials**

### **1. National general secretary and his/her office**

- a. Shall keep proper books of accounts in such form as shall be prescribed by the national executive council; receive requisition for meetings of the national executive council, issue notices of meetings, conduct all correspondence of the union, keep originals of letters received and copies of those dispatched and at each meeting of the national executive council, lay on the table correspondence which has taken place since the previous meetings; record minutes of the proceedings.
- b. Submit reports in regards to the financial position of the union to the national executive council not less than once every twelve (12) months present the balance sheet and statements of income and expenditure as regional executive council may direct.
- c. The National Secretary General may resign on giving one month notice in writing to the national executive council and his/her services may be terminated on a similar period of notice being given to him/her by the national council. The contract of service of the national general secretary general shall be in writing.
- d. The National General Secretary shall also be responsible for all such functions, roles and responsibilities and duties emanating from the constitution.
- e. The National General Secretary shall also be entitled to be part of any formal meeting of the union and may direct decision making but will have no voting powers.
- f. In addition to the duties laid down in this constitution the National General Secretary shall perform the duties imposed on him/her by sections 98/99 and 100 of the Labour Relations Act, 1995, relating to the keeping of records and furnishing of information to the Registrar.
- g. The National general secretary shall be responsible for the consolidation of each region's audited financial statements, audited by the same auditor, and be responsible for the submission of these audited financial statements to the Registrar.

### **2. Regional Secretary**

- a. Shall keep proper books of accounts in such form as shall be prescribed by the regional executive council; receive requisition for meetings of the regional executive council, issue notices of meetings, conduct all correspondence of the union, keep originals of letters received and copies of those dispatched and at each meeting of the regional executive council, lay on the table correspondence which has taken place since the previous meetings; record minutes of the proceedings.
- b. Submit reports in regards to the financial position of the region to the national executive council not less than once every twelve (12) months present the balance sheet and statements of income and expenditure as regional executive council may direct.
- c. The regional secretary may resign on giving one month notice in writing to the regional executive council and his/her services may be terminated on a similar period of notice being given to him/her by The council. The contract of service of the regional secretary shall be in writing.

### **3. Branch secretary**

The branch secretary shall keep proper books of account in such form as may be prescribed by the branch executive council; receive requisitions for meetings; issue notices of meetings; conduct all



correspondence of the branch; keep originals of letters received and copies of those dispatched and at each meeting of the branch executive committee report on the correspondence which has taken place since the previous meeting; attend all meetings and record minutes of the proceedings; keep a register of members, record therein *inter alia* every member's address, date of enrolment, membership fees and any levies and fines paid by such members, and in the event of the resignation or expulsion of a member the date thereof; collect membership fees, fines and levies; issue official receipts for all moneys received; bank all moneys within 2 days of receipt; submit reports in regard to the financial position of the branch to the branch executive committee not less than once every months; and perform such other duties as the branch executive committee or a branch general meeting may direct. He/she shall attend all meetings of the branch executive committee and all branch general meetings but shall have no voting power.

#### 4. Branch administrators

The branch administrators will perform duties as the branch secretary. Branch administrators shall be appointed by the national executive council and a contract of his/her service shall be in writing. Branch administrators shall perform such duties as imposed by this constitution, and shall report and be accountable to the branch executive committee.

#### 5. Organisers

The national executive council may appoint an organiser or organisers. The main duties of the organiser(s) will be to enrol members, to investigate complaints from members regarding their employment as such, to represent the trade union and its members at the Commission, to collect membership fees and to perform such other duties as the executive committee may direct. The provisions of paragraph (iii) above shall *mutatis mutandis* apply to organisers.

### **11. REMOVAL OF OFFICE-BEARERS, OFFICIALS AND TRADE UNION REPRESENTATIVES**

a. An office-bearer, official or trade union representative may be removed from office:

- i. if he/she infringes any of the provisions of this Constitution; and
- ii. if he/she acts in a manner which is detrimental to the interests of the trade union.

b. No office-bearer or official at national level may be removed from office unless he/she has been afforded an opportunity to state his/her case personally at a meeting of the national executive council.

If dissatisfied, the appeal shall be noted in the agenda of the Independent Appeals Board of which may reverse the decision of the national executive council and the decision of the Independent Appeals Board shall be final. An Independent Appeals Board appointed by The CCMA. The decision of the board shall be final.

c. No office bearer or official at regional level may be removed from office unless he/she has been afforded an opportunity to state his/her case personally at a meeting of the regional executive council.

If dissatisfied, the appeal shall be noted in the agenda of the national executive council which may reverse the decision of the regional executive council and the decision of the national executive council, shall be final.

d. No office bearer or official at branch level may be removed from office unless he/she has been afforded an opportunity to state his/her case personally at a meeting of the branch executive committee

If dissatisfied, the appeal shall be noted in the agenda of the regional executive council which may reverse the decision of the branch executive committee and the decision of the regional executive council shall be final.

e. No trade union representative may be removed from office unless he/she has been afforded an opportunity to state his/her case personally at a meeting of the branch executive committee. If dissatisfied, the appeal shall be noted in the agenda of the branch general meeting which may reverse the decision of the branch executive committee and the decision of the branch general meeting shall be final.

## **12. ESTABLISHMENT AND CONTROL OF REGIONS**

a. A region of the union may be established in any area where there are not less than two branches of the union

b. Application for establishment of a region shall be submitted to the national general secretary to be considered by the national executive council.

c. The national executive council may, in its discretion authorize the establishment of a region and define its area of jurisdiction.

d. If the national executive council approves of the establishment of a region, the national general secretary shall notify the members from whom the application has been received.

e. The national executive council shall arrange to attend the inaugural meeting of the region, and at this meeting a regional chairperson, vice chairperson, trustee and at least six (6) other members shall be elected by the majority of members present.

f. If the nominations called for at such meeting do not exceed the appointments to be made, in each instance the members so nominated shall be declared elected and shall hold office until the annual meeting of the region.

g. When a member leaves the area in which his region is situated and continues his employment in the area of another region, he shall be entitled to become a member of the new region.

## **13. ESTABLISH AND CONTROL OF BRANCHES**

a. A branch of the union may be established in any area where there are not less than one hundred (100) members of the union

b. Application for establishment of a branch shall be submitted to the regional secretary to be considered by the national executive council by not less than seventy (100) members in the area concerned.

c. The national executive council may, in its discretion authorize the establishment of a branch and define its area of jurisdiction.

d. If the national executive council approves of the establishment of a branch, the regional secretary shall notify the members from whom the application has been received.

e. The national executive council shall arrange to attend the inaugural meeting of the branch, and at this meeting a branch chairperson, vice chairperson, trustee and at least six (6) other members shall be elected by the majority of members present.

f. If the nominations called for at such meeting do not exceed the appointments to be made, in each instance the members so nominated shall be declared elected and shall hold office until the annual meeting of the branch.

g. When a member leaves the area in which his branch is situated and continues his employment in the area of another branch, he shall be entitled to become a member of the new branch.

## **14. ESTABLISHMENT AND CONTROL OF TRADE UNION REPRESENTATIVE COUNCILS**

a. A trade union representative council may be established in any workplace where the trade union has the following members:

- Ten (10) members of the union will elect one (1) union representative.
- More than fifty (50) members two (2) union representatives.
- More than three hundred (300) members of the union three (3) union representatives
- More than six hundred (600) members of the union six (6) union representatives.
- For the first one thousand (1000) members elect ten (10) union representatives, for every additional five hundred (500) members five (5) union representatives and up to a maximum of twenty (20) union representatives

b. If the branch executive committee approves of the establishment of a trade union representatives council the secretary shall notify the members from which the application has been received and arrange for the inaugural meeting. At this meeting nominations for membership of the executive committee of the trade union representatives' council shall be called and the election shall take place by ballot. The executive committee shall consist of a chairperson, vice-chairperson, secretary and additional members as may be decided by the meeting.

c. Generally the trade union representatives council shall meet once a month and may be convened by the executive committee whenever necessary.

d. The main duties of the trade union representative councils shall be to implement and give effect to decisions of the national congress, executive council or the branch executive committee, recruit members and promote their interests, investigate complaints from members in their workplace, represent members on the Commission and collect membership fees.

## 15. BALLOTS

1. In Addition to those cases in respect of which the taking of a ballot of members of the whole union or region or branch is compulsory in terms of this constitution, a ballot on any questions shall be taken if the **national executive council** so decides and shall also be taken

- a) if demanded in writing by not less than one branch of the union;
- b) on any proposal to declare or take part in any strike.

2 Ballots shall be conducted in the following manner:

- a) Notice of a ballot shall be given to each member in writing by the branch administrator, at least three days before the ballot is to be taken: Provided that a ballot may be taken without notice at any branch general meeting on the decision of a majority of the members present.
- b) Two scrutineers shall be appointed by the branch executive committee or the national executive council to supervise any ballot and to ascertain the result thereof.
- c) Except in the case of postal ballots and ballots taken at the branch general meetings on the decision of a majority of the members present, ballots shall be conducted at the office of the trade union or at such other places as may be 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.
- d) Ballot papers shall be supplied by the branch administrator. 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 the voter.

- e) Ballot boxes shall be inspected by the scrutineers and sealed by the branch administrator in their presence prior to the issuing of ballot papers.
- f) One ballot paper only shall be issued on demand at the place and during the hours fixed for the taking of the ballot to each member who is entitled to vote.
- g) Each voter shall, in the presence of the scrutineers, be issued with one ballot paper which he/she shall thereupon complete, fold and deposit in a ballot box provided for the purpose.
- h) Ballot papers shall not be signed or marked in any way apart from the mark required to be made by a member in recording his/her vote. Papers bearing any other marks shall be regarded as spoilt and shall not be counted
- i) On completion of a ballot or as soon as possible thereafter, the result thereof shall be ascertained by the scrutineers appointed in the presence of the branch administrators and made known to the branch executive committee.
- j) Ballot papers, including spoilt papers, shall be placed in a container which shall be sealed after they have been counted and retained by branch administrators for not less than three years.
- k) The national executive council may decide that a postal ballot of members shall be taken, in which event the ballot shall be conducted in the following manner:
  - l) The national general secretary shall send by registered post to each member of the trade union a ballot paper and a stamped and addressed envelope marked "Ballot". The ballot paper shall on completion be inserted in the envelope provided for the purpose which shall be sealed and posted so as to reach the national general secretary within .10 days from the date of despatch from head office to such member. On receipt of such envelopes, the national general secretary shall immediately place such envelopes in a sealed ballot box.
- m) Two scrutineers shall be appointed by the executive committee to ascertain the result of the ballot. The ballot box shall be opened and the ballot papers counted by the scrutineers in the presence of the national general secretary, who shall immediately advise the national executive council of the result of the ballot.
- n) The same procedure shall *mutatis mutandis* apply to a postal ballot confined to members of the executive committee.
- o) In any ballot conducted in connection with any election the candidates, up to the required number, receiving the highest number of votes shall be declared elected.
- p) The national executive council shall be bound to take action according to the decision of a majority of members voting in a ballot.
- q) 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.
- r) Notwithstanding anything to the contrary 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 -
  - i. no ballot was held about the strike; or
  - ii. a ballot was held but a majority of the members who voted did not vote in favour of the strike.



**A. Head Office**

- i. The funds of the trade union shall be applied to the payment of expenses, to the acquisition of property, towards the attainment of the objects specified in clause 3 and for such other lawful purposes as may be decided upon by the national executive council or by members voting by ballot for the attainment of the said objects.
- ii. The funds received by the Head Office on behalf of the trade union, shall be deposited to its credit within three (3) days of receipt at a bank decided upon by the National Executive Council.
- iii. Payments shall require the prior approval of the National Executive Council and shall be made by cheque signed in the manner decided by the national executive council, except when the amount in question is less than R300 when payment may be made from petty cash.

**B. General**

- i. Statements of income and expenditure reflecting the financial position of the union shall be prepared quarterly by national general secretary and submitted to the national executive council, by regional secretaries to the regional executive councils and by the branch administrators to the branch executive committee. The national general secretary shall also be responsible for furnishing the national executive council with the trade union's latest financial statements.
- ii. In accordance with the provisions of section 98(1)(b) of the Labour Relations Act, 1995, the national general secretary shall prepare a statement of income and expenditure and a balance sheet in respect of each financial year ending on the 31<sup>st</sup> December. Such statements and balance sheets shall be audited and dealt with as required by section 98(2) of the Act.
- iii. The statement of the income and expenditure and balance sheet, shall be prepared annually by the auditor appointed and submitted to the next ensuing branch general meeting, branch executive committee and regional executive council.
- iv. A consolidated statement of income and expenditure and balance sheet of all the branches and regions shall be prepared annually
- vi. Legal and other professional expenses shall be borne by the trade union.
- vii. A member who resigns or is expelled from membership shall have no claim on the funds of the trade union.
- viii. The national executive council shall, have the power to invest surplus trade union moneys in such a manner that the trade union stands to benefit from the investments.
- viii. Funds required for a petty cash account shall be kept in such form as the National executive council may from time to time determine. It will be done on approval of the relevant committee shall be executed by the drawing of a cheque signed in the manner provided for by the relevant structure.
- ix. Every member of the branch executive committee shall be paid an amount as determined by the regional executive council for attending branch executive committee meetings. In addition to aforesaid amount a member of the branch executive committee shall also be entitled to a reasonable amount as compensation for traveling expenses as well as the actual amount lost in wages when attending a branch executive committee meeting as well as regional meetings.
- xi. A member and/or paid official appointed to transact union business which necessitates hotel accommodation shall be paid a daily allowance to be decided by the relevant structure, from time to time, plus any traveling expenses and the member shall also be paid for actual working, time lost on the basis of the actual wages involved.
- xii. Each branch shall month by month and not later than the tenth (10th) day of each month, forward to the head office the total monies collected by the branch during the preceding month.
- xiii. Should a branch cease to exist for any reason, its assets and liabilities shall devolve on the regional office. Members of such branches shall have no claim on any of the funds of the union nor shall they have any claim on the union whatsoever.

## **17. REPRESENTATION ON BARGAINING AND STATUTORY COUNCILS.**

- a. The regional executive council may at anytime recommend that the trade union shall become a party to a Bargaining or Statutory Council established in terms of the Labour Relations Act 1995.
- b. The regional executive council shall request the branch executive committee to submit nominations of persons for election as representatives and alternates.
- c. No person shall be nominated as a representative unless he/s-
  - i. In good standing
  - ii. He/she is an official or office bearer of the union.
- d. Representatives or their alternatives shall have full power to enter into agreements on behalf of the trade union; as such Agreement shall not be subjected to rectification, unless the representatives decide otherwise.

## **18. CHANGING THE CONSTITUTION/AMENDMENTS**

Any of the provisions of this constitution may be repealed, changed or added to in any manner by resolution of the national executive council of the Trade Union, Provided that at least 14 days' notice of any proposed change/s shall first have been given to the regions. If within that period a two thirds (2/3) majority of regions demands that a ballot of the whole union be taken on the matter, such a ballot shall be taken.

No changes or additions shall have any force of effect until certified in terms of section 101 (3) of the Labour Relations Act

## **19. WINDING UP**

1. The trade union shall be wound up if at a ballot conducted in the manner prescribed in the constitution not less than three-fourths of the total number of members of the trade union vote in favour of a resolution that the organisation be wound up.
2. If a resolution for the winding-up of the trade union has been passed or if for any reason the trade union is unable to continue to function the following provisions shall apply:
  - a) The last-appointed president of the trade union, or if he/she is not available, the available members of the last-appointed executive committee of the trade union, shall forthwith transmit to the Labour Court a statement signed by him/her or them setting forth the resolution adopted or the reasons for the trade union's inability to continue to function, as the case may be, and request the Labour Court to grant an order in terms of section 103 of the Labour Relations Act, 1995
  - b) The liquidator appointed by the Labour Court shall call upon the last-appointed office-bearers of the trade union to deliver to him/her the trade union's books of accounts showing the assets and liabilities together with the register of members showing, for the 12 months prior to the date on which the resolution for winding-up was passed or to the date as from which the trade union was unable to continue to function, as the case may be, (hereinafter referred to as the date of dissolution), the membership fees paid by each member and his/her address as at the said date.
  - c) The liquidator shall also call upon the said office-bearers to hand over to him/her all unexpended funds of the trade union and to deliver to him/her the trade union's assets and the documents necessary to liquidate the assets.

- c) The liquidator shall also call upon the said office-bearers to hand over to him/her all unexpended funds of the trade union and to deliver to him/her the trade union's assets and the documents necessary to liquidate the assets.
- d) The liquidator shall take the necessary steps to liquidate the debts of the trade union from its unexpended funds and any other moneys realised from any assets of the trade union, and if the said funds and moneys are insufficient to pay all creditors after the liquidator's fees and the expenses of winding-up have been met, the order in which creditors shall be paid shall be the same as that prescribed in any law for the time being in force relating to the distribution of the assets of an insolvent estate, and the liquidator's fees and the expenses of winding-up shall rank in order as that of an insolvent estate and as though the expenses were the costs of sequestration of an insolvent estate
- e) After the payment of all debts in accordance with paragraph (c), the remaining funds, if any, shall be distributed among the remaining members of the trade union on the basis of membership fees actually paid during the 12 months prior to the date of dissolution.
- f) After the payment of all the liabilities, any assets that cannot be disposed of in accordance with the provisions of this clause shall be realised by the liquidator and the proceeds paid to the Commission for Conciliation, Mediation and Arbitration (in accordance with section 103(5) of the Labour Relations Act, 1995).
- g) The liability of members shall for the purpose of this clause be limited to the amount of membership fees due by them to the trade union in terms of this Constitution as at the date of dissolution.

**20.            SCOPE**

The scope of the trade union shall include and cover the total of the Republic of South Africa, including the former TBVC states.

- A)            **Eastern Cape**
- B)            **Free State**
- C)            **Gauteng**
- D)            **Kwa Zulu Natal**
- E)            **Limpopo**
- F)            **Mpumalanga**
- G)            **North West**
- H)            **Northern Cape and**
- I)            **Western Cape**

## **ANNEXURE A**

### **BUDGET FRAMEWORK**

**The Budget Framework shall consist of:**

- Head Office and Regions determine their monthly budgetary requirements;
- Regions would submit the requirements as well as the number of branches they have under them by no later than the 25<sup>th</sup> day of each month;
- The scope of the budgets shall include
  - Income received
  - Expected income
  - Expenses:
    - Accounting Fess
    - Bank Charges
    - Motor Vehicles
    - Rent
    - Salaries
    - Telephone and Fax
    - Travel and Accommodation
    - Training and Seminars
    - Legal Expenses

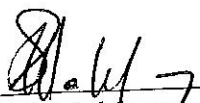
NATIONAL  
EXECUTIVE COUNCIL  
NATIONAL GENERAL SECRETARY, SECRETARY,  
FOUR (4) DELEGATES PER REGION

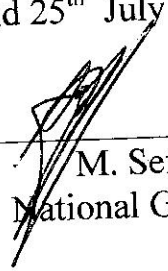
REGIONAL  
EXECUTIVE COUNCIL  
REGIONAL OFFICE  
REGIONAL SECRETARY  
THREE (3) DELEGATES FROM BRANCH  
AND BRANCH ADMINISTRATOR)

BRANCH  
EXECUTIVE COUNCIL  
LOCAL BRANCH OFFICE  
BRANCH ADMINISTRATOR - SECRETARY  
BRANCH EXECUTIVE COMMITTEE  
CHAIRMAN, VICE-CHAIRMAN, TRUSTEE  
EIGHT (8) EXECUTIVE MEMBERS ELECTED  
AT THE BRANCH GENERAL MEETING

UNION  
REPRESENTATIVE COUNCIL  
SHOP-STEWARD COUNCIL  
REPRESENTATION OF MEMBERS ON FACTORY  
FLOOR  
ELECTED BY UNION MEMBERS ON FACTORY  
FLOOR  
ATTEND SHOP-STEWARD TRAINING SEMINARS.

The amendments and changes was duly conducted and approved by the National Executive Council at its meeting held at Durban on 24<sup>th</sup> and 25<sup>th</sup> July 2010

  
\_\_\_\_\_  
J. Mahlangu  
President

  
\_\_\_\_\_  
M. Seff  
National General Secretary