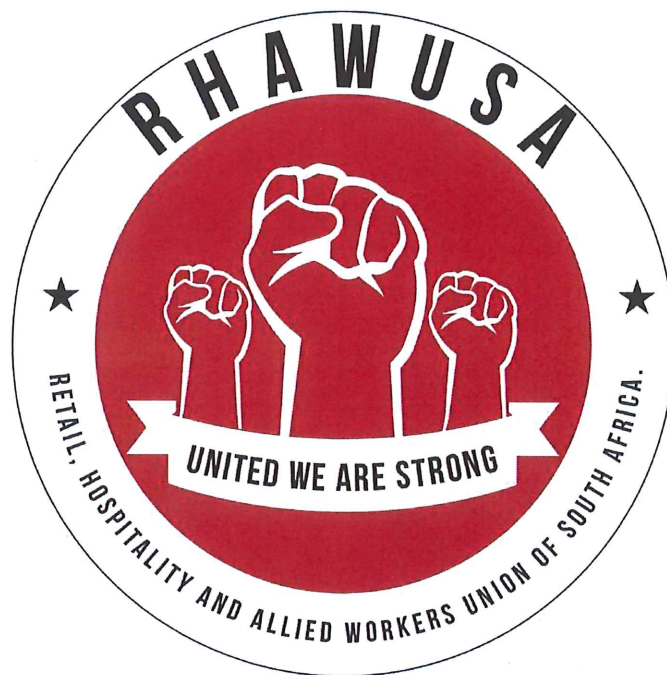


CONSTITUTION
OF
RETAIL HOSPITALITY AND ALLIED WORKERS
OF SOUTH AFRICA
(RHAWUSA)



CONSTITUTION OF RETAIL HOSPITALITY AND ALLIED WORKERS OF SOUTH AFRICA (RHAWASA)

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CHAPTER 1

PREAMBLE

The Retail, Hospitality Allied Workers of South Africa is an expression of the hopes and aspirations of the working people of South Africa.

We resolve to fulfil the yearning of the human spirit for liberty, justice and community; to advance individual and associational freedom; to vanquish oppression, privation and cruelty in all their forms; and to join with all persons, of whatever nationality or faith, who cherish the cause of democracy and the call of solidarity, to grace the planet with these achievements.

We dedicate ourselves to improving the lives of working families, bringing fairness and dignity to the workplace and securing social equity in the Nation. We will prevail by building a strong, free and democratic labour movement.

We will organize workers into unions allied by common purposes and mutual reliance. We will recruit generations of organizers, amass resources to sustain their efforts and inspire workers to achieve dignity and security through organization and collective bargaining. We will generate broad understanding of the necessity of organizing among our members, our leaders and all unorganized workers.

We will give political voice to workers in the Nation. We will fight for an agenda for working families at all levels of government. We will assemble a broad progressive coalition for social and economic justice. We will create a political force within the labor movement that will speak forcefully and persuasively on the public issues that affect our lives.

We will enable workers to shape a changing global economy. We will speak for working people in the Nation marketplace, in the industries in which we are employed, and in the firms where we work. We will expand the role of unions to securing worker influence in all the decisions that affect our working lives, from capital investment to the quality of products and services to how work itself is organized.

We will establish unions as active forces in our communities. We will make the voices of working families heard in our neighbourhoods. We will create vibrant state, local and community labor councils. We will strengthen the ties of labour with our allies. We will speak out effectively and creatively on behalf of all working South Africans. With confidence and trust in the inherent power and goodness of our people and in the virtue and promise of unionism, we proclaim this Constitution.

1. ESTABLISHMENT AND NAME

- 1.1 The name of the Trade Union is RETAIL HOSPITALITY AND ALLIED WORKERS OF SOUTH AFRICA, hereinafter referred to as RHAWUSA.
- 1.2 The union established by subsection (1) is:
 - (a) an association not for gain; and
 - (b) a corporate body having perpetual succession.

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2. COLOURS AND SYMBOLS

The logo and the colours shall be Red, White and Black.

3. SCOPE OF THE UNION

3.1 The trade union may operate anywhere in the Republic of South Africa, and is open To any worker employed in any of the following sectors;

- (a) Retail
- (b) Hospitality
- (c) Wholesale
- (d) Logistics
- (e) Distribution

4. AIMS AND OBJECTIVES

(1) The aim and objectives of the union are:

- (a) To facilitate and organise training and development of members in order to advance their employment prospects.
- (b) To protect the job security of members, and to serve their individual and collective Interests
- (c) To foster unity, co-operation and solidarity amongst all workers within the scope of the Union and other industries
- (d) To strive for living standards and fair conditions of work for members and improve terms And condition of employment
- (e) To recruit and unite workers into one single union in order to share their economic and Social warfare
- (f) To aid workers in securing improved wages, hours and working conditions with due Regard for the autonomy, integrity and jurisdiction of affiliated unions.
- (g) To give constructive aid in promoting the cause of peace and freedom in south africa and to aid, assist and cooperate with free and democratic labour movement throughout the country.
- (h) To regulate relations between employees and employers, including any employer's organisation.
- (i) To establish and administer funds for the benefit of the members
- (j) To preserve and maintain the integrity of each affiliated union by fostering respect For the established bargaining and work relationship of every other affiliate.
- (k) Promote the interest of members
- (l) To foster cooperation and other unions or civil society organisations nationally And internationally in order to advance the interests of members
- (m) Understanding how the economy of the country affects workers and formulating clear Policies on how the economy should be structured in the interests the working class

5. HEAD OFFICE

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- (5.1) The central executive committee shall:
- (a) Determine the location of the union's head office
 - (b) Maintain at least one office in the country at all times
 - (c) The executive officers shall be bonded for the faithful performance of their duties in such amounts as may be determined by the executive council.

CHAPTER 2: ORGANISATION

6. UNION STRUCTURES

- (6.1) The union is organised into the following structures and general spheres of authority:
- (a) Members, who are the foundation of democratic organisation in the workplace and the union.
 - (b) Shop stewards and shop steward committees, which operate within the different workplaces in which members work
 - (c) The structure of the union shall be the National Congress ("NC"), Central Executive Committee ("CEC") and National Executive Committee ("NEC").

7. DEFINITIONS

7.1 General

- (a) Any expression used in this constitution and which is defined in the Labour Relations Act, 1995 (Act No 66 of 1995) shall have the same meaning as in the Act.
- (b) Any reference to male gender shall include reference to female gender and vice versa.
- (c) "majority" shall mean for the purpose of this constitution, 50% + 1
- (d) An official is defined as a person in full-time employment of the Union.
- (e) **SUSPENSION:** Any member who is under suspension by the trade union shall not be allowed to attend any meeting of the trade Union nor stand for elections during the period of such suspension.

CHAPTER 3. MEMBERSHIP

8. QUALIFICATION

8.1 To qualify for membership of the union, a person;

- (a) must be associated with the union by virtue of the applicant's work, political position or historical connection
- (b) must be a worker covered by the scope of this constitution
- (c) must be fit and a proper person to be a member
- (d) must not have been either rejected as a member, or expelled from membership in the union within the past 12 months

8.2 Membership of the union shall be open to all employees in the following sectors irrespective of race, colour and creed; [Section 95(5)(b)]

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- (a) Housekeeping, retail and/or hospitality industry e.g security, cleaning, land scaping and catering
- (b) Ant industry in which the employer and employee relation are established in the process of knowledge acquisition
- (c) Fast moving consumer goods e.g product manufacturing and food manufacturing

8.3 No person may be rejected as a member of the union on any basis that constitutes unfair Discrimination in terms of section 9 of the constitution of the republic of South Africa

9. APPLICATION

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 premises of employment;

- (a) An application in a proper form
- (b) Form may be submitted to the nearest union branch or hand the form to the worker's representative/shop stewards in the workplace where union is operating
- (c) Employee who resigned or expelled from the union may be readmitted to membership on such conditions as the NEC may determine fit.

9.2 Upon receiving an application for membership in terms of subsection 9.1, a LEC must either;

- (a) Enrol the worker as a member of the union or;
- (b) Reject the application if it believes that the worker is not eligible to be a member of the union.

9.3 A worker whose application has been rejected by the LSC;

- (a) Shall be provided with reasons for such refusal and must be refunded in case the subscription were already processed
- (b) May within 30 days, appeal in writing to the PEC against the decision logging a written notice of appeal with the branch secretary concerned and;
- (c) May appear personally at the meeting of PEC scheduled to consider the appeal.

9.4 Upon considering an appeal in terms of subsection 9.3, a PEC must;

- (a) Confirm the decision of the LSC or;
- (b) Direct that the LSC must enrol the worker as a member of the union

9.5 a decision of PEC in terms of subsection 9.4 is final and binding.

10. MEMBERSHIP FEE/OTHER FEES

- (a) A membership fee of R70.00 per month shall be payable by each member of the union.[section 95(5)(f)
- (b) The fee must be fully paid by the last month to the bank account of the union.

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- (c) In addition to the membership fee a member is also liable for the payment in the same manner of such other fees as may be prescribed in terms of the rules governing funds established in terms of clause 3(i)
- (d) A CEC may excuse a member from paying monthly subscription fee for any period of time if, due to illness that a member has been unable to work for a continuous period of at least 90 days.

11. PAID-UP MEMBERSHIP

11.1 A member remains in good standing unless;

- (a) Member's subscription fees are more than 90 days in arrears
- (b) A member is no longer employed or has been suspended in terms of section 13

11.2 only paid up membership is entitled to the benefits of the union such as;

- (a) Voting
- (b) Attending union meetings
- (c) Participate in unions activities
- (d) Enjoy the rights and benefits conferred on members in terms of LRA.

12. RESIGNATIONS

- (a) A member may resign from the union by giving 30 days written notice to the GS stating the reasons for resignation
- (b) Provided that no resignation shall take place effect until all the monies due to the union have been paid.

13. TERMINATION OF MEMBERSHIP

- (a) A member whose membership are in arrears for more than 3 months shall automatically cease to be a member of the union unless in exemption in line with clause 10(d)
- (b) 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 CEC of the LEC concerned in writing within 30 days after that member's contract of employment terminated.

14. DISCIPLINED OF MEMBERS

14.1 Guide to an inquiry/ hearing of members not complying to the constitution;

- (a) Any member who fails to comply with any of the term of this constitution or with any lawful decision of the NC, NEC, PE, PEC, CEC, LSC, LEC, PC and PSC may be charged and disciplined by the NEC. [section 95(5)(c)]
- (b) NEC will appoint a Disciplinary committee (DC). A DC shall be a standing committee of the union comprising of nominated members of the union as decided by NC.

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- (c) The DC as the case, shall advise the person concerned by not less than seven (7) days' notice in writing of the charge/s and of a time and place of a hearing to be held. Such notice must be hand delivered to the member concerned or sent by registered mail to his last known postal address.
- (d) The notice referred to in clause 14(c) , shall include a reference to the rights of the member, namely the rights of representation by a fellow member, the right to state his case and call witnesses and the right to cross examine the witnesses called to testify against him.
- (e) If the chairperson of the is satisfied that the member charged has, though absent without tangible evidence in his defence, the hearing may be conducted in absentia.
- (f) if the member the member charged is present at the hearing, the chairperson of the DC may proceed to deal with the charge.
- (g) Any member of the committee involved in the charge/s shall be competent to give evidence in connection with the charge/s.
- (h) The GS, must notify the member concerned in writing within 7 working days of the decision taken by the DC

14.2 Appeals;

- (a) If the member is not satisfied with the outcome in the case of guilty verdict the DC, there shall be a right of appeal against the findings of the DC to the next NEC meeting.
- (b) The member must lodge an appeal in writing within 7 working days from the date a decision was taken and notice was received by himself.
- (c) The appeal shall be lodged through the GS
- (d) The appeal will be dealt with in the next NEC meeting.

CHAPTER 4: WORKPLACE

15. MEETINGS AT THE WORKPLACE

- 15.1 The union members in a workplace must hold meetings at least once every 2 weeks.
- 15.2 The composition of the meeting is the shop stewards and the members of the union at the workplace.
- 15.3 For the purposes of commencing a meeting and in order for the meeting to continue;
 - (a) At least one third of the members of the union at that workplace must be present
 - (b) A majority of the shop stewards on the shop stewards committee must be present on every meeting on the workplace.
 - (c) In the event the meeting doesn't take place on the date scheduled, the shop stewards must arrange another date ASAP.

16. SHOP STEWARDS

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16.1 The members of the union in good standing in each workplace must elect shop Stewards by, voting or electing among themselves; shop stewards:

- (a) Who hold office for 12 months, and;
- (b) The number of shop steward elected is determined by the LRA section 14.
- (c) The GS is responsible and shall have powers for calling the election if there is a delay.
- (d) The union representatives shall implement and give effect to decisions of the NC and NEC.

16.2 Powers and duties

- (a) The shop stewards committee will manage the affairs of the union inside their workplace.
- (b) At every workplace in which there are at least 50 union members, a shop stewards committee may be established.
- (c) Application for the establishment of a shop steward committee shall be made, in writing to the GS by not less than 50+1% members in the work place.
- (d) Shop stewards will have powers to negotiate agreements with employees about working conditions mandated to do so by members in the workplace.
- (e) Shop stewards must ensure that members are discipline at all times and they are well managed.
- (f) Representatives must practice and apply sound leadership at all times.
to settle disputes in their workplace;
- (g) to maintain order and harmony amongst the members in their workplace;
- (h) to discuss decisions and policies of the Union to members in their workplaces
- (i) to take up all legitimate complaints of members;
- (j) to represent members in conciliations before the Commission for Conciliation, Mediation and Arbitration (CCMA) as well as Bargaining Councils who have scope and jurisdiction to attend and to dispute proceedings for employees in the relevant Sectors.

16.3 In terms of Section 14(4) of the LRA, the Trade Union Representative shall:

- (a) at the request of an employee in the workplace. assist and represent the employee in grievances and disciplinary proceedings;
- (b) monitor the employer's compliance with and report any illegal contraventions of the workplace related to the provisions of the LRA, and any Law regulating terms and conditions

of employment and any collective agreement binding the employer to the employer Management, the representative Trade Union, any responsible authority or agency.

- (c) To perform any other function agreed to between the Trade Union and the employer;

16.4 In terms of the LRA Section 14 (5), the Union will negotiate with the employer to allow the Union representative time off with pay during working hours:

- (a) to perform the functions of a Trade Union representative, and;
- (b) to be trained in any subject relevant to the performance of the functions of a Trade Union representative.

16.5 Resignations by shop stewards

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- (a) A Shop Steward may resign by giving 30 days notice in writing to the General Secretary, provided that no resignation shall take effect until all monies due to the union have been paid.

16.6 Removal of Shop Stewards Section 95(5)(m)

16.4.1 A Shop Steward must leave their position in any one or more of the following circumstances:

- (a) if they do not attend three meetings in a row without sending a reasonable written excuse;
- (b) if they are no longer in good standing with the Union;
- (c) if they are no longer employed in the workplace where they were elected;
- (d) if they resign by giving no notice to the GS;
- (e) if they are suspended or expelled from membership of the Union;
- (f) if they are unable to perform their duties as set out in this Constitution;
- (g) if the GS receives a petition calling for the removal of the shop steward from office; This petition must be signed by not less than fifty per cent plus one(50%+1) of the paid-up members employed in the workplace or section of the workplace that the shop steward represents, as the case may be. Any such petition should furnish reasons as to why the shop steward must be removed;
- (h) An investigation must precede the removal and must be conducted by the REC in that Region and the findings forwarded to the General Secretary.

16.7 Termination of Membership of a Shop Steward

16.7.1 A Shop Steward may be suspended, fined or expelled as may be determined by the NEC or the NC:

- (a) If a Shop Steward wilfully contravenes the provisions of this constitution or acts in a manner which is detrimental to the interests of the Trade Union and/or its members;
- (b) if a Shop Steward seriously harms the name or reputation of the union;
- (c) if a Shop Steward makes himself guilty of conduct which, in the opinion of the NEC or the NC, justifies the termination of his membership;

16.8 Disciplinary procedures for Shop Stewards

- (a) When intending to discipline shop stewards the NEC will appoint a DC.
- (b) The DC shall appoint a Chairman from amongst themselves.
- (c) The DC shall advise the Shop Steward concerned by not less than 14 days' notice in writing of the charge/s and of a time and place of a hearing to be held. Such notice must be hand delivered to the Shop Steward concerned or sent by registered mail to his last known postal address.
- (d) The notice referred to in clause 13.6(c) shall include a reference to the rights of the Shop Steward, namely the right of representation by a fellow member, the right to state his case and call witnesses and the right to cross examine any witnesses called to testify against him.
- (e) If the DC, as the case may be, is satisfied that the Shop Steward charged has, though absent, received the prescribed notice, the hearing may be conducted in absentia.
 - (e) If the Shop Steward charged is present at the hearing the DC may proceed to deal with the
 - (f) charge by reading out and explaining the charge/s, call witnesses, afford the Shop Steward to state his case and to call witnesses and to consider all relevant information, provided

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that such proceeding may only be conducted if the representative of the Shop Steward is present or if the Shop Steward has waived the right of representation.

- (g) Any member of the committee trying the charge/s shall be competent to give evidence in connection with the charge, provided that for the rest of the proceedings he shall vacate his seat and he shall have no vote in the matter.
 - (g) If membership is terminated the Shop Steward shall have a right of appeal to the NC within 30 days of termination.

16.9 Appeals

- (a) If a Shop Steward is not satisfied with the outcome in case of a guilty verdict brought by the DC, Other shall be a right of appeal against the finding of the DC to the next NEC Meeting.
- (b) The GS shall notify the Shop Steward concerned in writing of the decision taken by the DC, as the case maybe, and such notification shall also advise the Shop Steward of his right to appeal.
- (c) The Shop Steward must lodge the appeal in writing within ten (10) days of the date on which the decision/notice was received by him/her.
- (d) A Shop Steward who does not agree with the findings of the DC must lodge an appeal in writing clearly stating all the reasons why he does not agree. The appeal shall be lodged to the DC who reached the finding.

16.10 Restrictions

- (a) A Shop Steward shall cease to be entitled to the benefits of, including the right to vote, during any period while he is under suspension and shall be considered a member out of good standing:

16.11 Re-admissions

- (a) A Shop Steward who has been expelled shall have the right to apply for readmission as a member after a period of 12 months from the date the expulsion became effective, he/she may be readmitted to the membership on such conditions as the NEC may determine.

16.12 The General Secretary must regulate the election of the shop stewards in each workplace.

17. AUTONOMY OF AFFILIATES

Affiliates, including affiliates that are being orientated about the federation, remain Autonomous bodies governed by their own constitution but they must abide by this Constitutions and the policies of the federation

CHAPTER 5

18. NATIONAL CONGRESS (NC)

The National congress shall be the supreme governing body of the union

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18.1 NC Composition

- (a) The National Congress shall be composed of the National Office Bearers, Heads of Departments, National Gender coordinators and representatives Appointed by each province of the union
- (b) The General Secretary shall be entitle to request proof of membership on Which the province has decided its delegation.

18.2 Convening of National Congress (NC)

- (a) Notice of the congress shall be communicated by the General Secretary to the members at least three (3) months before its held.
- (b) The National Congress must be Convened once a year
- (c) The National Executive Committee (NEC) must convene a national congress with Thirty (30) days before expiry date of term national structure.
- (d) The President or, in his/her absence, the deputy President or, in the latter's Absence, a person appointed by the NEC, must preside over the proceedings at The National Congress

18.3 Quorum

A quorum for the National Congress shall be the majority of the delegates eligible to be Present provided that at least two-thirds of the provinces are represented. In the event Of there not being a quorum the meeting shall stand adjourned and shall be Reconvened within a period of two (2) months.

At such adjourned meeting, the delegates present shall form a quorum, at least one (1) Month written notice of such adjourned meeting shall be given to the locals and Provinces.

18.4 Powers and Duties

18.4.1 The National Congress shall adopt general and specific policy measures by means Of resolutions in the furtherance of the aims and objectives of the union and will Consider and/or decide upon the following:

- (a) Consider the address of the president, and the reports of the General Secretary And the Treasure, and other special reports;
- (b) Amendment of the constitution;
- (c) Reports from the CEC;
- (d) Reports from the National Office Bearers;
- (e) A financial report and the approval of the auditor's report and the union's Financial statements;
- (f) All resolutions submitted to it by the provincial representatives;
- (g) The election of the National Office Bearers;
- (h) Any other matter that be deemed to be in the interest of the union.

18.5 Resolutions of the NC

- (a) The president or in his/her absence, the deputy president or in latter absence, a Person appointed by the NEC shall preside over the proceedings or the congress
- (b) Resolutions must be adopted by the majority of voting delegates

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- (c) voting shall be by a show of hands unless the National Congress decides otherwise
- (d) The president or the presiding person has a deciding and casting of vote.
- (e) Resolutions from members shall be sent to the General Secretary and shall reach His/her office not later than four (4) weeks prior to the national congress
- (f) Copies of the resolutions and of the national congress agenda shall be distributed To all members by the General Secretary no less than two weeks prior to the National congress.

18.6 Special NC

A special National Congress must be convened by the president together with the General Secretary whenever;

- (a) The NEC request one
- (b) Whenever at least 60% of members request so in writing
- (c) The requisition for the special congress shall be sent to the General Secretary at Head office and shall be accompanied by a statement setting out the reasons for The requisition.
- (d) The General secretary shall convey the requisition to the president as soon as Possible.
- (e) The written request and a notice setting out the reasons for the request must be Sent to the General Secretary at Head Office.
- (f) The General Secretary must convey a request to the president as soon as possible Should reasons of urgency be given in the notice, being not less than seven (7) days But not later than three months.
- (g) Members shall be notified by the General Secretary of the convocation and agenda Of a special national congress as soon as possible and by the best practical means.

18.7 Minutes

The General Secretary, or a person appointed by him/her, shall be responsible for Keeping minutes and sending out of notices and minutes of all National Congresses, Central Executive Committee, National Executive Committee and such other Committee meetings as may from time to time be appointed.

CHAPTER 6

19. NATIONAL EXECUTIVE COMMITTEE (NEC)

19.1 Composition

19.1.1 The NEC is the highest organ of the union in between national Congresses and

has the authority to lead the organisation, subject to the provision of this constitution

19.1.2 The NEC consists of the following positions:

- (a) President;
- (b) Deputy President;

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- (c) Treasurer General
- (d) General Secretary.
- (e) Deputy General Secretary.
- (f) National Organiser.
- (g) One (1) Additional member.

19.2 Powers and Duties

The NEC manages the affairs of the union by:

- (a) Executing union policies as determined by the National Congress;
- (b) Carrying out the day-to-day running of the union;
- (c) To recommend the Trade Union's participation in the establishment of a Bargaining Statutory Council and, subject to the Constitution of a Bargaining or Statutory Council, to determine the the Trade union's representation thereon;
- (d) To appoint the services of the General Secretary and any other official of the Union and to fix their remuneration and to define their duties in terms of the LRA, and may terminate their services.
- (e) To appoint from time to time, such committees as it may deem fit for the purpose of investigating and reporting on any matter referred to them by the NC;
- (f) To institute legal proceedings on behalf of or to defend proceedings against the Trade Union;
- (g) To acquire either by purchase, lease or otherwise, any movable or immovable property on behalf of the Trade Union and to sell, let, mortgage or otherwise deal with or dispose of any movable or immovable property belonging to the Trade Union, provided that no immovable property shall be acquired or sold, nor shall it be mortgaged, let, or leased for a period longer than (5) five years; Section 95(5)(c)
- (h) To institute legal proceedings where deemed necessary on behalf of or to provide legal assistance to member on member affecting their employment and to institute legal proceedings against individual members;
- (i) To ensure good governance of the Trade Union's finances under the auspices of the GS and scrutinized by the Treasurer General;
- (j) To establish Regions and Branches and define the areas of jurisdiction based on financial criteria.
- (k) To decide the area where the Trade Union's Head Office shall be;
- (l) To make and enforce bylaws relating to procedural, administrative and disciplinary matters which are not inconsistent with the provisions of this Constitution, the LRA or any other Law;
- (m) To decide all matters of procedure on which this Constitution is silent;
- (n) To do such lawful things as in the opinion of the NEC appear to be in the interest of the Trade Union or its members and which are not inconsistent with this Constitution
- (o) To formulate policy of the Trade Unions for recommendations to the NC.
- (p) Consider the statement of income and expenditure, the balance sheet, any other financial information or statement. and on a yearly basis the annual auditor's report.
- (q) Determining policy and strategy;
- (r) Sanction expenditure on behalf of the union;
- (s) Suspend any office-bearer, official or member of such committee for any action which contravenes the provisions of this constitution or which is contrary to the interest of the union
- (t) Consider any other matter to which the NEC agrees may be added to the agenda,

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provided that such matters are discussed at the end of the agenda and within the available time constraints, but no decision shall be taken at the meeting, unless the majority of the delegates present agree thereto.

- (u) The NEC may co-opt additional members due to capacity constraints.

19.3. Meetings

- (a) The NEC must meet at least once in every month on the date fixed by the general secretary.
- (b) The General Secretary shall give at least fourteen (14) days notice of NEC meetings, served In the case of special agent meetings when no less than 3 days shall be given. To every notice Of a meeting an agenda shall attached.
- (c) Members of the NEC shall be notified in writing of the time and place of meetings by the general secretary at least three days before the dates of such meetings provided that shorter notice, being not less than 48 hours, may in discretion of the president be given in respect of special meeting.
- (d) To every notice of meeting an agenda shall be attached, unless otherwise provided herein all matters for consideration by the NEC shall be decided on motion duly seconded and voted upon by show of hands
- (e) A majority of the NEC members constitute a quorum (50% plus 1).
- (f) The President will preside over all the meetings of the NEC
- (g) And if the President is absent the Deputy President will preside over the meetings of the NEC
- (h) If the President and the Deputy President are absent, the house will nominate someone to preside over of the meeting.
- (i) If within one hour of the time fixed for any meeting a quorum is not present, the meeting must stand adjourned to the same day, time and place in the following week (and if that day is a public holiday then to the next succeeding working day) and the members present at the adjourned meeting forms a quorum.
- (j) The General Secretary must notify members in writing who were absent about the adjourned meeting
- (k) Minutes of the meetings must be kept safely and always be on hand for members to peruse.
- (l) No motion shall be considered unless seconded.
- (m) All matters forming the subject of motion shall be voted upon by show of hands (unless otherwise provided) and shall be decided by the votes of majority of those present
- (n) Decisions are made by a majority vote.
- (o) The President shall not have a deliberative vote, but in the event of an equality of votes have a casting vote.
- (p) A quorum of the NEC shall be majority of the members entitled to vote.

19.4 Period of Office

- (a) The term of office of the NEC is three (3) years.
- (b) The NEC loses all its authority at the expiry of their term.
- (c) Members of the NEC are eligible for re-election on expiry of their term of office.

19.5. Minutes

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- (a) The general secretary of the trade union or a person appointed by him/her shall keep minutes of all meetings of the NEC and of the NC.

19.6. Termination/Removal from Office and Discipline of NEC member

- (a) On a decision by the majority of the NEC an ordinary NEC member may be charged and disciplined:
- (b) Should he/she fail to comply with any term of this Constitution or with any lawful decision of the NC, as the case may be;
- (c) Should he/she wilfully contravene the provisions of this constitution;
- (d) Should he/she seriously harm the name or reputation of the union;
- (e) Should he/she make themselves guilty of conduct which, in the opinion of the NEC, justifies the termination of the office they hold;
- (f) Should he/she fail to attend to properly mandated and authorised meetings on two (2) or more consecutive occasions without a sound and reasonable reason.
- (g) The NEC will appoint a DC and an Initiator to deal with any disciplinary action brought against an NEC Member.
- (h) The NEC will appoint a Chairperson to preside over a DC who will bring the charge/s against the NEC member concerned.
- (i) The Initiator of the DC shall advise the NEC member concerned by not less than three (3) days' notice in writing of the charge/s and of a time and place of a hearing to be held. Such notice must be hand delivered to the NEC member concerned or sent by registered mail to his last known postal address.
- (j) The notice referred to in clause 9.5(i) shall include a reference to the rights of the NEC member, namely the right of representation, the right to state his case and call witnesses and the right to cross examine any witnesses called to testify against him.
- (k) The Chairperson and DC, as the case may be, is satisfied that the NEC member charged has, though absent, received the prescribed notice, the hearing may be conducted in absentia.
- (l) If the NEC member charged is present at the hearing the Chairperson of the DC, as the case may be, may proceed to deal with the charge by reading out and explaining the charge/s, call witnesses, afford the member to state his case and to call witnesses and to consider all relevant information, provided that such proceeding may only be conducted if the representative of the member is present or if the member has waived the right of representation.
- (m) Any member of the DC trying the charge/s shall be competent to give evidence in connection with the charge, provided that for the rest of the proceedings he shall vacate his seat and he shall have no vote in the matter.
- (n) The Chairperson of the DC shall notify the member concerned in writing within ten (10) days of the decision and such notification shall also advise the member of his right to appeal should he not be satisfied with the findings.

19.7. Appeals

The President shall notify the NEC member concerned in writing of the findings of the DC Chairman and the decision taken by the NEC based on the recommendation by the Chairperson of the DC, as the case may be, and such notification shall also advise the member of his right to appeal.

- (a) Should the member not agree with the findings of the Chairman and/or the decision taken by the NEC he must clearly state in writing all the reasons for this.

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- (b) The appeal shall be lodged with the General Secretary.
- (c) The appeal hearing will be held by the NC which shall have the powers to amend or reverse the findings of the DC.

CHAPTER 7

20. UNION OFFICE BEARERS [NOBs]

Presidency

20.1 President

- (e) The President shall preside at all Trade Union meetings at which he/she is present, enforce observance of the Constitution of the Trade Union, sign Minutes of meetings after confirmation, sign all cheques on the banking account of the Trade Union, generally exercise supervision over the affairs of the Trade Union and perform such other duties as by usage and custom pertain to the Office
- (b) The president shall preside over meetings of the NEC;
- (c) The president shall present a report on the state of the trade union in general at the NC;
- (d) The president shall supervise all work of the trade union in conformity with the Constitution and rules of procedure agreed upon by the NEC:
- (e) The president shall have speaking and voting rights and casting votes

20.2 Deputy President

- (a) The deputy president shall assist the president in performing his/her duties and perform such duties of the president as are delegated to him/her.
- (b) .058The deputy president shall perform duties of the president where the president is temporarily or permanently unable to perform.
- (c) The deputy president Shall be elected by the delegates at the congress and shall hold office until the next congress.
- (d) The deputy president shall have speaking and voting rights.

20.3 Treasury

20.3.1 Treasurer General

- (a) The Treasurer General shall scrutinize the monthly financial reports and present such reports to the NEC and NC;
- (b) Supervise the financial affairs of the Union;
- (c) Perform duties usual to the office of the Treasurer, or as are reasonably required by the NC or NEC.

20.4 Additional Members

- (a) The number of staff and their duties shall be determined by the National Executive Council, depending on a needs analysis requisitioned by the National Executive Council (NEC).

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20.5 Resignation of Office Bearers from office

- (a) Office Bearers may resign their office by giving one (1) months' notice in writing to the National Executive Committee (NEC).

20.6 Replacement of Office Bearer

- (a) In the event of an NEC member who is an office bearer vacating his Office the NEC will elect and fill such a position among the current NEC members at the next NEC meeting unless a quorum cannot be formed by the remaining members until the next NC or the NEC might decide to call a Special NC.

21. UNION OFFICIALS

21.1 General Secretary

- (a) The General secretary shall be responsible for the efficient administration of the union, Receive requisitions of meetings from the National Executive Council, issue notice of meetings.
- (b) The General Secretary shall Conduct all Head Office correspondence of the Trade Union, keep originals of letters received and copies of those dispatched and at each meeting of the NEC lay on the table correspondence which has taken place since the previous meeting.
- (c) The General Secretary shall Present to the NC correspondence deemed necessary by the NEC.
- (d) The General Secretary shall attend all NC and NEC meetings and record Minutes of the proceedings.
- (e) The General Secretary shall Submit reports regarding financial position of the Trade Union to the NEC not less than every third month and Audited Financial Statements every year.
- (f) Present Audited Financial Statements to the NC.
- (g) The GS shall perform the duties imposed on him/her by Sections 98, 99 and 100 of the LRA, relating to the keeping of records and furnishings of information to the Registrar.
- (h) Be responsible for the day to day operational requirements of the Trade Union,
- (i) The General Secretary shall supervise the work of all the officials and employees of the Union
- (j) The General Secretary shall be responsible 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.
- (k) The General Secretary must undertake any other duty that is necessary towards the advancement of the union and its members.
- (l) The General Secretary may terminate his/her services by giving one (1) month notice in writing to the NEC. And his/her services may be terminated on a similar period of notice being given by the NEC in terms of his/her written contract of appointment.

21.2 Deputy General Secretary

- (a) Should the General Secretary temporarily be unable to perform his/her duties, the Deputy GS shall act as General Secretary until such time as he/she is able to resume his/her duties.
- (b) The Deputy General Secretary shall assist the General Secretary in all his/her duties.
- (c) The provisions of Clause 11.1(a) through to 11.1(l) shall mutatis mutandis apply to the Deputy

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General Secretary, and all duties referred to in this Constitution.

21.3 Powers to act between meetings

- (a) The General Secretary, in consultation with the President, shall have powers to act on behalf of The NEC and its committees between meetings. The General Secretary shall seek endorsement Of the National Executive Committee upon any exercise of the power.
- (b) The Treasurer and the General Secretary shall have the power to act on behalf of the NEC and Its committees between meetings in any matter related to the union's finances. The Treasurer And the General Secretary shall seek the endorsement of the NEC upon any exercise of their Power.

21.4 The National Organizer

- (a) The National Organiser shall be a full-time official of the Union:
- (b) The National Organiser shall be responsible for the proper mobilization and organization of Union structures and for the general co-ordination of its activities:
- (c) The General Organiser shall facilitate the national training program for shop stewards and;
- (d) Perform other duties required by this constitution or the National Congress or National Executive Committee.

21.5 Discipline of Union Officials

- (a) Union Officials may be summoned by the NEC to attend a disciplinary enquiry.
- (b) An independent Chairperson may be appointed to chair disciplinary enquiry and will make a ruling on his findings.
- (c) Should the Union Official not be satisfied with the findings of the Chairperson, the Union Official may lodge an appeal within seven (7) days to the General Secretary of the Union.
- (d) Any Disciplinary action taken against a Union Official will be in terms of Schedule 8 of the LRA, as well as the Code of Conduct of the Union.

CHAPTER 8

22. FINANCES

22.1 Funds of the trade union

- (a) The funds of the Union shall be applied to payment of expenses; the acquisition of property and towards the attainment of the aims and objective specified in clause 4 and any other lawful purpose as may be decided by the National Executive Council.
- (b) The funds received by the GS on behalf of the Trade Union shall be deposited to its credits within three (3) working days on receipt, at a Bank decided upon by the NEC.
- (c) Cheque payments will be signed by the President and the GS.
- (d) In the absence of the President payment shall in his/her stead be authorized and signed by the Deputy President or a member of the NEC appointed by it for that purpose.
- (e) Membership fees and levies shall be collected by the GS or such other persons empowered to do so.
- (f) Remittances to the GS shall be accompanied by statements showing names of members from

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- whom collected, the amount paid by each member, the names of members, if any, whose membership fees are in arrears and the amount of such arrears. The statement shall also detail any arrears payments made by members.
- (g) The funds of the Union must be applied solely in furtherance of the Union's aims and objectives subject to the decision of the NC and the NEC.
 - (h) Funds contributed for a specific purpose must be used for that purpose and no other except as otherwise decided by the NEC.
 - (i) No profits or gains may be distributed to any person.
 - (j) The GS, or such person appointed by the NEC, must deposit funds received into the Union's bank account within three (3) days of receipt.

22.2 No person may open a banking account in the name of the Union any other similar name without:

- (a) the explicit written authority of a resolution of the NEC on an official Union letterhead signed by the President; and
- (b) subsequent verbal confirmation to the bank or financial institution concerned by either the National Treasurer or General Secretary.

22.3 Financial year

- (a) The financial year is from 1 January to 31 December.

22.4 Reporting

- (a) Treasurer General and GS must prepare an income and expenditure report for each meeting of the NEC.
- (b) This report must include a clear statement of any budgeted and unbudgeted expenditure.

22.5 Signatories

- (a) The NEC must appoint the President, Deputy President, Treasurer General and the General Secretary as signatories to the National Banking Account.
- (b) Two (2) signatories must authorise any cheque as decided by the NEC in the absence of the president and GS.

22.6 Financial Statements

- (a) Statements of income and expenditure reflecting the financial position of the Union shall be prepared monthly by the GS and Treasurer General and submitted to the NEC and NC.
- (b) Similar statements in respect of Trade Union funds shall be prepared quarterly by the GS and submitted to the NC by the Treasurer General.
- (c) The General Secretary shall also be responsible for furnishing the NC with the Trade Union's latest Audited Financial Statements.
- (d) In accordance with the provisions of Section 98(1)(b) and 98(2)(a) and (b) (i) and (ii) of the LRA, the Auditor shall prepare a Statement of Income and Expenditure and a Balance Sheet in respect of each financial year ending on 31 December.
- (e) The GS will ensure, in terms of Section 98 (1) through to 98 (2) of the LRA that the financial requirement is met and the Financial Statements are audited annually.

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22.7 General

- (a) Legal and other professional expenses shall be borne by the Trade Union
- (b) The NEC shall, subject to confirmation by the NC, have power to invest surplus Trade Union monies in such a manner that the Trade Union stands to benefit from the investment.
- (c) Statements of Income and Expenditure and the financial position of the Province shall be prepared quarterly by each Provincial Treasurer and submitted to the Provincial Executive Council/Committee and to the National Executive Council.
- (d) In accordance with the provisions of section 98(1)(b) of the Labour Relations Act, 1995, the National Treasurer shall prepare a statement of Income and Expenditure and a Balance Sheet in respect of each Financial Year ending 31 March. Such statements and balance sheets shall be audited and dealt with as required by the said section of the Act.
- (e) No single item of expenditure in excess of one (1) percent of the total monthly income (other than remuneration of employees of the Trade Union) shall be met from the funds of the Trade Union, unless such expenditure is approved by the National Executive Council.
- (f) Legal and other professional expenses shall be borne by the Trade Union.
- (g) A member who resigns or is expelled from membership shall have no claim on the funds of the Union from the date on which the resignation or expulsion takes effect.
- (h) The National Executive Council shall subject to confirmation by the National Congress, have the power to invest surplus monies in such a manner that the Union stands to benefit from such investments.

CHAPTER 9

23 REPRESENTATION

23.1 Union representation

- (a) The National Executive Council may at any time 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) Representatives and their alternates shall be appointed by the National Executive or Provincial Executive Council for a National or Provincial Bargaining/Statutory Council respectively.
- (c) Representatives and their alternates on a Bargaining or Statutory Council may be removed by the National or Provincial Executive Councils or their Congresses. The Representatives or their alternates may in turn, resign, giving one (1) months notice of such intention to the National or Provincial Executive Councils or such notice as may be prescribed in the constitution of the council concerned.
- (d) In the event of the resignation or death of a representative or her alternate or on the removal by the National or Provincial Council concerned or its Congress, the vacancy shall be filled by the National or Provincial Executive Council.
- (e) Representatives or their alternates in any structure shall act only with the express mandate from the relevant constituency.

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23.2 REVIEW AND RESCISSION OF DECISIONS

Any relevant Committee or Council or the National or Provincial Congresses may review any decision provided that a two-thirds majority of those members present and voting agree to such review, after which a simple majority would be needed to rescind the decision.

24 BALLOTS

A ballot shall be taken in addition to those cases in respect of which the taking of a ballot of members of the union is required or the constitution of this union so prescribes.

24.1 Resolution to Vote

- (a) In addition to those cases in respect of which the taking of a ballot of members of the Trade Union is compulsory in terms of this Constitution, a ballot on any question shall be taken if the NEC so decides

24.2 Authority

- (a) The NEC shall determine the date, time and place for such ballots.

24.3 Process for voting

15.3.1 Ballots shall be conducted in the following manner:

- (a) A written notice of a ballot shall be given to the General Secretary to distribute to all members at least three (3) days before the ballot is taken, provided that a ballot may be taken without notice at any General Meeting on the decision of a majority of the members present; notice may be given electronically To employees by direct communication, including emails, or SMSes;
- (b) Two (2) Independent Scrutineers shall be appointed by the NEC to supervise any ballot and to ascertain the results thereof; In the case of an electronic ballot conducted by email or SMS the voters roll must reflect the email address or mobile phone number of the members concerned and must be scrutinized and conducted by the CCMA or any independent organizations which must keep the records of balloting for three months and thereafter submit to the trade union for record keeping;
- (c) Except in the case of postal ballots and ballots taken at General Meetings on the decision of a majority of the members present, ballots shall be conducted at the various offices of the Trade Union or at such other places as determined by the NEC.
- (d) Ballot papers shall be supplied to the GS. The issue to be voted upon shall be set down clearly on the ballot papers and such paper shall not contain any information by means of which it will be possible to identify the voter;
- (e) A pre-determined voter's roll of the members in respect of whom the union intends to call to strike must be present at the voting station. The members entitled to vote must be in good standing and eligible to vote in terms of the union constitution.
- (f) Ballot boxes shall be inspected by the Scrutineers and sealed by the GS or a person appointed by the NEC in the presence of the Scrutineers prior to the issuing of ballot papers;
- (g) One ballot paper shall be issued on demand at the place and during the hours fixed for the taking of the ballot by each member of the branch who is entitled to vote;
- (h) Each voter shall, in presence of the Scrutineers, be issued with one ballot paper which he/she shall thereupon complete, in secret fold and deposit in a ballot box provided for the purpose;

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- (i) 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;
- (j) Papers bearing any other marks shall be regarded as spoilt and shall not be counted;
- (k) On completion of a ballot or as soon as possible thereafter, the result shall be ascertained the Scrutineers appointed for NEC in the presence of the GS or a person appointed by the NEC and made known to the NEC;
- (l) Ballot papers, including spoilt papers, voters roll shall be placed in container which shall be sealed after they have been counted and retained by GS for not less than three (3) years.

24.4 Votes

24.4.1 The NEC may decide that a postal ballot of members shall be taken, in which event the ballot shall be conducted in the following manner:

- (a) The GS shall send by registered post to each member of the Trade Union, a Ballot Paper and a stamped an addressed envelope marked "Ballot".

24.4.2 The ballot papers shall on completion be inserted in the envelope provided for the purpose, which shall be sealed and posted so as to reach the GS within fifteen(15) days from the date of dispatch from Head Office to such member.

- (a) On receipt of such envelopes the GS shall immediately place such envelopes in a sealed ballot box.
- (b) Two Scrutineers shall be appointed by the NEC 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 GS, who shall immediately advise the NEC of the result of the ballot.
- (c) The same procedure shall mutatis mutandis apply to a postal ballot confined to members of the Trade Union.
- (d) 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.
- (e) The NC. and the NEC shall be bound to act according to the decision of a majority of members voting in a ballot.
- (f) The Trade Union must, before calling a strike, conduct a ballot of those of its members in respect of whom it intends to call the strike if so, decided by the NEC.
- (g) In the case of postal ballot, the voters roll must reflect the postal addresses of the members and the CCMA or any independent organization must keep the postal ballots for three months and thereafter submit to the trade union for record keeping.

CHAPTER 10

25 CHANGING OF THE CONSTITUTION

25.1 Any of the provisions of the constitution may be considered for repeal, amendment or addition, or change in any manner, on a proposal of the National Executive Council or the Provincial Executive Council or their respective Congresses provided that at least two months'

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- written notice to the General Secretary of such alteration shall have been given. The General Secretary is to circularise such proposal for change(s) to all Provinces within seven (7) days of receiving such proposal. Only the National Congress may approve such change(s), alterations, or amendments by way of a two-thirds majority of those present and voting.
- 25.2 No amendment or alteration shall have any force or effect until certified in terms of section 101(3) of the Labour Relations Act, 1995.

26 INDEMNITY

- 26.1 All Office-bearers, Officials and Shop-stewards shall be indemnified against all legal proceedings and costs incurred by reason of the performance of such person's duties for and on behalf of the Trade Union provided that such acts or omissions were done:
- (a) in good faith and
 - (b) in pursuance of the objects of the Trade Union.

27 WINDING-UP

- 27.1 The Trade Union shall be wound-up if in a ballot conducted in a manner prescribed in the constitution, not less than three-quarters of the total number of members of the Union vote in favour of a resolution that the Union be wound-up. If a resolution for the winding-up has been passed or if for any reason the Union is unable to continue to function, the following provisions shall apply :-
- (a) The last appointed President of the Union or if he is not available, the available members of the last appointed National Executive Council shall forthwith transmit to the Labour Court, a statement signed by her or them setting forth the resolution adopted or the reason for the 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 of 1995.
 - (b) The liquidator appointed by the Labour Court shall call upon the last-appointed office-bearers and officials of the Union to deliver to him the Union's books of account showing the Union's assets and liabilities together with the register of members showing for the twelve (12) months prior to the date of which the resolution for the winding-up was passed or the date from which the Union was unable to function, as the case may be, (hereinafter referred to as the date of dissolution), the membership fees paid by each member and his address as at the said date.
 - (c) The liquidator shall also call upon the said office-bearers and officials of the Trade Union to hand over to him all unexpended funds of the Trade Union and to deliver to him the Union's assets and documents necessary to liquidate the assets.
 - (d) The liquidator shall take all necessary steps to liquidate the debts of the Trade Union from its unexpended funds and any other monies realised from assets from the Union, and if the said funds and monies are insufficient to pay all the creditors after the fees of the liquidator and the expenses of winding-up have been met, the order in which creditors shall be paid, shall, be the same as prescribed in any law for the time being in force relating to the distribution of the assets of an insolvent estate and the fees of the liquidator and the fees for the winding-up shall rank in order of preference as though she was a liquidator in an insolvent estate and as though the expenses were costs of sequestration of an insolvent estate.

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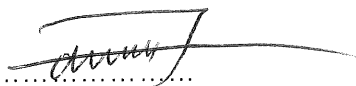
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- (e) After the payment of all debts in accordance with clause (d),the remaining fund, if any, shall be distributed by the liquidator amongst the remaining members of the Union. Members shall be awarded a share in proportion to the membership fee actually paid by him in respect of the twelve (12) months immediately preceding the said date.
- (f) After the payment of all liabilities, any assets that cannot be disposed of in accordance with the provision of this clause shall be realised by the liquidator and all proceeds paid to the Commission for Conciliation, Mediation and Arbitration in accordance with section 103(5) of the Labour Relations Act, 1995.

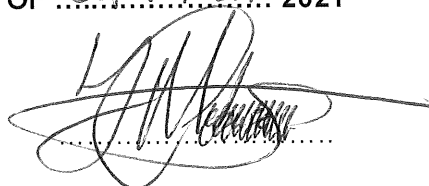
28. INTERPRETATION OF THE CONSTITUTION

The National Congress must interpret the Constitution if a dispute arises and its decision shall be final and binding. If there is a dispute in a structure about the interpretation of any clause in this Constitution that structure must refer the dispute to the next higher structure for its decision.

SIGNED AT TEMBISA..... ON THE 06 DAY OF SEPTEMBER 2021

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PRESIDENT

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GENERAL SECRETARY

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