



*Constitution of Migrant Workers Union of South Africa*  
**MIWUSA UNITING WORKERS CONSTITUTION**

**Address: 18 Philip, Corner Anderson Street  
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A.M.E Church Centre  
Joburg**

## **THE ORGANISATION**

### **PREAMBLE:**

Whereas the “**MIGRANT WORKERS’ UNION in SOUTH AFRICA**” (MIWUSA) is an association not for gain, non-racial, registered trade union, unaffiliated to any political party; democratically formed by migrant workers of South Africa affirms that it shall always strive to advance unity and the welfare of its members by ensuring that all forms of oppression, suppression, exploitation, discrimination and others are eradicated at the workplaces, communities and society at large. We shall always advocate for decent and better working conditions for purposes of self determination, equality, prosperity and social justice.

The union is dedicated and committed - irrespective of nationality, race, colour, creed or sex:

- to promote and maintain free democratic trade unionism for all migrant workers in South Africa and to oppose the exploitation of cheap labour;
- to advance the dignity, rights, socio-economic and cultural well-being of all members through collective bargaining and free negotiation;
- to do all in our power to assist in developing the full potential of workers and their children in the economic, social, political and cultural fields;
- to defend the right to equal status in the eyes of the law for all people and to support the rule of just law;
- to maintain the right to free compulsory and equal education for all children and the opportunity for all students to receive the highest specialised training;
- to promote the right to full employment for all people;
- to promote the right for all people to live where they choose, to be properly and decently housed, and to raise their families in security and comfort;
- to promote a system whereby the aged and infirm are supported regardless of income or status;
- to pursuing an enlightened programme to assist unorganised workers, and to develop educational facilities within the trade union movement; to disseminate as widely as possible press democratic trade union principles among all workers.

- to observe gender representation on all union structures, Strive for workers unity and solidarity
- Fighting for freedom of mankind and decent life for all
- Unite for prosperity and emancipation of lives of the Working- class through democratic, transformative and development principles
- Respect of human kind and dignity

## **2. THE NAME:**

The name of the organisation shall be **MIGRANT WORKERS UNION in South Africa (MIWUSA)** having its head office located at a place determined by N.E.C

## **3. THE VISION:**

The vision of the organisation shall be to build a strong democratic and worker controlled organisation / movement led by migrant workers in South Africa to advance, protect and fight for all migrant workers' rights.

## **4. THE MISSION:**

To build strong affiliated (country) nationality based independent and democratic unions in South Africa that will advance, protect and fight for workers' rights through elected worker leadership (Shop Stewards). Engage in strategic and systematic membership recruitment process to educate, develop, conscientise, unite workers in a strategic plan to make them believe in themselves by collectively solving issues that affect them as migrant workers in order to create changes in their day to day lives.

## **5. AIMS AND OBJECTIVES**

5.1 To promote interests of members,

5.2 To encourage settlement of disputes by conciliatory methods,

5.3 To secure justice for all the members,

5.4 To regulate relations between members and their employers/communities, protect and further the interests of the members;

5.5 To secure decent standards of living, social security and fair conditions of work for members;

5.6 To promote, support or oppose, as may be deemed expedient, any legislation, proposed legislative or other measures affecting the interests of members;

5.7 To enter into statutory or civil agreements with employers or employers' associations and communities on behalf of the organisation as a whole, or groups of individual members;

## **6. SCOPE**

6.1 Any migrant natural persons who works in South Africa, permanently, for a limited period, temporarily, casually or seasonally and whether the wage he gets is fixed , changing, monthly, daily or in any other method of calculating wages according to production, piece work or otherwise.

## **7. MEMBERSHIP**

7.1 All non South African persons, migrants employed and or intending to be employed in formal and or informal sector within the borders of South Africa shall be eligible for membership of the Union.

7.2 Applications for membership or re-admission to membership shall be lodged in writing with the Secretary of the Region having jurisdiction in the area in which such applicant is employed or in the event of no such Region having jurisdiction, with the General Secretary or such other person as the National Executive Committee may authorise.

7.3 The Regional Secretary, or the General Secretary, as the case may be, shall either admit or refuse to admit any worker applying for admission.

7.4 If admission to membership is refused by the Regional Secretary or the General Secretary, as the case may be, the applicant shall be notified in writing within thirty days of the application being refused; and shall have the right to appeal within twenty one days of being informed of the rejection of the application. If the appeal is rejected even at this stage the Secretary shall table it at the next Regional Executive Committee or the National Executive Committee as the case may be.

7.5 An appeal in terms of Clause 7.4 shall be lodged in writing with the Regional Secretary or the General Secretary. The appellant shall be afforded an opportunity to state his/her case personally before the Regional Executive Committee or the National Executive Committee as the case may be. She/He/ may call members of the Union as witnesses in support of any statement made by him/her.

7.6 A person who has resigned or been expelled from the union but who is still within the borders of South Africa intending to be and or employed may be re-admitted to membership on such conditions as may be determined by the Regional Executive Committee and or the National Executive Committee having jurisdiction in his/her area and may appeal against such conditions in terms of Clause 7.5 above.

7.7 An applicant to whom admission has been refused shall be entitled to a refund of any monies paid by her/him on application.

7.8 Every member shall inform her/his Regional Secretary in writing of his/her postal address and any change thereof within fourteen (14) days of the date on which the change took place.

## **8. TERMINATION OF MEMBERSHIP**

8.1 A member of the Union may resign by giving four (4) weeks' notice in writing to the General Secretary, or in the event of there being no General Secretary, to the National Executive Committee provided that no resignation shall take effect until all monies due to the Union by the member concerned have been paid, and provided further that no resignation induced by any employer in breach of the Law shall have any validity.

8.2 Members of the Union who leave their employment due to illness, unemployment or any reason whatsoever, but who intend to resume their employment in the interests set forth in Clause 8.1 shall remain members of the Union for a period not exceeding thirty nine (39) weeks and shall subject to Clause 8.3 thereafter automatically cease to be members or participate in the affairs of the union.

8.3 A member whose contract of employment has been terminated by his/her employer as a result of a labour dispute or under circumstances which the Regional Executive Committee or the National Executive Committee considers to render her/his dismissal unfair, shall remain a member of the Union for a period of nine (9) months from the date of termination or, where legal proceedings have been instituted to challenge the lawfulness, validity or fairness of the termination, until such proceedings are finalised, provided that such member may revoke his/her membership in a manner set out in Clause 8.1 above.

8.4 A member whose contract of employment has been terminated shall be exempted from payment of subscriptions until she/he is re-employed or reinstated, or until such other date as the National Executive Committee, as the case may be, may determine.

## **9. FEES AND SUBSCRIPTIONS**

9.1 The subscriptions payable by members to the Union and/or contributions to any fund established by this Constitution shall not be more than 2% of any member's fortnightly wage;

9.2 The amount payable as subscriptions shall subject to Clause 9.1 be determined from time to time by a resolution carried by two-thirds ( $\frac{2}{3}$ ) majority of the National Congress;

9.3 Subscriptions shall be payable periodically in arrears to the General Secretary or such other person as the National Executive Committee may authorise to receive such subscriptions;

9.4 A member shall be exempted from payment of the aforesaid subscriptions in respect of any period during which he/she is:

9.4.1 employed for not more than thirty (30) consecutive days;

9.4.2 exempt for such other reason as the National Executive Committee deems fit, subject to the provisions of the Law;

9.5 Any member who falls behind in respect of five (5) months subscriptions will fall out of benefit and not be in good standing although he/she shall remain a member of the Union except insofar as she/he becomes more than thirty nine (39) weeks in arrears, in which event membership shall cease.

9.6 In addition to the aforementioned subscription a member shall also be liable for the payment, in the same manner of such other fees as may be prescribed in terms of the rules governing any fund established in terms of Clause 9

9.6.1 Members must be able to register online or be registered by the administrators, through a form available online which members can access and be able to load personal information and receive a confirmation email.

9.6.2 Payment can be submitted via USSD, or SMS. The service provider shall receive, confirm and update the member status accordingly.

9.6.3 The system will be able to track the membership period and notify the member when the subscription is due to expire in order to remind the user to make payment through sms and or emails.

9.6.4 The application should enable members and potential members to interact with the system in order to send messages, get information or update their details.

9.6.5 Any information that needs to be sent out to members should be done via the system that is any newsletters and or bulk sms's.

9.6.6 The system should be able to generate reports such as payment reports, active subscriber reports for management.

## **10 SHOP STEWARDS**

### **10.1 METHOD OF ELECTION**

10.1.1 Shop Stewards for each ward shall be elected by the members in good standing who are employed at workplaces within the ward or reside within the ward. The election of shop stewards shall be subject to the following provisions:

10.1.1.1 Only members in good standing employed at the workplace shall be eligible for election as Shop Steward for such workplace;

10.1.1.2 The number and distribution of shop Stewards shall be in accordance with the nature of their employment and the Regional Executive Committee having jurisdiction shall decide such numbers and distribution after consultation with the membership at each workplace;

10.1.1.3 An official or a member of the Regional Executive Committee of the Union shall be present at the meeting convened in each workplace and or ward for the purpose of electing a Shop Steward;

10.1.2 The nomination of members as Shop Stewards shall take place at a meeting of the members of the workplace or ward, who shall be given at least seven (7) days' notice thereof.

10.1.3 All nominations shall be duly proposed and seconded by such members;

10.1.4 Written notice of such meetings may be posted on the notice board of the relevant office of the Union at least three (3) days prior to such meeting, but no election shall be invalidated solely by the non-receipt of any such notice by any ballot only;

10.1.5 In the event of only one (1) person duly nominated, he/she shall be declared to be duly elected;

10.1.6 Voting for the election of Shop Stewards in each workplace or ward shall be by ballot only and in the event of only one (1) person duly nominated, she/he shall be declared to be duly elected;

10.1.7 Shop Stewards duly elected at each workplace and or ward respectively shall assume and hold office for a period of three (3) years as from the date of their election and shall exercise the rights and discharge the duties assigned to them in this Constitution. They shall be eligible for re-election.

10.1.8 The work place or ward shop stewards duly elected shall form a Ward Shop Steward Committee, the Office Bearers of which shall be the Chairperson, Vice Chairperson and the Secretary.

10.1.9 The above-mentioned Office Bearers shall be the members of the Regional Executive Committee.

## **10.2 VACATING OFFICE**

Shop Stewards shall vacate their position in any one of the following circumstances:

10.2.1 on voluntary emigration out of Region South African borders;

10.2.2 on failing to attend three (3) consecutive meetings of the Regional Shop Stewards Congress without forwarding a reasonable excuse;

10.2.3 on ceasing to be in good standing;

10.2.4 on resignation, suspension or expulsion from membership of the Union or being unable to perform her/his duties as set out in Clause 10.4 hereunder;

10.2.5 on the receipt by the Regional Secretary of a petition requesting such Shop Steward to vacate his/her position signed by members from the workplace and or section of the workplace concerned as the case may be;

10.2.6 on resigning on a month's written notice to the Regional Secretary.

### **10.3 FILLING OF VACANCIES**

10.3.1 Any vacancies occurring in the office of a Shop Steward shall be filled by the members employed in the workplace in which such vacancy has occurred by an election held as herein before provided.

10.3.2 A member so elected to fill such vacancy shall hold office for the unexpired portion of her/his predecessor's period of office.

10.3.3 Any member who has vacated office in terms of 10.2 above shall not be eligible for re-election in the consequent by election.

### **10.4 DUTIES OF SHOP STEWARDS**

10.4.1 To establish and maintain good relations between employees and their employers as far as possible.

10.4.2 To maintain order, discipline and harmony amongst the members in the workplace and community.

10.4.3 To try and settle disputes in their workplace by conciliatory methods provided that the Shop Stewards or the Shop Stewards Committee are not authorised to conclude collective agreements binding the Union, nor shall the Shop Stewards or the Shop Stewards Committee be empowered to call an industrial action and or a strike in the establishment.

10.4.4 To report regularly to the Regional Executive Committee any disputes or grievances of their members.

10.4.5 To ensure that industrial agreements, wage determinations and other industrial legislation are observed by members and their employers.

10.4.6 To consult with stakeholders on all matters affecting the interest of members.

10.4.7 To collect contributions and other monies due to the Union where such may be necessary and where they have been specifically authorised by the Regional Executive Committee.

10.4.8 To report the interests of their members at all Union meetings and to report back to members.

10.4.9 To convey decisions of the Union to members.

10.4.10 To act as a liaison between the members and the Union.

10.4.11 To take up all legitimate complaints and grievances of members with stakeholders in their communities.

10.4.12 To assist in enrolling new members into the Union.



10.4.13 To perform such other functions as set out in this Constitution or provided for in terms of any collective agreement concluded with their stakeholders.

## **11. REGIONS**

11.1 In any area where the National Congress or National Executive Committee finds it practicable having regard to the manner in which the Region functions, such National Congress or National Executive Committee may by resolution decide such area shall form a Region of the Union.

11.2 As soon as practicable after any decision as contemplated in sub clause 11.1 above, the following Regional structures shall be established:

11.3 A Regional Executive Committee composed of the Regional Office Bearers and the Ward Office Bearers three (3) Shop Stewards mentioned in Clause 10 above;

11.4 A Regional Congress of delegates composed of delegates elected by the Workplace Shop Stewards Committee concerned on the basis of one (1) delegate per workplace of less than 50 members and an additional delegate for every seventy (70) members in the workplace references to Regional Office-Bearers shall be taken to Regional Office Bearers who shall be elected by ballot at a Regional Congress from among the delegates, as per the procedure in clause 11.5;

11.5 The quorum of the Regional Congress shall be half the total number of the delegates who are entitled to be present. If within sixty (60) minutes of time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to the same day in the following week, at the same time and place, and at such adjourned meeting those present shall form a quorum. Not less than three (3) days' notice of such adjourned meeting shall be given to all workplaces within the branch.

11.6 The Regional Congress shall be held annually

11.7 The Regional Executive Committee shall meet every two (2) months.

### **11.8 THE POWERS AND DUTIES OF THE REGIONS**

Subject to the limitations imposed in terms of this Constitution, the Regional Executive Committee shall in its area of jurisdiction have power:

11.8.1 to deal with disputes between members and their employers and to endeavour to settle disputes by conciliatory methods provided the Regional Executive Committee is not empowered to conclude collective agreements binding the Trade Union nor shall it be empowered to call any industrial action and or a strike;

11.8.2 to recommend to the National Executive Committee that any official of the Region be dismissed or engaged and to define their duties and conditions of

employment subject to any decisions made by the national structures of the Union;

11.8.3 to appoint from time to time such sub-committees as it may deem fit for the purpose of investigating and reporting any matter referred to them by the Regional Executive Committee;

11.8.4 to suspend any shop Steward of the Region for cause appearing sufficient to a majority of the Regional Executive Committee;

11.8.5 to do such other lawful things as in the opinion of the Regional Executive Committee; appear to be in the interests of the Region or its members and which are not inconsistent with the objects set out in this Constitution or any matter specifically provided for in the Constitution;

11.8.6 to call regular meetings of the Regional Shop Stewards Congress and to prepare the notice and agenda thereof;

11.9 Notwithstanding anything to the contrary contained elsewhere in the Constitution, the Regional Executive Committee shall at all times be subject to the general direction and control of the National Executive Committee and in respect of all the matters over which the Union as a whole has an interest shall further be subject to the review, amendment, reversal or confirmation by the said National Executive Committee;

11.10 In a Region the Regional Executive Committee shall further have power to open and operate a bank account in the name of the Region.

## **12. NATIONAL CONGRESS**

### **12.1 COMPOSITION**

The National Congress of the Union shall be composed of one (1) delegate for every fifty (50) members in good standing and the National Office-Bearers of the Union who shall also be delegates.

### **12.2 MEETINGS**

12.2.1 The Congress of delegates shall ordinarily be held once every three (3) years and shall be called by the National Executive Committee.

12.2.2 The National Executive Committee shall determine the number of delegates to which each Region is entitled to; in terms of Clause 12.1 and shall cause each to be notified of the date and venue of the Congress of delegates and number of delegates to which it is entitled at least sixty (60) days prior to the meeting.

12.3.3 An extra –ordinary meeting of the National Congress may be called by the National Executive Committee or 2/3 Regions, the delegates of which National Congress shall be as determined by the National Executive Committee for the previous ordinary National Congress.

12.3.4 A Quorum for National Congress shall be two thirds ( $\frac{2}{3}$ ) of all delegates entitled to be present.

### **12.3 RESOLUTIONS**

Only the following resolutions may be considered at Congress of Delegates.

12.3.1 Resolutions from all constitutional structures of the union which have been circulated in writing to all Regions and the Head Office at least twenty one (21) calendar days prior to the National Congress.

12.3.2 Resolutions on topics which have arisen too recently to give notice as in Clause 12.3.1 and which are agreed to by Congress of delegates to be debated.

12.3.3 Any motion of confidence or no confidence in any Office-Bearer or official of the Union. All resolutions require a simple majority except resolutions under Clause 23, 24 and 25 of this Constitution.

### **12.4 POWERS AND DUTIES**

12.4.1 The Congress of delegates shall be the highest policy making body of the Union and its decision shall overrule any decision to the contrary any other body of the Union.

12.4.2 Further it shall be the duty of the National Congress to decide on the Union's affiliation or disaffiliation from any Trade union Federation.

12.4.3 The National Congress shall every fourth year elect by secret ballot the National Office-Bearers who shall be the President, the Deputy President, the National Treasurer, the General Secretary and the Deputy General Secretary of the Union from Congress and from nominations duly seconded by delegates to the National Congress.

12.4.4 The Launching National Congress shall have only four Regions recognised in taking into account the geographical spread of the country and the concentration of the membership.

12.4.5 The National Congress shall be entitled to bestow the title "life honorary member" on any person who in the opinion of the National Congress deserves such title by virtue of their long membership of or extra-ordinary service to the union.

12.4.6 A life honorary member shall not pay membership fees nor have any voting rights in the Union's structures and shall not be taken into consideration when determining the Union's representative position unless he/she is still employed in the interests set forth in Clause 7.

## **12.5 ELECTION OF NATIONAL OFFICE-BEAREARS**

The National congress shall elect its National Office Bearers.

12.5.1 Each National Congress delegate present, will have one (1) vote for each post. After the votes are cast the scrutinisers shall determine whether any candidate obtained an absolute majority. If so, such candidates shall be declared duly elected. If not, further rounds of secret balloting shall be held but in each round the names of those nominees who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, shall be eliminated from the following round of the ballot. The results of each round of balloting shall be disclosed to the Congress before the following round is commenced.

12.5.2 Office-Bearers shall be elected in the following order:

**President**  
**Deputy President**  
**National Treasurer**  
**General Secretary**  
**Deputy Secretary**

12.5.3 If more than two (2) candidates are nominated for the position of General Secretary, Deputy General Secretary, the same procedure mutatis mutandis as set out in Clause 11.5.1 above shall apply. Nominations for the post shall be closed on reconvening after the lunch-break on the first day for the National Congress of delegates and the names of nominees disclosed to the meeting. If there is only one (1) nominee for each position, such person shall be declared duly elected.

12.5.4 The newly elected National Office-Bearers shall take office from the closure of the Congress of delegates at which they are elected.

## **13. THE NATIONAL EXECUTIVE COMMITTEE**

### **13.1 COMPOSITION**

13.1.1 Between meetings of the National Congress management of the affairs of the Union as a whole shall be vested in a National Executive Committee which shall consist of the President, Deputy President, National Treasurer, General Secretary, Deputy General Secretary and a minimum of four (4) delegates from each Region; who shall normally be the Regional Office Bearers.

## **13.2. ELECTIONS**

13.2.1 Each Regional Executive Committee shall elect by ballot from among its members. National Executive Committee delegates the first and second alternate, who may attend meetings only in the absence of delegates.

13.2.2 Such an election shall take place at the meeting of the Regional Executive Committee held during the period of ninety (90) days to thirty (30) days prior to the National Congress and Head Office shall forthwith be advised in writing of the names of delegates.

13.2.3 No vacancy of delegates shall arise by virtue of a delegate being elected as a National Office-Bearer.

13.2.4 Delegates and alternates shall hold office for two (3) years and thereafter until the next election which shall be as soon as possible thereafter and they shall be eligible for re-election on termination of their period of office.

13.2.5 Vacancies of Office-Bearers of the National Executive Committee shall be filled by the election of acting Office-Bearers of the National Executive Committee from among its members.

13.2.6 A member appointed to fill any such vacancies as contemplated in Clause 13.2.4 and 13.2.5 shall hold office for the unexpired portion of the period of office of his/her predecessor.

### **13.3 A member of the National Executive Committee shall vacate her/his seat in any of the following circumstances:**

13.3.1 on resignation, suspension or expulsion from membership of the Union;

13.3.2 on absenting himself/herself without the permission of the National Executive Committee from three (3) consecutive meetings of the National Executive Committee;

13.3.3 on resignation from the National Executive Committee by giving one (1) month's written notice to the General Secretary;

13.3.4 on ceasing to be a member in good standing;

13.3.5 on ceasing to be a member of the Regional Executive Committee;

### **13.4 The President, Deputy Presidents and National Treasurer of the National Executive Committee shall vacate office:**

13.4.1 if she/he ceases to be a shop Steward;

13.4.2 on resignation by giving one (1) month's written notice to the general Secretary;

13.4.3 on majority resolution of the Congress of delegates in which event the Congress of delegates shall elect his/her successor by ballot as set out in Clause 12.5 which ballot shall be a by-election;

13.4.4 In consequence of a ballot as contemplated in sub - Clause 12.5.1. here under in which event she/he shall not be eligible for re-election in any consequent by-election. Save in respect of Clause 11. an Office-Bearer shall remain a delegate of the National Executive Committee.

#### **14 The National Executive Committee:**

14.1 The National Executive Committee shall ordinarily meet at least once every three (3) months on date to be fixed by the President. Such dates shall be fixed by the President in conjunction with the General Secretary insofar as this is possible. Special meetings of the National Executive Committee shall be called by the President whenever he/she deems it advisable or by a requisition signed by not less than eight (8) members of the National Executive Committee in which event the meeting shall be called within fourteen (14) days of the receipt of the requisition by the President.

14.2 Members of the National Executive Committee shall be notified in writing of the time and place of the meetings by the General Secretary at least fourteen (21) days before the dates of such meetings provided that shorter notice being not less than thirty six (36) hours notice may in the discretion of the President be given in respect of extraordinary meetings. To every notice of a meeting an agenda shall be attached.

14.3 Unless otherwise provided herein all matters for consideration by the National Executive Committee shall be decided on motion duly seconded and voted by a show of hands. All decisions of the National Executive Committee shall be taken insofar as is possible by consensus failing which by two-thirds ( $\frac{2}{3}$ ) majority vote.

14.4 The quorum for meetings of the National Executive Committee shall be two-thirds ( $\frac{2}{3}$ ) of the delegates or their alternates. If within ninety (90) minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to the same time and place one week later when those present shall be deemed to form a quorum. The General Secretary shall give further notice of the resumed meeting to all members of the National Executive Committee provided non-receipt thereof by any delegate shall not invalidate the resumed meeting.

14.5 Subject to the provisions of this Constitution, the National Executive Committee shall have power.

14.5.1 to engage and dismiss any employee of the Union including the General Secretary to fix their remuneration and to define their duties;

14.5.2 to appoint from time to time such sub-committees as it may deem fit for the purpose of investigating and reporting on any matter which includes forming a Finance committee to monitor expenditure, budgets and review/investigate issues concerning finance with the purpose of recommending changes to the National Executive Coordinating Committee.

14.5.3 to review the decisions of all Regional structures and general meetings and to confirm, amend or reverse such decisions;

14.5.4 to institute or defend legal proceedings by or against the Union on individual members or on behalf of individual members in relation to their employment in furtherance of any of the objects set out in Clause 5 provided same is not inconsistent with any matter specifically provided for in this Constitution;

14.5.5 to acquire by purchase, lease or otherwise any movable or immovable property and hold same on behalf of the Union and to sell, let, mortgaged or otherwise deal with or dispose of any immovable or movable belongings of the Union, provided that no immovable property shall be acquired or sold nor shall be mortgaged, let or leased for a period of longer than five (5) years unless four (4) weeks notice of intention to do so has been given to each Region of the Union.

14.5.6 to provide legal assistance to members in relation to their employment or in furtherance of any of the objects set out in Clause 5 provided same is not inconsistent with any matter specifically provided for in this constitution;

14.5.7 to open and operate a national banking account in the name of the Union;

14.5.8 to establish or close down a Region in any area and to define the areas of jurisdiction of Regions;

14.5.9 to suspend any Regional Executive Committee for action contrary to the terms of this Constitution or to instructions issued by the National Executive Committee or National Congress and to take over management of the affairs of such a Region until another Regional structure is appointed;

14.5.10 to deputise one or more of its members or officials of the Union to investigate the affairs of any Region at any time without assigning reasons therefore, and such persons shall have access to all the records of the Region and have power to take them into custody;

14.5.11 to convene National Congress of the Union and to make the necessary arrangements therefore;

14.5.12 to bestow the title of “honorary member” on any person who, by length of membership or extra-ordinary service to the Union, deserved such title in the opinion of the National Executive Committee;

14.5.13 to authorise the conclusion of collective agreements and the institution of industrial action by the Union and its members;

14.5.14 to decide all matters of procedure on which this Constitution is silent;

14.5.15 to do such other things as may, in the opinion of the National Executive Committee appear to be in the interests of the Union and which are not consistent with the objects or any matter specifically provided for in this Constitution.

## **15. NATIONAL OFFICIALS AND OFFICE-BEARERS**

### **15.1. PRESIDENT**

In addition to such duties set out in this Constitution the President shall preside at all the meetings of the National Executive Committee, National Co-ordinating Committee and National Congress at which he/she is present, enforce observance of the Constitution of the Union, sign minutes of meetings after confirmation therefore, sign all cheques drawn on the National and Head Office banking accounts of the Union, generally exercise supervision of the affairs of the Union between meetings and such other duties as by usage and custom pertain to the office. She/He shall have deliberative vote and a casting vote in the event of an equality of voting.

### **15.2. DEPUTY –PRESIDENT**

The Deputy President shall perform such functions of the President as the President may, temporarily or permanently, be unable to perform.

### **15.3. NATIONAL TREASURER**

The National Treasurer and or the Deputy National Treasurer shall exercise supervision over the financial affairs of the Union and shall initial the account books each month. They shall have the right to inspect the Union's books at any time and shall normally present financial statements to meetings of the National Congress, National Executive Committee and National Co-ordinating Committee.

15.3.1 Ensure that an audit is done annually and presented to National Congress, National Executive Committee and National Co-ordinating Committee in accordance with the Labour Relations Act, No. 66 of 1995 as amended.

### **15.4. GENERAL SECRETARY**

15.4.1 The General Secretary of the Union shall be accountable to the National Executive Committee and his/her duties shall in addition to those mentioned elsewhere in the Constitution be:

15.4.2 to receive requests for meetings of the National Executive Committee, to issue notices of meetings, to conduct all head office correspondence of the Union,

15.4.3 to keep originals of letters received, copies of those dispatched and at each meeting of the National Executive Committee



15.4.4 to lay on the table such correspondence as has ensued since the previous meetings; attend all meetings, cause official receipts for all monies received by the national union to be issued,

15.4.5 to cause a quarterly financial report to meetings of the National Executive Committee to be prepared and presented and to perform such other duties as are imposed by the Constitution or as the National Executive Committee may direct.

15.4.6 She/he shall attend all meetings of the National Executive Committee and the National Coordinating Committee but shall have no voting powers at such meetings;

15.5 The General Secretary shall take all necessary steps to ensure that proper books of accounts of the Union are kept, to have such books audited and to prepare a consolidated annual balance sheet and statement of income and expenditure and to submit or make available such information to members;

15.6 The General Secretary shall in consultation with the President supervise employees of the Union generally between meetings of the National Executive Committee and National Co-ordinating Committee.

15.7 The General Secretary shall ensure that the provisions of the Act are complied with;

15.8 The General Secretary may resign on giving two (2) months' notice in writing to the National Executive Committee .He/She may be summarily discharged by the National Executive Committee for a serious neglect of duty or misconduct. In the event of the office becoming vacant the National Executive Committee shall appoint a new incumbent as acting General Secretary until the next National Congress at which an election for General Secretary will take place.

## **16. DEPUTY GENERAL SECRETARY**

The Deputy General Secretary shall be accountable to the National Executive Committee and her/his duties shall be defined by the NEC. Over and above these duties he/she shall be expected to perform such functions of the General Secretary as the General Secretary may temporarily or permanently be unable to perform.

## **17. NATIONAL COORDINATING COMMITTEE**

17.1 Between meetings of the National Executive Committee, the National Coordinating Committee comprised of National Office Bearers and one delegate from among National Executive Committee delegates from each Region established in terms of this Constitution shall form the National Coordinating Committee.

17.2 Subject to the provision of this Constitution the National Co-ordinating Committee shall have such powers as are set in Clause 14.5.2, 14.5.4, 14.5.5, 14.5.6, 14.5.9, 14.5.10, 14.5.15.

17.3 National Co-ordinating Committee shall meet at least once a month and minutes of its meetings shall be circulated to all Regions of the Union by the General Secretary.

17.4 The National Co-ordinating Committee shall operate the Head Office accounts of the Union. All cheques to the accounts shall be signed by the General Secretary and in his/her absence by Deputy General Secretary and countersigned by Treasurer and or one of the National Co-ordinating Committee members as alternative counter signature appointed for the purpose of by the National Coordinating Committee. The General Secretary shall cause monthly financial statement of income and expenditure in respect of the accounts.

## **18. The National Gender Committee**

18.1 There shall be a National Gender Committee which shall be accountable to the National Executive Committee in conduct of its affairs, tasked to:

18.1.1 create a Gender network at Regional and national level.

18.1.2 determine its agenda according to identified needs.

18.1.3 strive for representation and equal rights in Union structures and at the workplace.

18.2 The Gender Committee may co-opt Gender Specialists including those persons who may not be within the union, the number of whom shall not exceed of total number of the Gender Committee.

18.3 The Gender Committee shall advise the National Executive Committee on general matters of interest on occupational matters of members through acting within the framework and the spirit of the statutes.

## **19. FINANCES**

The funds of the organisation are made up of all monies received by means of affiliation fees, subscription fees, levies, donations, functions and by any other means within the framework of this constitution.

19.1 All periodic subscriptions shall be subject to the provisions of Clause 9 be remitted to the General Secretary and shall be deposited within two (2) working days of receipt at a bank decided on by the National Executive Committee. This bank account shall be called the National account of the Union.

19.2 All cheques of the National Account shall be signed by the President, National Treasurer and General Secretary.

19.3 Monthly allocations to Regions and the Head Office accounts shall be effected by telegraphic transfer on authorisation of all three (3) signatories to the National Account provided that in the event of the allocation being less than the amount of the float for such Regions/Provinces or the Head Office as the case may be as determined by two-

thirds ( $\frac{2}{3}$ ) majority vote of the National Executive Committee from time to time, the signatories to the Head Office account may authorise such transfer.

19. 4 In the event of any one or more signatories being unable to be a signatory to such cheques, the National Executive Committee may appoint such other signatories as it deems suitable provided that all cheques shall be signed by three (3) persons who shall be either the General Secretary, the Deputy General Secretary and/or delegates of the National Executive Committee.

## **20. HEAD OFFICE ACCOUNT**

20.1 The funds of the Head Office of the Union shall be received by the General Secretary on behalf of the Union who shall cause them to be deposited to its credit within two (2) working days of receipt at a bank decided upon by the National Executive Committee. The account shall be called the Head Office Account of the union.

20.2 All cheques of the Head Office account shall be signed by the signatories to that account as set out in sub Clause 19.2.

## **21 REGIONAL ACCOUNTS**

21.1 The Secretary of each Region of the Union shall cause the funds of the Branch, including Region fines and levies, to be collected, deposited within two (2) working days of receipt by the Region in a bank decided on by the Region Executive Committee concerned to the credit of an account in the name of the Region of the Union.

21.2 If any Region ceases to exist its assets and liabilities shall devolve upon the Union.

21.3 If any Regional Executive Committee desires the finances of the Region/Province to be administered by the National Executive Committee, the relevant Region may request such Committee to take over the financial administration of the Region Executive Committee as the case may be, if it deems it expedient, may accede to such request and shall thereupon assume full responsibility for such financial administration.

21.4 All cheques of the Region shall be signed by the Regional Chairperson, Regional Treasurer and Regional Secretary. In the event of any one or more signatories being unable or unwilling to be a signatory to such cheques the Regional Executive Committee may appoint such other signatories as it deems suitable provided that all cheques of the Regional are signed by three (3) persons who shall be either the Regional Secretary and or members of the Regional Executive Committee.

## **22 ALLOCATIONS**

22.1 National Executive Committee determine by two-thirds ( $\frac{2}{3}$ ) majority vote the size of floats for each Regional account, Regional Trust Account and the Head Office Account.

22.2 On receipt by the Head Office of the Region or Regional Financial statement approved by the Regional Executive Committee together with the relevant bank statements, vouchers, paid cheques and deposits slips, the general Secretary shall prepare an authorisation for the telegraphic transfer of such monies being not more than the float determined in Cause 19.3 above, as are required to replace the float of Regions from the National Account. The signatories to the Head Office account shall authorise such transfer

22.3 The Head Office float shall similarly be replaced after the approval of the monthly Head Office account statement being approved by the National Coordinating Committee or National Executive Committee.

## **23. BALLOTS**

### **23.1 CALLING OF BALLOTS**

In addition to matters in respect of which the taking of ballot of members of the Union is compulsory in terms of this Constitution or any law, a ballot on any specific question including the recall from office or reinstatement to office of any Office –Bearer or Official shall be taken in any of the following circumstances:

#### **23.1.1 NATIONAL BALLOT**

On resolution of the meeting of any National Structure or within thirty (30) days of any petition signed by more than sixty percent (60%) of the members in good standing being presented to the General Secretary.

#### **23.1.2. REGIONAL BALLOT.**

On resolution of the meeting of any National or Regional structure within thirty (30) days of any petition signed by not less than sixty percent (60%) of the members in good standing in the area of jurisdiction of the Region presented to the Regional Secretary.

## **24. DISSOLUTION**

24.1 Subject to Clause 24.2 bellow, the Union may be dissolved at any time by the resolution carried by two thirds (2/3) majority of the National Congress or National Executive Committee if for any reason the Union is unable to continue functioning provided that no such resolution shall be taken unless a ballot of members of the Union shall have been conducted and more than sixty percent (60%) of the members in good standing and participation so approve.

24.2 If a resolution for the dissolution of the Union has been passed as provided for in sub-clause 24.1. herein, the union shall be dissolved.

24.3 The last appointed President of the Union, or if he /she is not available, the available members of the last appointed National Executive Committee of the Union, shall forthwith transmit to the Industrial Court, a statement singed by her/him or them setting forth the resolution adopted or the reason for the Union inability to continue to function, as the case may be and the available members of the Union last appointed

National Executive Committee shall appoint a liquidator to carry out the winding-up. The liquidator shall not be a member of the Union, and shall be paid such fees as may be agreed between him /her and the said members of the Union's last appointed National Executive Committee.

24.4 The liquidator so appointed shall call upon the last Office Bearers and Officials of the Union to deliver to her/him the Union's books of account, showing the Union's assets and liabilities together with the register of the members showing for twelve (12) months prior to date on which the resolution for winding up was passed as from which the Union was unable to continue functioning, hereinafter referred to as the date of dissolution. The liquidator shall also call upon the said Office –Bearers and officials of the Union to hand to him /her all unexpended funds of the Union assets and the documents necessary in order to liquidate the assets of the Union.

24.5 The liquidator shall take the necessary steps to liquidate the debts of the Union from its unexpended funds and any other monies realised from any assets of the Union.

24.6 After the payments of all debts in accordance with Clause 24.5 the remaining funds, if any shall be disposed of by a decision of ballot of the Members of the Union who were in good standing as at the date of dissolution in one or more of the following ways:

24.6.1 By transfer of all or part of the assets to any other trade union or any named organisation of trade unions, or to be kept in trust until such time as another Trade Union is established embracing all or part of the area and scope of the one dissolved and open to all workers in such area and scope irrespective of race, colour, sex and or creed;

24.6.2 By transfer of all assets to any existing insurance, provident or any benefits fund established by or in the interests of the members of the Union;

24.6.3 By distribution among the members of the Union who are in good standing as at date of dissolution, the share to be awarded to each member to be in proportion to his/her years of membership;

24.7 The liability of members shall for the purpose of this section be limited to the amount of subscriptions due by them to the Union in terms of this Constitution as at the date of dissolution.

24.8 The dissolution clause herein is not intended to be contrary to the requirements and or the spirit of the Industrial Relations Act No. 66 of 1995 as amended.

## **25. AMENDMENTS**

25.1 The National Congress may repeal, amend or add to the provisions of this Constitution by resolution at a quorate meeting of the National Congress provided due notice of such resolution is given to all in terms of Clause 12 of the Constitution.

25.2 The National Executive Committee may subject to decisions of the National Congress under Clause 25.1. further repeal, amend or add to the provisions of this Constitution by resolution at any quorate meeting of the National Executive Committee carried by two third (2/3) majority provided that at least twenty one (21) days notice addressed to each Region and Regional Secretary has been circulated. If during this period not less than (2) Regions request that a ballot of all members be held on the proposed alteration such ballot shall be taken.

## **26. INTERPREATION OF THE CONSTITUTION**

The responsibility for the interpretation of the terms of this Constitution or any matter arising in connection therewith shall be vested in the National Executive Committee and its decision shall be final and binding.

Date adopted.....2015

Signed:

President.....

Secretary.....

Witness.....

Witness.....