



APSA Academic & Professional Staff Association

Labour is Entitled To Everything It Create

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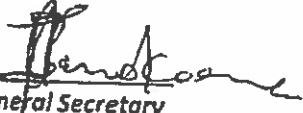
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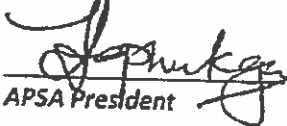
PRO – FORMA RESOLUTION AND CERTIFICATE

Resolution on the Name Change

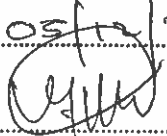
This is to certify that at an annual general meeting of APSA held on 10 February 2016 it was resolved to adopt the change of name to: **Academic and Professional Staff Association of the Universities of South Africa (APSA UNI – SA)**

It is further certified that all the provisions of the constitution relating to the adoption of the change of name has been complied with.


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APSA President

Date: 03/11/2016

I HEREBY CERTIFY IN TERMS OF SECTION 101 (3) (a) OF THE ACT THAT THE AMENDMENT TO / REPLACEMENT OF THE CONSTITUTION HAS BEEN REGISTERED ON:-	
DATE:	<u>03/12/2016</u>
	
REGISTRAR OF LABOUR RELATIONS	



APSA

Academic & Professional Staff Association

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Ref: APSA2016 / 03 / 1

PRO - FORMA RESOLUTION AND CERTIFICATE

Resolution on the Constitutional Replacement

This is to certify that at an annual general meeting of APSA held on 10 February 2016 it was resolved to adopt new constitutional replacement to: Academic and Professional Staff Association of the Universities of South Africa (APSA UNI - SA)

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

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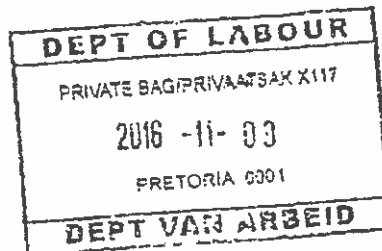
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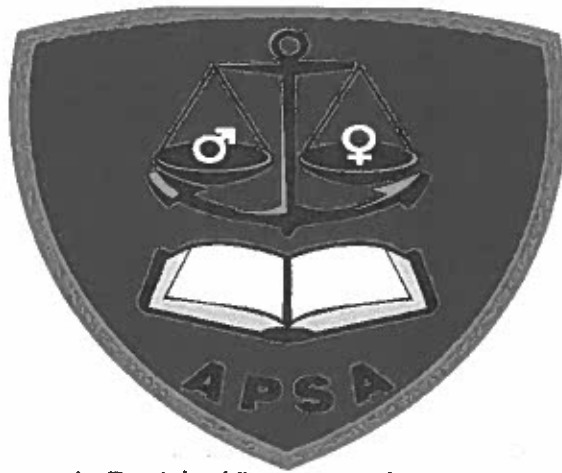
I HEREBY CERTIFY IN TERMS OF SECTION 101 (3) (a) OF THE ACT THAT THE AMENDMENT TO / REPLACEMENT OF THE CONSTITUTION HAS BEEN REGISTERED ON:-
DATE: 05/12/2016

REGISTRAR OF LABOUR RELATIONS

CONSTITUTION

of

the Academic and Professional Staff Association of the Universities of South Africa (APSA UNI-SA)



Labour Is Entitled To Everything It Creates

As amended at APSA UNI-SA National Congress
2016

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A. DEFINITIONS

PREAMBLE

We, the members of the Academic and Professional Staff Association of the Universities of South Africa (APSA UNI-SA), firmly commit ourselves to a united South Africa, free of oppression and economic exploitation.

We believe that this can only be achieved under the leadership of an organised and united working class. Our experience has taught us that to achieve this goal we must:

- (a) Fight and oppose discrimination in all its forms within the Union, the Higher Education Sector and related industries and in society;
- (b) Strive for maximum unity amongst organised Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors including the organised and every un-organised worker in our sector or attached to our sector and scope.
- (c) Ensure that all levels of our Union are democratically structured and controlled by the worker members themselves through elected worker committees;
- (d) Encourage democratic worker leadership and organisation in our working space and in all spheres of society;
- (e) Reinforce and encourage progressive international worker-to-worker contact so as to strengthen the worldwide society of workers.

We call on all workers that identify with these principles. We call on all workers to set aside any prejudices they may have and strive for unity under the guiding slogan of the international working class.

CHAPTER 1

1. CHARACTER OF THE UNION

1.1 NAME

The name of the Union is the ACADEMIC AND PROFESSIONAL STAFF ASSOCIATION OF UNIVERSITIES OF SOUTH AFRICA (APSA UNI-SA).

1.2 SCOPE

The scope of the Union is the Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors including the organised and every un-organised worker in our sector or attached to our sector and scope. The Central Committee may amend the scope from time to time.

1.3 LEGAL STATUS

The union shall be a corporate body having perpetual succession¹ and is an association not for gain.

1.4 LOCATION OF HEAD OFFICE

The head office of the Union is in Pretoria. The Central Committee may change the location of the head office.

1.5 AIMS AND OBJECTIVES

The aims and objectives of the Union shall be:

- (a) **Worker rights**
 - (i) To promote the interests of members in relation to employers;
 - (ii) To improve the wages and working conditions of all workers in the Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors including the organised and every un-organised worker in our sector or attached to our sector and scope;
 - (iii) To strike legally without fear of dismissal, to picket and to participate in secondary strikes and protest action, to promote or defend the socio-economic interests of workers²;
 - (iv) To fight against arbitrary and unfair dismissal of workers;
 - (v) To resist retrenchment and fight for full employment;
 - (vi) To fight for adequate social security from the state and from employers;
 - (vii) To enter into collective bargaining forums for the purpose of negotiating and entering into collective agreements with employers and associations of employers.
- (b) **Democracy**
 - (i) To support the spirit and principle of democracy in all the union's activities;
 - (ii) To build a strong and democratic organisation of workers at the workplace;
 - (iii) To build strong and active shop-steward structures to ensure democratic worker control;
 - (iv) To achieve full and effective participation by workers in all decision-making affecting them in the workplace;
 - (v) To end all forms of discrimination in employment;
- (c) **Solidarity**
 - (i) To unite all workers in the Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors within one Union;
 - (ii) To encourage within workers spirit of trade union unity;
 - (iii) To create one federation of trade unions to represent all workers in South Africa;
 - (iv) To join forces with any other trade union or labour organisation to further the interests of workers and to finance such action;
 - (v) To build solidarity between workers and unions in different countries;

¹ This means that the Union is a structure, which continues to exist despite the changes of membership. Members may come and go but the Union remains constant. The law gives the Union legal personality and calls it a juristic person. This allows the Union as a structure, rather than the individual members, to become involved in legal transactions.

² For further details see Chapter 4 of the Labour Relations Act, No. 66 of 1995.

(d) Human Resource Development

To fight for proper and accessible training to develop the skills and abilities of all workers.

(e) Safe Working Conditions

To struggle for safe and healthy working conditions.

(f) Financial Control

- (i) To raise funds in any lawful way which the Central Committee agrees to;
- (ii) To establish and administer funds for the benefit of members and their dependants;
- (iii) To buy, take on, lease, hire, or otherwise acquire or to sell, pledge or mortgage any movable or immovable property³.

(g) Legal Assistance

- (i) To provide legal assistance to members in matters relating to their employment and to institute legal proceedings on behalf of the union to defend or further the provisions of this constitution where the union deems this to be appropriate;
- (ii) To promote or oppose as the case may be, any laws or administrative measures that affect the interests of our members in particular and workers in general;
- (iii) To do any other lawful things which may further the interests of our members, the union and workers.

1.6 ORGANISATIONAL STRUCTURES

The union consists of the following structures:

(a) Local Level

- (i) Shop-stewards are elected by workers in a workplace.
- (ii) Shop-Steward Committees consists of all the shop-stewards in that workplace.
- (iii) Local Shop-stewards Council consists of all elected shop-stewards in a defined Local⁴.
- (iv) Local general meetings are attended by all members in a Local.

(b) Regional Level

- (i) A Regional Congress consists of regional office-bearers plus one delegate per hundred members in a Local.
- (ii) A Regional Executive Committee consists of the office-bearers of the Regional Congress⁵, the members of the Regional Finance Committee and four local office-bearers from each Local shop-stewards Council.

(c) National Level

- (i) The National Congress consists of National office-bearers⁶ and one shopsteward for every 20 members in a Local. The Central Committee shall decide which staff shall attend subject to Clause 6 (c)(iv)⁷ of the constitution.
- (ii) The Central Committee consists of National office-bearers, the Regional Chairperson, Deputy Regional, Chairperson, Treasurer, and Regional Secretary from each region of the union plus an additional regional official elected at each region's Regional Congress. Any Regional delegate may be replaced by any member of the REC.
- (iii) The National Executive Committee consists of the National Office-Bearers, members of the National Finance Committee and the Regional Chairperson, Treasurer and Regional Secretary from each region of the Union.

³ Moveable property refers to things, which have a money value and are capable of being moved. Examples of moveable property are furniture, cars, clothes etc. In contrast, immoveable property refers to things which have a money value but which are incapable of being moved for example land and building on land.

⁴ A "local" means a geographical area within a region. The Central Committee determines the boundaries of each local.

⁵ The Regional Office-bearers are: Regional Chairperson, Regional Vice-Chairperson, Regional Treasurer and Regional Secretary.

⁶ The National Office-Bearers are the President, First Vice-President, Second Vice President, National Treasurer, General Secretary and Deputy General Secretary.

⁷ Clause 6(c)(iv): the General Secretary, Regional Secretaries, Deputy General Secretary and staff who attend the National Congress shall have right to speak but not vote.

CHAPTER 2

2. MEMBERSHIP

2.1 RIGHTS AND OBLIGATIONS OF MEMBERS

- (a) Member's rights are as set out in the provisions of this constitution, and as determined by any lawful organ of the union from time to time.
- (b) Every member must observe the provisions of the constitution, and the lawful decisions of any body of the union, and must not act in a way, which is detrimental or prejudicial to the interests of the Union or its members.
- (c) Every member must inform the Local Secretary of changes to their residential, postal or work address within 14 days of such change. The member will still be bound by previous obligations of this constitution or any resolutions if that member fails to inform the Local Secretary of the change of address.

2.2 DIFFERENT CATEGORIES OF MEMBERSHIP

All workers who are or were working in Tertiary and Higher Education Sector, Research and Development sectors and/ or related industries and/or staff attached to the mentioned sectors are eligible for membership of the Union subject to the discretion of the relevant Shop-stewards Council decision. There are three kinds of membership:

- Active,
- Associate
- and Continuation.

	ACTIVE MEMBER	ASSOCIATE MEMBER	CONTINUATION MEMBER
(a) Definition	This membership is available for workers currently employed in the Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors.	This membership is available to workers with two years or more active membership and: *are no longer employed in the Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors. *are not in arrears with their subscriptions	This membership is available to workers with two years or more active or associate membership who have retired due to: *age or *illness
(b) Application procedure	The worker applies to the Local Secretary having jurisdiction ⁸ A Local office bearer may accept or refuse the application, for any valid reason.	The worker must apply in writing within 30 days of leaving the sector and or industry to the Regional Executive Committee having jurisdiction. The REC must consider the application at its first meeting following the receipt of application.	The worker must apply in writing to the National Finance Committee. The NFC must consider the application at its first meeting following receipt of application.
(c) Appeal procedure	If the application is refused the worker can appeal in writing within 30 days to the Local Shop-stewards Council whose decision is final. The worker can state his/her case personally and call witnesses in support of the appeal.	If the application is refused the worker can appeal in writing to the National Executive Committee whose decision is final. The worker can state his/her case personally and call witnesses.	If the application is refused the worker can appeal in writing to the National Executive Committee whose decision is final. The worker can state his/her case personally and call witnesses
(d) Subscription obligations	The member pay not more than 1% of their weekly or monthly wage.	The member does not have to pay subs. The member should continue to contribute to the benefit fund as they were contributing when they were active members.	This member does not have to pay subs. The NEC decides what, if any contributions this member should make to any of the benefit funds.
(e) Voting rights	This member has full voting rights	Not entitled to vote	Not entitled to vote
(f) Termination	By resignation, unemployment for whatever reason, expulsion and by becoming an employer (See clause 2(3) for details)	Same as active member, and associate membership comes to an end on re-employment in the Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors The worker becomes an active member once again.	On resignation, expulsion or death of the member.

⁸Jurisdiction in this context means the power and scope of that power of a particular branch of the Union such as a local to make decisions concerning membership in that local.

2.3 THE CONSEQUENCES OF TERMINATION OF MEMBERSHIP

2.3.1 By resignation

- (i) A member may resign by giving four weeks' notice in writing to the Local Secretary. A member must pay all money owing to the union before it will accept the resignation.
- (ii) After a member has resigned that member may not participate in the union's affairs. Nor may the member receive any benefits or funds provided by the union. Subscriptions or moneys paid by the member are not refundable.

2.3.2 By unemployment in the Sector or related industry

- (i) A member automatically loses active membership 13 weeks after becoming unemployed in the sector and or industry unless:
 1. That member is eligible for Associate or Continuation membership;
 2. That member has been granted exemption from payment of subscriptions in terms of Clause 3(4);
 3. That member is re-employed in the Tertiary and Higher Education Sector, Research and Development Sectors and/ or related industries and/or staff attached to the mentioned sectors within 13 weeks and resumes the payment of subscriptions as prescribed by this constitution;
 4. The union is in the process of disputing the dismissal of the member in which case the worker remains a member until the union has completed the dispute proceedings;or
 5. That member's employer who has refused or delayed compliance with a valid stop- order authorising the deduction of union subscriptions pays the union the full amount.

2.3.3 By expulsion

- (i) A member may be expelled in terms of Clause 2(4)⁹ of this constitution.
- (ii) After a Union has expelled a member, that member may not participate in the union's affairs. Nor may the member receive any benefits or funds provided by the union. Subscriptions or moneys paid by the member are not refundable.

2.3.4 By becoming an employer

A member who becomes an employer, immediately loses membership and benefits provided by the union.

2.4 DISCIPLINE OF MEMBERS

2.4.1 Disciplinary procedure and penalties

- (i) A committee having jurisdiction may suspend, fine or expel a member who:
 1. Fails to comply with any of the terms of this constitution;
 2. Fails to comply with any lawful decision of any organ of the union; or
 3. Acts in a manner which in the opinion of the committee having jurisdiction is detrimental or prejudicial to the interests of the union or its members.
- (ii) No member of the union may be disciplined or have their membership terminated for failure or refusal to participate in a strike if:
 1. No ballot was held about the strike;
 2. A ballot was held, but a majority of the members who voted did not vote in favour of the strike¹⁰.
- (iii) The Shop-Steward's Committee or Local shop-stewards Council having jurisdiction shall give a member at least two weeks' written notice of the time and place of the disciplinary hearing. The notice must contain details of the substance of the charges against the member.
- (iv) The committee or council must send the Regional Secretary concerned proof of delivery of the written notice.
- (v) The member should be present at the hearing, to make representations and to call witnesses.
- (vi) Once the committee or council is satisfied that the person charged has received the prescribed notice the disciplinary hearing may proceed, even though the person charged may be absent. If the committee or council is satisfied with the proof presented in relation to the charge they may:
 1. Impose a fine:
 - a. to be decided by the relevant structure;
 - b. May suspend a person from membership until such fine is paid. The union has the right to recover this money by way of civil proceedings.
 2. Suspend for a definite period from the union;

⁹ Chapter 8 discusses Union discipline and related procedures

3. Expel the member from the union.
- (vii) While a member is suspended, that member is no longer entitled to:
 1. The benefits of membership; and
 2. Vote in meetings.
- (viii) When a member is expelled all money that member owes the union becomes due and payable immediately.

2.4.2 Appeal procedure

- (i) A member can appeal to the Regional Executive Committee. The appeal must be lodged in writing within 14 days of notification of the decision which the member is appealing against.
- (ii) At any appeal a member should state his/her case personally and call witnesses.
- (iii) The Regional Executive Committee has the power to confirm, vary or reverse the decision of the council or committee. The decision of the Regional Executive Committee is final.

CHAPTER 3

3. SUBSCRIPTIONS

3.1 AMOUNT

Active members shall pay monthly subscriptions. This amount shall not be more than 1% of the member's weekly or monthly remuneration.

3.2 COLLECTION OF SUBSCRIPTIONS

Members must sign a stop-order form to pay their subscriptions unless the NEC allows for cash collection.

3.3 CHANGES TO THE AMOUNT

- (a) The Central Committee shall give at least 14 days' written notice to the Regional Executive Committees of any proposed change in subscriptions.
- (b) Within 14 days of receiving this notice, the REC must refer it to the Regional Congress for their consideration.
- (c) If within 30 days of receiving this notice, more than half the number of Regional Congresses require a ballot of members on this proposal, then a ballot must be held.

3.4 EXEMPTIONS FROM SUBSCRIPTIONS

- (a) A member who pays subscriptions monthly shall, on application and with the approval of the Regional Executive Committee concerned, be exempt from payment during any month that member is:
 - (i) Unemployed for 14 days or more;
 - (ii) Sick and unable to work for 14 days or more; or
 - (iii) Incapable for any reason which maybe approved by the Regional Executive Committee.
- (b) A member who pays subscriptions weekly shall, on application and with the approval of the Regional Executive Committee concerned, be exempt from payment for any week during which that member works less than two days.
- (c) With the approval of the Regional Executive Committee concerned, a member may be exempted from payment of subscriptions if that member's employer refuses to deduct subscriptions from his/her wages. In this event the member shall not be entitled to any social benefits provided by the union.

3.5 FAILURE TO PAY SUBSCRIPTIONS

Any member who fails to pay subscriptions for more than 13 weeks and who has not been granted exemption from such payment, shall not be:

- (a) Entitled to any benefits provided by the union; and
- (b) In goodstanding with the union.

3.6 LEVIES, FINES AND BENEFIT FUND CONTRIBUTIONS

In addition to subscriptions, all members shall also be liable to pay:

- (a) Contributions towards any benefit fund established by the union;
- (b) Any fines and levies imposed by the union in terms of this constitution.

CHAPTER 4

4. LOCAL STRUCTURE

4.1 SHOP-STEWARDS AT WORKPLACE LEVEL

(a) Purpose

Union members in a workplace can elect shop-stewards to represent them on a Shop-Steward Committee.

(b) Election procedure

- (i) The Regional Executive Committee consults with union members at the workplace to determine the number and distribution of shop-stewards.
- (ii) A notice of election of shop-stewards shall be given to all members eligible to participate in the election. This notice must be given three days before the election. An election cannot be invalidated only because a member has not received this notice.
- (iii) All nominations shall be duly proposed and seconded by such members. Voting shall be by a show of hands, except when more than 10% of members in good standing¹¹ request a ballot.
- (iv) Duly elected shop-stewards in any workplace must form a Shop-stewards Committee.

(c) Period of office

- (i) Shop-stewards shall hold office for four years, subject to any decision of the National Congress to extend this period of office.
- (ii) Elections shall be held as soon as possible after the expiry of the term of office of the shop-stewards.
- (iii) The Local Secretary is responsible for calling the election if there is a delay.

(d) Powers and duties

- (i) The Shop-stewards Committee will manage the affairs of the union inside their workplace.
- (ii) The Shop-stewards Committee shall have the following powers and duties, which are subject to the review of the Regional Congress and the Local Shop-stewards Council:
 1. To negotiate agreements with employers about working conditions mandated to do so by members in the workplace. Such agreements may only be concluded and signed after approval by:
 - a. Members concerned; and
 - b. The Regional Secretary;
 2. To maintain order and harmony amongst the members in their workplace;
 3. To recruit members;
 4. To settle disputes in their workplace;
 5. To report regularly to their Local Shop-stewards Council on any dispute or any grievances of members;
 6. To discuss decisions and policies of the union to members in their workplace;
 7. To take up all legitimate complaints of members;
 8. To call Factory General Meetings at least once per month.

(e) Meetings

- (i) The Shop-stewards Committee shall meet as regularly as possible and at least once a month. Any committee that has not met once in three months shall be deemed to be non-existent unless the Local Shop-stewards Council decides that there were extra ordinary reasons for not meeting.
- (ii) Notice of all Shop-Steward Committee meetings shall be given to all shop-stewards at least one hour before a Shop-Steward Committee meeting. No Shop-Steward Committee meeting shall be invalidated only because a Shop-Steward did not receive notice of the meeting.
- (iii) The Shop-Steward Committee shall, elect from its members a Chairperson, Vice-Chairperson and Secretary who shall hold office for four years. They are eligible for re-election after those four years.

¹¹ Members in good standing have paid their Union subscriptions up to date.

¹² A quorum is the least number of members necessary at a meeting before the decision that meeting takes are valid.

- (iv) The Chairperson shall chair all meetings of the Shop-stewards Committee, unless unavailable, then the Vice-Chairperson must chair.
- (v) The quorum²² at meetings of shop-stewards shall be one third of the total number of shop stewards in the workplace.
- (vi) All issues at Shop-Steward meetings shall be decided by a majority vote of members present raising their hands, unless the meeting decides to hold a ballot.
- (vii) Minutes of Shop-Steward Committee meetings shall be made available to the Local Secretary.

(f) Termination of office

- (i) Shop-stewards must leave their position in anyone or more of the following circumstances:
 1. If they do not attend three meetings in a row of the Shop-Steward Committee without sending a reasonable written excuse;
 2. If they are no longer in good standing with the union;
 3. If they are no longer employed in the workplace where they were elected;
 4. If they resign by giving a month's written notice to the Local Secretary;
 5. If they are suspended or expelled from membership of the union;
 6. If they are unable to perform their duties as set out in this constitution; or
 7. If the Local Shop-stewards Council receives a petition calling for the removal of the Shop-Steward from office. This petition must be signed by not less than 30% 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.
 8. An investigation must precede the removal and must be conducted by Local Office-Bearers.

(g) By-Elections

- (i) Within 30 days of a vacancy arising on any Shop-stewards Committee a by-election must be held. A Shop-Steward elected in a by-election shall hold office for the remainder of the previous Shop-Steward's term of office.
- (ii) A Shop-Steward shall not be eligible for re-election in the by-election if they:
 1. Are no longer employed at that workplace;
 2. Have not attended three meetings in a row of the Shop-Steward Committee without sending a reasonable written excuse;
 3. Have resigned;
 4. Have been suspended;
 5. Have received a petition to resign signed by more than 30% of the members they represent as contained in Clause 4(f)7; or
 6. Have been expelled.
- (iii) Any Shop-Steward who has vacated their position by virtue of Clause 4(1)(f)(i)2,3 and 4 shall be eligible for re-election in a by-election if, at the time nominations for the by-election closes, they:
 1. Are re-employed in the establishment in which they were elected;
 2. Are in good standing; or
 3. Have withdrawn their resignation.

4.2 SHOP-STEWARDS AT LOCAL LEVEL

(a) Local Shop-stewards Council

- (i) **Purpose**
The Local Shop-stewards Council promotes the interests of the union and members within the jurisdiction of the Local Shop-stewards Council.
- (ii) **Composition**
Local Shop-Steward Councils shall be composed of all the shop-stewards from every Shop-Steward Committee within the jurisdiction of such Local Shop-Steward Council.
- (iii) **Election of Office-Bearers**
The Local Shop-Steward Council shall elect from amongst its members Local Office-Bearers.

These shall be a Chairperson, Deputy Chairperson, Secretary and Deputy Secretary. These four shall be the Local's representatives at the Regional Executive Committee.

(iv) **Duties of Local Chairperson and Deputy Chairperson**

The duties of the Local Chairperson and the Deputy Chairperson areas per the duties of the President and Vice-Presidents' as per Chapter 7 (1)(a)(iv).

(v) **Powers and duties of Local Secretary**

The Local Secretary shall have the following powers and duties:

1. Receipt of applications for membership, resignations and changes of addresses directed to the Local Shop-Steward Council.
2. Ensure proper administration and coordination of the union in a defined locality.
3. Provide full reports to each Local Shop-Steward Council and Local General Meeting on the activities of the Local.
4. Deal with all Local correspondence and send reports to the Regional Executive Committee as required by Chapter 4(2)(a)(v)(5).
5. Receive minutes from Shop-Steward Committees in the Local's jurisdiction.
6. Keep a register of all APSA UNI-SA organised companies in a Local.
7. Perform such other duties as required by this constitution, the Local Shop-Steward Council, Regional Executive Committee, the National Executive Committee and the Central Committee.

(viiv) **Period of office**

1. The Office-Bearers shall hold office for at least four years and until the next election.
2. The next election shall be held as soon as possible after the expiry of their term of office.
3. If the Local Shop-Steward Council does not call the election, the Regional Executive Committee shall call the election within six months.
4. The Local Office-Bearers and Secretary shall be eligible for re-election on the expiry of their terms of office.

(vii) **Powers and duties**

Local Shop-Steward Councils shall have the following powers and duties within their areas of jurisdiction:

1. To deal with disputes between members and employers;
2. To review and co-ordinate Local Shop-Steward Committee activities;
3. To review decisions of the Shop-stewards Committees and to confirm, alter or reverse such decisions;
4. To provide assistance to members in relation to:
 - a. Their employment;and
 - b. The objectives and policies of the union.

If the assistance requires expenditure by the Union the Regional Executive Committee must first approve the expense.
5. To submit regular reports to the Regional Executive Committee on all activities of the Local Shop-Steward Council and the Shop-Steward Committees falling within its area of jurisdiction;
6. To elect delegates to the Regional Congress once every four years in accordance with the provisions of Clause 5(2)(b).
7. Implement policies and decisions taken by the Regional and National structures of the union.

(viii) **Meetings**

The Local shop-stewards Council shall meet regularly, but at least once every month. The Chairperson shall preside over the Local Shop-stewards Council. If the Chairperson is unavailable, then the Vice-Chairperson or a person elected by a simple majority vote in the Local Shop-Steward Council shall preside over the meeting.

(b) **Local General Meetings**

(i) **Purpose**

Shop-stewards shall report on the union's activities to members attending the Local general meetings.

(ii) Meetings

The Local office-bearers shall convene Local General Meetings of all members employed in each Local, at least once every three months.

(iii) Composition

All members are entitled to attend. The quorum for such meetings shall be 30% of the members employed in that Local.

(iv) Powers and duties

1. Shop-stewards are bound by each decision supported by a majority vote of a Local General Meeting unless that decision:
 - a. is over-ruled by the Central Committee, a Regional Congress or a Regional Executive Committee; or
 - b. conflicts with a decision of the Central Committee or National Congress.

CHAPTER 5

5. REGIONAL STRUCTURE

5.1 GENERAL

The Central Committee shall determine the number and boundaries of regions.

5.2 REGIONAL CONGRESS

(a) Purpose

- (i) The Regional Congress shall control the affairs of the union in a region, subject to the general control and direction of the:
 1. Central Committee; and
 2. National Congress.

(b) Delegates

Local Shop-stewards Councils shall elect their delegates to the Regional Congress from amongst their members. There shall be one delegate for every one hundred members employed within the jurisdiction of each Local.

(c) Powers and Duties

The following are the powers and duties of Regional Congress:

- (i) All the powers of the Regional Executive Committee;
- (ii) To decide on all matters affecting the region subject to the direction of:
 1. The National Congress; and
 2. The Central Committee;
- (iii) To establish Local Shop-stewards Councils and define their areas of jurisdiction;
- (iv) To review decisions and activities:
 1. Of Local Shop-stewards Councils;
 2. Of Regional Executive Committees; and
 3. To confirm, alter or reverse such decisions;
- (v) To consider reports:
 1. From the Central Committee;
 2. From the National Executive Committee; and
 3. To ensure the implementation of decisions and resolutions of those bodies;
- (vi) To elect Regional Representatives to the Central Committee
- (vii) To suspend a Regional Executive Committee for neglect of duty and conduct contrary to or in conflict with:
 1. The constitution;

- 2. Decisions of the National Congress;
- 3. Decisions of the Central Committee; or
- 4. Decisions of Regional Congress;
- (viii) To do any other things which promote the interests of the union and agree with:
 - 1. The objectives and policies of the union; and
 - 2. This constitution;
- (ix) To elect a new Regional Executive Committee.

(d) **Elections of Regional Office - Bearers and Regional Secretary**

- (i) The Regional Congress shall elect from amongst its members:
 - 1. a Chairperson;
 - 2. Vice-Chairperson; and
 - 3. Regional Treasurer.
- (ii) Among its members and staff the Regional Congress shall also elect a Regional Secretary who shall be a full-time official of the union.
- (iii) These members, together with the Regional Secretary, shall serve as Office-Bearers of the region.
- (iv) If an election for these positions is not held, the Central Committee shall call an election within six months of the end of the term of office of the Regional Congress.

5.3 REGIONAL EXECUTIVE COMMITTEE

(a) **Purpose**

The Regional Executive Committee shall administer the affairs of the Union.

(b) **Composition**

A Regional Executive Committee shall consist of:

- (i) The office-bearers of the Regional Congress;
- (ii) Four local Office-Bearers from each Local Shop-Steward Council in the region; and
- (iii) The members of the Regional Finance Committee.

(c) **Period of office**

A Regional Executive Committee shall hold office for four years and its members shall be eligible for re- election.

(d) **Meetings**

Regional Executive Committees shall meet at least once every two months.

(e) **Powers and Duties**

A Regional Executive Committee shall have the following powers and duties:

- (i) To employ persons in the region subject to the approval of the Central Committee;
- (ii) To appoint sub-committees to investigate and report on any matter referred to it;
- (iii) Review decisions and activities of Local Shop-Steward Councils and to confirm, alter or reverse such decisions;
- (iv) Deal with disputes referred from Local Shop-Steward Councils between members and their employers and attempt to settle such disputes by conciliatory methods possible;
- (v) Suspend any Shop-Steward or Shop-Steward Committee on sufficient cause shown and take over the management of their affairs until another Shop-Steward or committee is elected;
- (vi) Where it deems it appropriate:
 - 1. To institute or defend legal proceedings by or against the Union; and
 - 2. To institute or defend legal proceedings on behalf of individual members or against individual members.
- (vii) To do all lawful things which in the opinion of the Regional Executive Committee promote the interests of the union and its members and agree with:
 - 1. The objectives of the union;
 - 2. This constitution;
 - 3. The policies of the National Congress; and
 - 4. The policies of the Central Committee;

- (viii) Submit copies of the minutes of their meetings to the General Secretary.
- (x) In the event that the position of a Regional Office Bearer or Regional Secretary becomes vacant, to elect a person to act in that position until the following Regional Congress. The Regional Executive Committee should endeavour to fill the position within three months of it becoming vacant.

5.4 REGIONAL FINANCE COMMITTEE

- (a) A Regional Congress shall elect from their number three members, who reside in their respective regions and who shall form the Region's Finance Committee, together with the Regional Treasurer.
- (b) The Regional Finance Committee shall have the following powers and duties:
 - (i) To scrutinise the region's financial records and report to the Regional Executive Committee;
 - (ii) To meet not less than once a month with the Regional Office-Bearers to approve the payment of regional accounts against budgets approved by the Central Committee;
 - (iii) To scrutinise monthly financial statements which have been prepared by the Regional Secretary, and then send these accounts to the Regional Executive Committee;
 - (iv) Generally exercise supervision over the financial affairs of the region and perform such other duties as by usage and custom pertain to the office.
 - (v) The RFC must scrutinise finance and approve signatories of cheques which will be the RS, Treasurer and one RFC member.

CHAPTER 6

6. NATIONAL STRUCTURE

6.1 NATIONAL CONGRESS

- (a) **Purpose**

The National Congress is the supreme governing body of the union.
- (b) **Convening the National Congress**
 - (i) The Central Committee shall convene the National Congress at least once every four years at a place of their choice.
 - (ii) The Central Committee shall give at least six months' written notice of the date and venue of the Congress to every Regional Executive Committee of the Union.
 - (iii) The Central Committee may convene a Special National Congress if and when it is considered necessary.
 - (iv) The Central Committee shall give one month's written notice to every Regional Executive Committee.
 - (v) The President shall preside at the National Congress. If the President is unavailable, then the First or Second Vice-President, or if the First or Second Vice-President is unavailable the National Treasurer, or if the National Treasurer is unavailable, a person appointed by the Central Committee shall preside at any National Congress.
- (c) **Delegates and attendance**
 - (i) For a National Congress, each Local may elect one Shop-Steward per 300 members, as a delegate for their region at the Congress.
 - (ii) The accreditation of delegates will be determined by a Credentials Committee appointed by the Central Committee.
 - (iii) Only delegates accredited by the Credentials Committee shall be entitled to vote at a National Congress.
 - (iv) The General Secretary, Deputy General Secretary and Regional Secretaries shall attend the National Congress. The Central Committee shall decide which other staff shall attend the National Congress. They shall have the right to speak but not to vote.
- (d) **Powers and duties**

The powers and duties of the National Congress shall be:

 - (i) To make policy for the union;
 - (ii) To decide on resolutions submitted to the Congress by the regions and the Central Committee;
 - (iii) To consider and decide on reports presented to the Congress;
 - (iv) To review and decide on the financial position and progress of the union;
 - (v) To nominate and elect:
 1. The President;

2. The First Vice-President;
 3. The Second Vice-President;
 4. The National Treasurer;
 5. The General Secretary of the union; and
 6. The Deputy General Secretary;
- (vi) To amend the constitution; and
- (vii) To deal with any other matter which merits the attention of the Congress.

(e) **Minutes**

The minutes of every National Congress must be sent to each region within three months of the last day of the Congress.

6.2 CENTRAL COMMITTEE

(a) **Purpose**

- (i) The Central Committee is responsible for the management of the union.
- (ii) The Central Committee shall manage the affairs of the union according to:
 1. This constitution; and
 2. The rules and policies of the union agreed to at National Congress.

(b) **Composition**

- (i) The Central Committee shall consist of:
 1. The National Office-Bearers¹³; and
 2. The Regional Chairperson, Deputy Regional Chairperson, Treasurer, and Regional Secretary from each region of the union plus an additional regional worker delegate elected at each region's Regional Congress. Any Regional delegate may be replaced by any member of the REC.

(c) **Period of Office**

- (i) Representatives shall serve for a four-year period and there after until the next election.
- (ii) They shall be eligible for re-election.

(d) **Powers and duties**

The Central Committee shall, subject to the provisions of this constitution and in addition to any other functions prescribed here, have the power to:

- (i) Appoint sub-committees to investigate and report on matters referred to it by the National Congress;
- (ii) Review decisions of the Regional Congress and to confirm, amend or reverse such decisions;
- (iii) Establish or close down regions and to define their areas of jurisdiction;
- (iv) Take over the management of the affairs of any region where a Regional Executive Committee has been suspended until such time as another Regional Committee has been constitutionally elected;
- (v) Employ and dismiss any employee of the Union;
- (vi) Determine the remuneration and terms and conditions of employment of every employee of the union;
- (vii) Approve and/or amend a disciplinary code and procedure for all employees of the union;
- (viii) where it deems appropriate:
 1. Institute or defend legal proceedings by or against the Union;
 2. Institute or defend legal proceedings on behalf of individual members or against individual members;
- (ix) Open and operate banking accounts in the name of the Union;
- (x) Acquire by purchase, lease or otherwise any movable property on behalf of the Union;
- (xi) Sell, lease, mortgage, donate or otherwise dispose of any movable or immovable property belonging to the union;
- (xii) Bind the union by suretyship only insofar as it is necessary to enable staff of the Union to purchase motor vehicles for the proper performance of their duties;
- (xiii) Approve or reject the annual audited accounts and balance sheet of the union;
- (xiv) Amend the annexures to this constitution;
- (xv) Delegate any of its duties or powers to the National Executive Committee; and

¹³ The National Office-Bearers are the President, First Vice-President, Second Vice-President, National Treasurer, General Secretary and Deputy General Secretary.

- (xvi) Do all lawful things which in the opinion of the Central Committee promote the interests of the Union and agree with the objectives and policies of the union and this constitution.
- (xvii) In the event that the position of a National office - bearer becomes vacant, to elect a person to act in that position, until the following National Congress. The Central Committee should endeavour to fill the vacant position within three months of it becoming vacant.

(e) **Meetings**

- (i) The President shall preside over the Central Committee. If the President is unavailable, then the First or Second Vice-President, or if the First or Second Vice-President is unavailable, a person elected by a simple majority vote from the remaining ranks of the Central Committee shall preside over the Central Committee.
- (ii) The Central Committee shall meet at least once every six months.

6.3 NATIONAL EXECUTIVE COMMITTEE

(a) **Purpose**

The National Executive Committee will manage the affairs of the Union between meetings of the Central Committee¹⁴.

(b) **Composition**

The NEC consists of the:

- (i) National Office-Bearers¹⁵;
- (ii) the Chairpersons and Treasurers of each Regional Executive Committee;
- (iii) the National Finance Committee; and
- (iv) Regional Secretary from each region of the union.

(c) **Powers and duties**

The National Executive Committee shall have the following powers and duties:

- (i) Execute all decisions of the Central Committee and National Congress;
- (ii) Co-ordinate all plans, campaigns and projects approved by the Central Committee;
- (iii) Receive regular financial statements from the National Finance Committee;
- (iv) Consider budgets and the payment of accounts as reported by the National Finance Committee;
- (v) Suspend any office bearer or official of the Union for sufficient cause until the matter is decided at the next meeting of the Central Committee;
- (vi) To generally represent the union and ensure the sound management there of between meetings of the Central Committee subject to the provisions of this constitution and the objectives and policies of the union;
- (vii) To issue press statements in the name of the union; and
- (viii) To do all lawful things which promote the interests of the Union and which agree with:
 1. The objectives and policies of the union;and
 2. This constitution.

(d) **Meetings**

The National Executive Committee shall meet at least once every three months.

6.4 NATIONAL FINANCE COMMITTEE

- (a) The Central Committee shall elect from among their number three members all of whom must reside or work within a 60km radius of the Head Office. No region shall have more than 1NFCmember. These three members, together with the National Treasurer, shall constitute the Union's National Finance Committee. The National Treasurer shall chair all meetings of the National Finance Committee.
- (b) The National Finance Committee shall have the powers to:
 - (i) Supervise the financial affairs of the union;
 - (ii) Ensure that the provisions of the constitution are observed;

¹⁴ The Central Committee meets at least once every six months; whilst the NEC meets at least once every three months.

¹⁵ The National Office-Bearers are the President, two Vice-Presidents, the National Treasurer, General Secretary and Deputy General Secretary.

- (iii) Assist the General Secretary to keep proper books of accounts for the union;
- (iv) Scrutinise budgets and monthly financial statements prepared by the General Secretary before these statements are submitted to the Central Committee and/or National Executive Committee for approval;
- (v) Scrutinise all the union's financial records and report all problems and irregularities to the National Executive Committee or Central Committee;
- (vi) Meet with the National Office-Bearers not less than once a month to approve the payment of accounts (and benefits) provided such expenditure is within budgets approved by the Central Committee or NEC; and
- (vii) Perform such other duties as by usage and custom pertaining to the office.

CHAPTER 7

7. REGIONAL AND NATIONAL OFFICE-BEARERS AND ELECTED OFFICIALS

7.1 REGIONAL OFFICE-BEARERS AND APPOINTED OFFICIALS

(a) Regional Office-Bearers

- (i) The Regional Office-Bearers of the union shall be:
 1. The Regional Chairperson;
 2. The Regional Vice-Chairperson;
 3. The Regional Treasurer, who shall be a member of the Regional Finance Committee; and
- (ii) The Regional Congress shall elect from amongst themselves a Chairperson, Vice-Chairperson, Treasurer and three (3) members of the Regional Finance Committee who shall hold office for four years.
- (iii) The Regional Chairperson, Vice-Chairperson and Treasurer shall be eligible for re-election.
- (iv) The duties of the President and Vice-Presidents as prescribed in this constitution shall apply on a regional basis to the duties of the Regional Chairperson and Vice-Chairperson and will also apply on a local basis to the duties of the Local Chairperson and Vice-Chairperson.
- (v) The Regional Treasurer shall have the same powers and duties as the Regional Finance Committee.
- (vi) The powers and duties of the RFC areas per Clause 5(4)(b)(i) to (v).

(b) Regional Elected Officials

- (i) The Regional Elected official of the union shall be the Regional Secretary.
- (ii) Each Regional Congress shall elect a Regional Secretary for each region who shall be a full-time official and employee of the union and whose term of office shall be four years.
- (iii) The duties of Regional Secretaries shall be:
 1. To ensure the proper administration and co-ordination of the union's activities in defined regions;
 2. To provide full reports to each Regional Congress and Regional Executive Committee meeting, on regional activities;
 3. To deal with all regional correspondence;
 4. To prepare monthly statements of income and expenditure and to submit copies thereof to the General Secretary;
 5. To collect subscriptions, fines and levies and issue receipts for monies received other than by stop-order;
 6. To bank all monies within seven days of receipt and to ensure transfer of monies to the head office of the union in accordance with the decision of the Central Committee;
 7. To be a co-signatory to the regional bank account of the union;
 8. To issue notices of regional meetings, attend such meetings and take minutes;
 9. To send minutes to the General Secretary;
 10. Promptly and accurately process applications for membership of the union;
 11. Keep a register of members; and
 12. To perform such other duties as required by this constitution, the Central Committee or National Executive Committee.
- (iv) A Regional Secretary may resign after giving one month's written notice to the Regional Executive Committee having jurisdiction.

7.2 NATIONAL OFFICE-BEARERS AND APPOINTED OFFICIALS & TRADE UNION REPRESENTATIVES

(a) National Office-Bearers

The National Office-Bearers are:

- (i) the President;
- (ii) two Vice-President;
- (iii) the National Treasurer, who shall be a member of the National Finance Committee; and
- (iv) the General Secretary and the Deputy General Secretary who shall serve as officials or fulltime office-bearers.

(b) National elected Officials

The national elected officials are:

- (i) the General Secretary; and
- (ii) the Deputy General Secretary.

(c) Election and term of office

- (i) Union members are eligible for election as National Office-Bearers if they are:
 - 1. in goodstanding; and
 - 2. accredited delegates to a National Congress.
- (ii) Members at the National Congress shall nominate and duly second persons appropriate for the position of President, Vice-Presidents, National Treasurer, General Secretary and Deputy General Secretary.
- (iii) National Congress shall then elect by ballot members for these positions.
- (iv) The President, Vice-Presidents, National Treasurer, General Secretary and Deputy General Secretary shall:
 - 1. Hold office until the next ordinary congress; and
 - 2. Be eligible for re-election upon the expiry of their terms of office.

(d) Powers and duties

The powers and duties of the Office-Bearers and officials (Fulltime Office-bearers) and Trade Union Representatives shall be as follows:

- (i) The President:
 - 1. Preside at Congresses and all meetings of the Central Committee and National Executive Committee. The President shall have a deliberative vote only¹⁶;
 - 2. Sign minutes of meetings;
 - 3. Supervise the affairs of the Union and work of the General Secretary;
 - 4. Be a co-signatory to the national banking accounts of the Union;
 - 5. Attend and report to National Congresses;
 - 6. Perform any other duties which arise from usage or custom or the provisions of this constitution with regard to the position of the President.
- (ii) The Vice-President shall:
 - 1. assist the President; and
 - 2. exercise the powers, functions and duties of the President in his/her absence.
- (iii) The National Treasurer shall:
 - 1. Have the same powers and functions as the National Finance Committee.
- (iv) The General Secretary shall:
 - 1. Be a full-time official and employee of the Union;
 - 2. Be responsible for the proper administration of the Union and for the general co-ordination of its activities;
 - 3. Supervise the work of the Regional Secretaries and other officials of the Union;

¹⁶ The President will vote if there is a deadlock in the voting results.

4. Attend and report fully to each National Congress and meetings of the National Executive Committee and Central Committee on all aspects of the Union's activity;
5. Be responsible for the minutes of the National Congress, National Executive Committee and Central Committee;
6. Submit the minutes of all National Executive Committee meetings and monthly financial statements to all NEC members;
7. Deal with all the correspondence of the headoffice of the Union;
8. Ensure that proper books of account are kept and that such books are audited annually;
9. Be a co-signatory to the national banking accounts of the Union;
10. Issue official receipts for all monies received and to bank such monies within seven days of receipt;
11. Visit regions for reasons determined by the Central Committee;
12. Ensure that a register of members is maintained;
13. Ensure that disciplinary action is taken against employees of the Union in accordance with the Union's Disciplinary Code and Procedure; and
14. Perform other duties required by this constitution or the National Congress, Central Committee or National Executive Committee
15. Shall be remunerated.
16. The General Secretary may resign on giving one month's notice in writing to the National Executive Committee and his/her services may be terminated on a similar period of notice being given to him/her by the National Executive Committee. The contract of service of General Secretary shall be in writing.

(v) The Deputy General Secretary shall:

1. Be accountable to the National Executive Committee and shall:
2. Assist the General Secretary in the performance of his/her duties; and
3. Perform the functions of the General Secretary as he/she may be temporarily or permanently unable to perform. Paragraph (iv) shall mutatis mutandis apply to the Deputy General Secretary.
4. Shall be remunerated.

(vi) Organisers shall:

The executive committee may appoint an organiser or organisers. Their main duties shall:

1. Enrol members
2. Investigate complaints from members regarding their employment as such
3. To represent APSA UNI – SA and its members as the Commission
4. Collect membership fees
5. Perform such other duties as the executive committee may direct

CHAPTER 8

8. REMOVAL OF SHOP-STEWARDS AND OFFICE-BEARERS FROM OFFICE

8.1 REMOVAL OF MEMBERS WHO HOLD OFFICE

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

- (a) They are no longer employed in the workplace which elected them;
- (b) They are no longer employed in the industry;
- (c) They fail to attend three consecutive meetings of the council and/or committee which elected that person without sending a written reason;
- (d) Fail to be in goodstanding with the Union;
- (e) They resign;
- (f) The Union suspends or expels them;
- (g) They are unable to perform their duties.

8.2 DISCIPLINE

- (a) **Shop-stewards**

- (i) A Shop-Steward who fails to comply with the terms of this constitution, or who acts in a manner which is detrimental to the interests of the Union and its members, or who has allegedly committed misconduct, may be disciplined by the Regional Executive Committee.
 - (ii) The REC is required to follow the disciplinary procedure set out in sub-clause(d) below.
- (b) **Regional Office-Bearers**
- (i) Where a Regional Office Bearer fails to comply with any of the terms of this constitution, or who acts in such a manner that is detrimental to the interests of the union and its members, or who has allegedly committed misconduct may be disciplined by the Regional Executive Committee.
 - (ii) The REC is required to follow the disciplinary procedure set out in sub-clause(d) below.
- (c) **National Office-Bearers**
- (i) Where a National Office Bearer fails to comply with any of the terms of this constitution or acts in such a manner that is detrimental to the interests of the union and its members, or who has allegedly committed misconduct, may be disciplined by the National Executive Committee.
 - (ii) The NEC is required to follow the disciplinary procedure set out in sub-clause(d) below.
- (d) **Disciplinary procedure for National and Regional Office-Bearers**
- (i) The REC or the NEC as the case maybe, shall advise the person concerned in writing giving not less than seven days' notice of the charges against him/her and the date, time and place of his/her hearing. This notice may be sent by registered post to the last known address of the person charged or delivered by hand.
 - (ii) At the hearing of the charges the person concerned shall have the opportunity to state his/her case personally and to call witnesses in support of his/her case.
 - (iii) In each case the person concerned must receive written notice of the decision and be advised in this notice that he/she has a right of appeal which he/she must take up within seven days.
 - (iv) If the REC or the NEC as the case may be is satisfied that:
 1. The person charged has although absent received the notice; or
 2. The person charged is present;
 The REC or the NEC may proceed to hear and determine the charge.
 - (v) If, in its opinion, the charge has been satisfactorily proven it may:
 1. Remove the Shop-Steward or office - bearer (as the case may be) from office in the union;
 2. Expel the Shop-Steward or office bearer from the union;
 3. Suspend him/her for a definite period from membership of the union;
 4. Impose a fine and may suspend a person from membership until such fine is paid;
 5. Impose any other such a penalty, not listed above as it deems fit.
 - (vi) If the person concerned is charged with any misconduct related to sexual harassment, the REC or NEC shall ensure that the charges are determined by a panel of its members, at least fifty percent of whom must be of the same gender as the complainant.
- (e) **Removal by ballot**
- (i) Besides any other provision in this constitution for the removal of Office-Bearers and elected officials, such persons may be removed from office in the following way:
 1. In the event that 30% of members in good standing, in the constituency in which the affected person was elected or appointed, vote in favour of removal of the office bearer concerned, such results will trigger an investigation in to the allegations leading to such balloting. Such results shall be handed to the relevant constitutional structure to conduct the investigation.
 2. That Executive Committee must arrange for a ballot of all the members in good standing in such constituency to determine the matter.
 - (ii) For the purpose of this clause, the constituency shall be as follows:
 1. For Local Office-Bearers or elected officials, the members in good standing within the defined area of the Local;
 2. For Regional Office-Bearers or elected officials, the members in good standing within the geographical area of the region;
 3. For National Office-Bearers or elected officials, a National Congress.
- (f) **Vacancies arising from removal**
- (i) Vacancies in any position shall be filled in the manner prescribed for that position.

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

8.3 APPEAL PROCEDURE

- (a) Shop-stewards may appeal against the decision of the REC to the NEC in accordance with the procedure set out in sub-clause(d) below.
- (b) Regional Office-Bearers may appeal against the decision of the REC to the NEC in accordance with the procedure set out below.
- (c) National Office-Bearers may appeal the decision of the NEC to the Central Committee in accordance with the provisions set out below.
- (d) Any office bearer, Shop-Steward or elected official appealing in terms of this Chapter, shall lodge their appeal in writing with the General Secretary of the union within seven days of receiving the notice of the decision. The person appealing may personally state their case at the appeal and may call witnesses in support of their case.
- (e) The organ of the union hearing the appeal has the power to confirm, vary or reverse the decision of the REC or NEC as the case maybe, and this is the final decision of the union.
- (f) Any Shop-Steward or office bearer who is suspended from duty, shall not have the right to any of the benefits of membership including the right to vote, unless specifically provided for by the body of the union suspending that person. An elected official will cease to act for the union during their suspension, unless the body suspending them, decides to the contrary.

CHAPTER 9

9. MEETINGS, PROCEDURES AND STANDING ORDERS

9.1 MEETINGS

The following procedures must apply when convening meetings and congresses:

	HOW OFTEN?	WHEN AND WHERE?	SPECIAL MEETINGS
(a) National Congress	At least once every four years.	The Central Committee decides on a date and venue by way of a simple majority.	The Central Committee may convene a Special National Congress.
(b) Central Committee	At least once every six months	The National Office-Bearers decide on a date and venue. If they cannot decide on the venue, then the meeting will meet in the city where head office is located.	The National Office-Bearers may convene a special meeting of the Central Committee. The President may convene a special meeting upon receipt of a written request by a majority of the accredited members of the Central Committee.
(c) National Executive Committee	At least once every two months	The National Office-Bearers decide on a date and venue.	The President or a majority of the members of the NEC in a written request may call as special meeting of the NEC.
(d) Regional Congress	At least once every three months	The Regional Office-Bearers decide on a date and venue.	Special meetings maybe convened by a request of the majority of Locals within the region.
(e) Regional Executive Committee	At least once every two months	The Regional Office-Bearers decide on a date and venue.	The Regional Chairperson may convene special meetings of the Regional Executive Committee.
(f) Local Shop-Steward council	At least once a month	The local Office-Bearers decide on a date and venue.	The local chairperson may convene special meetings of the LSSC.

9.2 NOTICE OF MEETINGS

	WHO SENDS THE NOTICE AND WHAT SHOULD IT CONTAIN?	WHO RECEIVES THE NOTICE?	HOW LONG IS THE NOTICE PERIOD?	GENERAL?
(a) National Congress	The General Secretary The agenda and all documents must be sent to delegates to reach them at least two months before the Congress.	Each region	At least six months	Regions wishing to submit resolutions must send these to the General Secretary at least three months before Congress.

(b) Central Committee	The General Secretary. The notice includes the agenda and the date, time and venue of the meeting.	Each Central Committee member	At least one month	Notice of special meetings may not be less than 48 hours notice. Verbal notice may be given directly to Central Committee members: (i) in an emergency and (ii) at the discretion of the President.
(c) National Executive Committee	The General Secretary. The notice includes the agenda, date, time and venue of the meeting.	Each NEC member	At least seven days	Verbal notice may be given directly to NEC members: (i) in an emergency and (ii) at the discretion of the President
(d) Regional Congress	The Regional Secretary. The notice includes the agenda, date, time and venue of the meeting.	Each Local within a region	At least two weeks	Notice of Special Regional Congresses may be shorter than two weeks but not less than three days.
(e) Regional Executive Committee	The Regional Secretary The notice includes the agenda, date, time and venue of the meeting.	Each REC member	At least seven days	Verbal notice may be given directly to REC members: (i) in an emergency and (ii) at the discretion of the Regional Chairperson
(f) Local Shop-Steward Council (LSSC)	The local coordinator	Each Shop-Steward committee	At least ten days	Verbal notice may be given directly to LSSC members: (i) in an emergency and (ii) at the discretion of the local chairperson

If a representative, official or office - bearer does not receive a notice as described above, the proceedings of the relevant meeting are still valid.

9.3 QUORUM

	MINIMUM NUMBERS PRESENT FOR VALIDITY OF MEETING	WHEN THERE IS NO QUORUM	NOTICE PERIOD OF ADJOURNED MEETING
(a) National Congress	Two thirds (2/3) of accredited delegates, provided that atleast 2/3 of the regions are represented.	If after three hours there is no quorum, the meeting must be adjourned and re-convened within eight weeks. The delegates present at the adjourned meeting shall constitute a quorum.	Four weeks
(b) Central Committee	Two thirds of members, and atleast 2/3 of the regions entitled to attend.	If after one hour there is no quorum, the meeting must be adjourned and re-convened within four weeks. The delegates present at the adjourned meeting shall constitute a quorum.	Two weeks written notice.
(c) National Executive Committee	Two thirds of the members.	If after one hour of the time of the meeting a quorum is not present, the meeting will be adjourned and reconvened within 14 days. The members at the adjourned meeting shall constitute a quorum.	Five days written notice.
(d) Regional Congresses	Simple majority of delegates entitled to attend.	If after two hours of the time of the meeting there is no quorum, the meeting must be adjourned and re-convened within one month. The delegates present at the adjourned meeting shall constitute a quorum.	At least two weeks.
(e) Regional Executive Committee	Two thirds of the members. If after one hour of the time of the meeting a quorum is not present, the meeting will be adjourned.	If after one hour of the time of the meeting a quorum is not present, the meeting will be adjourned. The members at the adjourned meeting shall constitute a quorum.	Five days written notice.

9.4 STANDING ORDERS FOR MEETINGS

(a) Chairperson

The following rules of procedure shall apply at union meetings:

- (i) The most senior office - bearer present shall preside. If there is no office - bearer present, the meeting shall elect a Chairperson on the basis of a simple majority;
- (ii) The Chairperson shall determine whether there is a sufficient quorum;
- (iii) Only the issues on the agenda may be debated, unless the majority at the meeting agree to debate other urgent matters;
- (iv) Each member who wants to speak must address the chairperson. A member who proposes a motion can speak for up to ten minutes and can reply to any debate for up to five minutes;
- (v) No persons may speak or participate in a meeting without the permission of the Chairperson.

(b) Decision-making procedure

- (i) All matters for decisions must be proposed and seconded. The members at the meeting shall make decisions by a show of hands or by ballot if the meeting so agrees or if so prescribed by this constitution.

- (ii) A mover¹⁷ and seconder may not withdraw a motion which has been debated unless the meeting so decides.
- (iii) When an equal number of members support and oppose a motion, the motion cannot succeed.
- (iv) A decision made at a meeting may not be re-opened at the same meeting unless 2/3 of the members present agree.
- (v) A motion may not be proposed and seconded, at any regional or national congress, by delegates from the same local or region as the case may be.

(c) **Minutes**

At every meeting the presiding officer, once confirmed by those present, signs the minutes of the previous meeting. These must be kept safely in a book or file. A register of all resolutions taken must also be kept.

(d) **Procedures not provided for**

Unless this constitution provides otherwise, the majority of members present at a meeting shall decide on the conduct of meetings and rules of procedure that are not contained in this chapter.

(e) **Power to vote**

A paid official or other employee of the union shall not be entitled to vote on any matter except where that official or employee has been appointed or elected to represent the union on any Board, Council, Committee or federation of trade unions internally and externally.

CHAPTER 10

10. VOTING PROTOCOL

Decisions in the union may be made in the following manner:

1. By show of hands or
2. By ballot (ordinary ballot and strike ballot),

10.1 VOTING BY SHOW OF HANDS

In the normal course of events all decisions in the union will be made by way of show of hands of the members entitled to vote on such matter. The relevant structure shall be bound to take action according to the decision of a majority of members voting by show of hands.

10.2 BALLOTS(Section 95(5)(o))

“Ballot” is a method of voting in secret by marking a paper and putting it in a sealed box.

10.2(a) Ordinary Ballot

- (1) In addition to those cases in respect of which the taking of a ballot of members of the whole trade union is compulsory in terms of this Constitution, an **ordinary ballot** on any question shall be taken if the executive committee so decides, and shall also be taken -
 - (a) if demanded in writing by not less than 10% of the members of the union or any recognised constitutional structure of the union ; or
- (2) Ballots shall be conducted in the following manner:
 - (a) Notice of an ordinary ballot shall be given to each member in writing by the secretary, **at least three days before the ballot is to be taken**: Provided that a ballot may be taken without notice at any general meeting on the decision of a majority of the members present.
 - (b) Two independent scrutineers shall be appointed by the executive committee or any recognised constitutional structure of the union to supervise any ballot and to ascertain the result thereof
 - (c) Ballots shall be taken at any general meetings on the decision of a majority of the members present, ballots shall be conducted at any office of the trade union or at such other venue as may be specified in the notice referred to in paragraph (a) of this sub clause on the date and during the hours specified in the said notice.

- (d) Ballot papers shall be prepared and supplied by officials of the union appointed for such purposes by the Secretary. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify the voter.
- (e) **A pre-determined voter's role** of the members per region who are entitled to vote 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 secretary in their presence prior to the issuing of ballot papers.
- (g) One ballot paper only may be issued to a member who is entitled to vote. The ballot paper shall be issued on demand at the place and during the hours fixed for the taking of the ballot.
The scrutineer will be required to determine whether a member qualifies to vote.
- (h) Each voter shall, in the presence of the scrutineers, be issued with one ballot paper which he/she shall thereupon, in **secret**, complete, fold and deposit the ballot paper in a ballot box provided for the purpose
- (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. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.
- (j) On completion of a ballot or as soon as possible thereafter, the result thereof shall be ascertained by the scrutineers appointed in the presence of the secretary and made known to the executive committee through the Secretary
- (k) **Ballot papers (including spoilt papers)** and the voters roll shall be placed in a container which shall be sealed after they have been counted and shall be **retained** by the Secretary for not less than three years.

10.2(b) **Strike ballot**

- (1) In addition to those cases in respect of which the taking of a ballot of members of the whole trade union is compulsory in terms of this Constitution, a **strike ballot** shall also be taken -
 - (a) if demanded in writing by not less than 10% of the members of the union or any recognised constitutional structure of the union ; or
 - (b) on any proposal to declare or take part in any strike in which event a strike ballot shall be held amongst those members who will be affected by the proposed strike
- (2) The trade union shall, before calling a strike, conduct a ballot of those of its members in respect of whom it intends to call the strike. (Vide Section 95(5) (p))
- (3) Ballots shall be conducted in the following manner:
 - (a) Notice of the time and place of a strike ballot shall be given to each affected member in writing by the secretary, **at least three days before the ballot is to be taken**
 - (b) Two independent scrutineers shall be appointed by the executive committee or any recognised constitutional structure of the union to supervise any ballot and to ascertain the result thereof.
 - (c) Ballots shall be conducted at any office of the trade union or at such other venue as may be specified in the notice referred to in paragraph (a) of this sub clause on the date and during the hours specified in the said notice.
 - (d) Ballot papers shall be prepared and supplied by officials of the union appointed for such purposes by the Secretary. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify the voter. The Sector(s) and area(s) in respect of which the strike is to be held must be clearly stipulated.
 - (e) **A pre-determined voter's role** of the members in respect of whom the union intends to call to strike must be present at the voting station(s). 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 secretary in their presence prior to the issuing of ballot papers.
 - (g) One ballot paper only may be issued to a member who is entitled to vote. The ballot paper shall be issued on demand at the place and during the hours fixed for the taking of the ballot.
The scrutineer will be required to determine whether a member qualifies to vote

- (h) Each voter shall, in the presence of the scrutineers, be issued with one ballot paper which he/she shall thereupon, in secret, complete, fold and deposit the ballot paper in a ballot box provided for the purpose.
 - (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. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.
 - (j) On completion of a ballot or as soon as possible thereafter, the result thereof shall be ascertained by the scrutineers appointed in the presence of the secretary and made known to the executive committee
 - (k) **Ballot papers (including spoilt papers) and the voters roll**, shall be placed in a container which shall be sealed after they have been counted and shall be retained by Secretary for not less than three years.
- (4) Notwithstanding anything to the contrary contained in this Constitution, members of the trade union shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike if
- (a) no ballot was held about the strike; or
 - (b) a ballot was held but a majority of the members who voted did not vote in favour of the strike. (Vide Section 95(5)(q))

CHAPTER 11

11. FINANCE

11.1 GENERAL USE OF UNION FUNDS

Union funds may only be used for the following expenses:

- (a) The administration of Union affairs;
- (b) The acquisition of property;
- (c) The implementation of Union policies;
- (d) Any other lawful purpose agreed to by the Central Committee, NEC or the National Congress.

11.2 NATIONAL BANK ACCOUNT

- (a) All monies payable to the Union including subscriptions, levies, fines and any other payments must be paid to the:
 - (i) General Secretary; or
 - (ii) Any other person authorised by the Central Committee.
- (b) The General Secretary or other authorised person must deposit all payments within seven days of receipt into an account in the name of the Union at a bank decided on by the Central Committee.
- (c) The bank account shall be called "APSA :Account".

11.3 BUDGET ALLOCATIONS TO HEAD OFFICE AND THE REGIONS

- (a) The Central Committee shall, from time to time, determine by majority vote the size of budget allocations for the head office account and each regional account.
- (b) These allocation shall provide for all expenses which include petty cash expenses. The National Executive Committee must authorise petty cash cheques drawn for:
 - (i) More than R3000 for head office or a regional office expenses;
 - (ii) For more than R1000 by a regional office for expenses by a Local office.
- (c) The REC approves the regional financial statements and sends these statements as well as vouchers, cheques, deposit slips and bank statements to head office. The General Secretary then prepares the transfer of money required to finance the region. The signatories to the National Account shall authorise such transfer.
- (d) Monthly allocations to head office and the regions shall be transferred on authorisation of two signatories to the head office and regional accounts respectively.

11.4 REGIONAL FINANCE: AUTHORISATION AND SIGNATORIES

- (a) The Central Committee decides on the allocation of funds to the region. The Central Committee sends the money to the Regional Secretary who must deposit the money within seven days of receiving it. The Regional Executive Committee chooses the bank for the region.

- (b) The Regional Executive Committee must approve payments the regional office wants to make.
- (c) All cheques drawn on the Regional Executive Committee account must be signed by any two of the authorised signatories. If any signatory is unable or unwilling to sign cheques, the Regional Executive Committee may appoint another suitable signatory provided that all cheques of the region are signed by two persons who shall be either:
 - (i) The Regional Secretary; or
 - (ii) Members of the Regional Finance Committee one of whom must reside or work within a 60km radius of the Regional Office and the Treasurer.

11.5 NATIONAL FINANCE: AUTHORISATION AND SIGNATORIES

- (a) All cheques drawn on the National Account must be signed by any two of the authorised signatories. If a signatory is unable or unwilling to sign cheques, the National Executive Committee may appoint another suitable signatory who shall be either:
 - (i) The General Secretary; or
 - (ii) Members of the National Finance Committee.
- (b) All payments made by the head office of the union shall require the approval of the National Executive Committee.

11.6 ANNUAL AUDIT

- (a) The financial year end of the Union is the last day of February.
- (b) All accounts of the union must be audited annually by a person registered as an accountant and auditor under Section 23 of the Public Accountants and Auditors Act, No.51 of 1951. This person must be appointed by the Central Committee.
- (c) True copies of the consolidated audited account of the union and the auditor's report shall be made available for scrutiny by members of the union at all offices of the union.
- (d) The Central Committee must confirm the:
 - (i) Consolidated audited financial statement;
 - (ii) Balance sheet; and
 - (iii) Auditor's report.
- (e) The consolidated audited financial statement, balance sheet and auditor's report must be presented to each:
 - (i) Regional Executive Committee;
 - (ii) Regional Congress;
 - (iii) Local Shop-stewards Council; and
 - (iv) Local general meeting.
- (f) The auditor's report shall state whether the auditor:
 - (i) Has examined the books of account and records of the union;
 - (ii) Is satisfied with the existence of the securities;
 - (iii) Is satisfied that the union has kept proper books of account;
 - (iv) Has obtained all the information and explanations required;
 - (v) Is satisfied that the statement of income and expenditure and the balance sheet show a true and correct reflection of the union's financial affairs;
 - (vi) Is satisfied that the financial provisions of the constitution have been complied with.

11.7 IMPOSITION OF LEVY

- (a) The Central Committee may at any time impose a levy to raise funds for union activities.

11.8 INDEMNIFICATION FOR UNAUTHORISED EXPENDITURE

- (a) If any members at a meeting of a council, committee or congress incur expenses which have not been authorised, then those members will be held jointly and severally liable for refunding the money to the Union¹⁸.
- (b) Any member who protested against the expenditure and recorded their protest in the minutes of that meeting will not be liable for refunding the money.

11.9 MEMBERS' CLAIMS ON UNION FUNDS

A member who resigns or is expelled from the Union shall have no claim whatsoever on the funds of the Union.

¹⁸ "Jointly and severally liable" means that all the members of a group or individual members in that group may be liable for refunding money, which has not been authorised.

CHAPTER 12

12.1 INDEMNIFICATION

The Office-Bearers, members of all committees provided for in this constitution, elected officials and other officials of the union:

- (1) Will be indemnified by the union for all for proceedings, costs and expenses incurred for any act or omission performed in accordance with the provisions of the constitution, provided they have acted:
 - (a) In good faith; and
 - (b) Within the provisions of the constitution;
- (2) Will be held personally liable for expenditure incurred on behalf of the Union if they have incurred such liability not provided for in this constitution or contrary to any lawful resolution taken by the Union.

CHAPTER 13

13. REPRESENTATION AT THE COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION (CCMA), STATUTORY COUNCILS AND BARGAINING COUNCILS

13.1 PROCEDURE

- (a) If a Regional Executive Committee resolves that the Union shall become a party to a Statutory Council or Bargaining Council (all here in after referred to as "council") in the area of such region and, the Central Committee approves of such course of action, the election of persons to represent the Union on such council shall take place by ballot of the members of the Regional Committee concerned.
- (b) If the Central Committee resolves that the Union shall become a party to a council in the area of jurisdiction of more than one region, the election of persons to represent the Union on such council shall take place by ballot of the members of the Central Committee.
- (c) Nominations of persons for election as representatives and alternates to such councils shall be lodged appropriately with:
 - (i) The Regional Secretary at the meeting of the Regional Executive Committee; or
 - (ii) With the General Secretary at the meeting of the Central Committee.
- (d) A ballot shall be taken as soon as possible after receipt of the Central Committee's approval.

13.2 RESIGNATION AND VACANCIES

- (a) Any representative of the Union on any council shall vacate from office:
 - (i) By resigning by giving written notice to the General Secretary or Regional Secretary; or
 - (ii) If a majority resolution to this effect is passed by the Regional Executive Committee or the Central Committee as the case maybe.
- (b) Vacancies for any representative to a council shall be filled by election and by ballot of the Regional Executive Committee or the Central Committee as the case may be.

13.3 COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION (CCMA)

- (a) The Central Committee or Regional Executive Committee may at any time decide that the Union shall apply to the Commission for Conciliation, Mediation and Arbitration (CCMA) in terms of the Labour Relations Act, 1995, to deal with any dispute in which the region or the Union may be involved.
- (b) Should the Central Committee or Regional Executive Committee so decide, they shall make the necessary application and appoint a person to represent the Union at the Commission for Conciliation, Mediation and Arbitration (CCMA).
- (c) Representatives on Bargaining Councils shall have full power to enter into agreements on behalf of the Union after approval by a meeting or meetings of affected members and the Central Committee.

CHAPTER 14

14. AMENDMENTS TO THE CONSTITUTION

- (1) Provisions in the constitution may be amended, added or repealed at National Congress if:
 - (a) General Secretaries have received at least 90 days' written notice of the proposed amendments; and
 - (b) At least 2/3 of members at National Congress agree.
- (c) Any of the provisions of this Constitution may be repealed, changed or added to in any manner by resolution of the executive council of the trade union: Provided that at least 14 days' notice of any proposed change(s) shall first have been given to branches. If within that period a branch demands that a ballot of the whole trade union be taken on the matter, such a ballot shall be taken.
- (d) No changes or additions shall have any force or effect until certified in terms of section 101(3) of the Labour Relations Act, 1995.

CHAPTER 15

15. AMALGAMATION AND MERGER

If a National Congress resolves that the aims and objectives of this constitution will be better achieved by amalgamating or merging with another trade union or trade unions, such amalgamation or merger should happen, provided that:

- (1) Two thirds of National Congress vote in favour;
- (2) The terms and conditions are negotiated with the other party/parties;
- (3) The majority of the Central Committee agree with these terms; and
- (4) Members of a general meeting called for this purpose ratify the Central Committee's decision.

CHAPTER 16

16. DISSOLUTION

- (1) If for any reason the union is unable to continue functioning, the Union may be dissolved provided that more than 60% of the members in good standing approve by way of a ballot at National Congress.
- (2) If a resolution for the dissolution of the Union has been passed, the following shall apply:
 - (a) The union will approach the Labour Court to appoint a suitable person as liquidator, on appropriate conditions in terms of section 103(1) of the Labour Relations Act, 1995.
 - (b) The same National Congress that has resolved to dissolve the Union will choose one of the following options to guide the liquidator on how to dispose of any assets remaining once all liabilities have been discharged:
 - (i) Transfer all or part of the assets or money to another trade union;
 - (ii) Keep the money in trust until another trade union within the area and scope of APSA UNI-SA and open to all workers within that area and scope is established;
 - (iii) Transfer the money or assets to any insurance, provident or benefit fund established in the interest of APSA UNI-SA members; or
 - (iv) Distribute the money or assets among members in good standing in proportion to their number of years of membership.
 - (c) If these assets cannot be disposed of in this way, the liquidator must realise those assets and pay the proceeds to the Commission for its own use in terms of section 103(5) of the Labour Relations Act, 1995.

CHAPTER 17

17. INTERPRETATION OF THE CONSTITUTION AND PROCEDURES NOT PROVIDED FOR

- (1) The Central Committee shall:
 - (a) Determine a question of procedure if not provided for in this constitution;
 - (b) Interpret this constitution should a query arise.
- (2) Side bar notes, footnotes and headings are for explanatory and referencing purposes only and do not form part of this constitution.

ANNEXURE A

DEFINITIONS

Any reference to the male gender shall include the female and vice-versa. Words importing the singular include the plural and vice-versa.

"**Elected Official**" means an employee elected to the position of General Secretary or Deputy General Secretary or Regional Secretary.

"**LRA**" means the LABOUR RELATIONS ACT, No. 66 of 1995 as amended.

"**Local**" shall mean a geographic area, within a Region, the boundaries of which shall be determined by the Central Committee from time to time.

"**National Office Bearer**" means either the President or First Vice-President or Second Vice-President or National Treasurer or General Secretary or Deputy General Secretary.

"**Other official**" means an employee of the Union appointed to the position of official.

"**Region**" shall mean a geographical area, the boundaries of which shall be determined by the Central Committee from time to time.

"**Regional Office Bearer**" means the Regional Chairperson or Vice-Chairperson or Regional Treasurer or Regional Secretary.

"**Shop-Steward**" means a trade union representative who has been elected by paid up members in accordance with this constitution and who follows the rules, policies and procedures of the union in terms of section 14 of the Labour Relations Act 66 of 1995 as amended.

"**the industry**" means the industry as described in the scope of the Union.

"**Year**" shall mean a financial year.