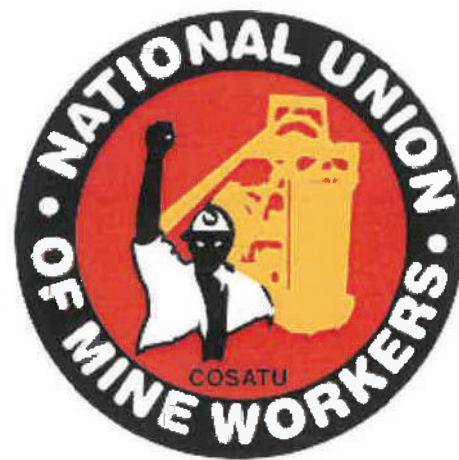




**CONSTITUTION OF  
THE NATIONAL UNION  
OF MINEWORKERS**



# CONSTITUTION OF



# THE NATIONAL UNION OF MINEWORKERS

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## **1. CHARACTER OF THE UNION**

### **1.1 Name**

The name of the union is the National Union of Mineworkers, abbreviated as "NUM".

### **1.2 Colours**

The colours of the union are red, gold and black.

### **1.3 Scope**

The union will operate as a Trade Union in the Mining, Energy Construction, Metal and Allied Industries.

### **1.4 Legal Status**

1.4.1 The union is a body corporate with perpetual succession.<sup>1</sup> The union can in its own name:

1.4.1.1 enter into contracts;

1.4.1.2 sue; and

1.4.1.3 be sued.

1.4.2 The union shall hold property apart from its members.

1.4.3 The liability of individual members is limited to the amount of their outstanding subscriptions or other monies due to the union.

1.4.4 The union is an association not for gain.

### **1.5 Structure**

The union consists of the following structures:

1.5.1 Shaft Stewards and Shaft or Workplace Committees;

1.5.2 Education, Health and Safety Women's and Youth Committees;

1.5.3 Branch Committees;

1.5.4 Branch Conference;

1.5.5 Regional Committees;

1.5.6 Regional Conference;

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<sup>1</sup> [This means that the union is a structure which remains constant - with its own separate legal personality - despite changes in membership. Members may come and go but the union remains constant. The union's legal personality allows it as structure, rather than the individual members, to become involved in legal transactions.]

1.5.6 National Executive Committee ("NEC");

1.5.7 Central Committee

1.5.7 Policy Conference and

1.5.8 National Congress

## **1.6 Location of Head Office**

The NEC determines from time to time the location of the Head Office.

## **1.7 Aims and Objectives**

The aims and objectives of the union are:

1.7.1 to recruit and unite into a single labour organisation all workers employed in the Mining, Energy, Construction, Metal and Allied Industries in order to enhance their economic and social welfare;

1.7.2 to improve the wages, salaries and terms and conditions of employment of members through collective bargaining and other lawful means;

1.7.3 to protect the job security of members;

1.7.4 to advance the employment prospects of members;

1.7.5 to improve the political, social, economic interests and material welfare of former, current and prospective members of the union, workers and labour organisations generally;

1.7.6 to foster unity and co-operation amongst all workers in the Mining, Energy, Construction, Metal and Allied Industries;

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

1.7.8 to do all other lawful things which are in the interest of the union and its members and which are consistent with this Constitution.

## **2 MEMBERSHIP**

### **2.1 Eligibility**

Subject to the approval of the Branch Committee which has jurisdiction, membership of the union is open to all workers who are:

2.1.1 employed in the Mining, Energy, Construction, Metal and Allied Industries;

2.1.2 about to enter employment in such industries; or

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2.1.3 elected office bearers of the union.

## **2.2 Entitlement to Benefits**

2.2.1 Only members in good standing are entitled to the benefits of membership.

2.2.2 Members in good standing are members who are not more than 3 months in arrears with their subscription fees.

2.2.3 Members who are between 3 and 6 months in arrears with their subscription fees remain members of the union subject to the approval of the branch but are not entitled to the benefits of membership.

2.2.4 Members who are more than 6 months in arrears lose their membership.<sup>2</sup>

## **2.3 Application Procedure**

2.3.1 Workers must apply for union membership to the Branch Committee with jurisdiction over the area where they are employed, or if there is no Branch Committee with jurisdiction, to the Regional Committee or NEC with jurisdiction.

2.3.2 The Branch Committee, Regional Committee or NEC may reject any application if it is of the opinion that the worker is not a fit and proper person to be a member of the union.

## **2.4 Appeal Procedure against refusal of membership**

2.4.1 If the Branch Committee rejects an application for membership, the worker may appeal against the decision at the next meeting of the Regional Committee.

2.4.2 The worker must lodge the appeal with the Regional Secretary in writing at least 7 days before the meeting.

2.4.3 The worker may appear personally at the meeting to argue the appeal.

2.4.4 The decision of the Regional Committee is final, for a period of 12 months.

2.4.5 After 12 months an unsuccessful applicant for membership may apply again to the Branch Committee.

## **2.5 Associate Membership**

2.5.1 The NEC may confer associate membership of the union on:

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<sup>2</sup>[Take note however of clause 2.7.3 which deals with the rights of members whose membership has been terminated by an employer.]

2.5.1.1 persons who are not employed in the mining, energy construction , Metal and allied industries but who have professional expertise or qualifications relevant to these industries or to the union;

2.5.1.2 students registered for qualifications in respect of professions, trades or occupations relevant to the mining, energy, construction, Metal and allied industries;

2.5.1.3 persons who have made a particular contribution to the union or whose work advances the aims and objectives of the union or similar aims and objectives.

2.5.2 Associate members may:

2.5.2.1 be admitted to official proceedings of the union as observers; and

2.5.2.2 be assigned to perform duties on behalf of the union.

2.5.3 Associate members may not:

2.5.3.1 vote on union matters; or

2.5.3.2 stand for election for any position in the union.

## **2.6 Honorary Membership**

2.6.1 The NEC may confer honorary membership of the union on any person in recognition of a special contribution to the union or its members, or to the mining, energy, construction, Metal and allied industries.

2.6.2 Honorary membership may be conferred posthumously.

2.6.3 Honorary members may be admitted to official proceedings of the union as observers.

2.6.4 Honorary members may not:

2.6.4.1 vote on union matters; or

2.6.4.2 stand for election for any position in the union.

## **2.7 Termination of membership**

2.7.1 Resignation by member

2.7.1.1 Any member may resign from the union after giving one month's written notice to the Branch Committee.

2.7.1.2 The member must pay all amounts owing to the union.

2.7.2 Suspension or Expulsion by Branch Committee

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2.7.3. If a Branch Committee is of the opinion that a member has conducted himself or herself in a manner which is harmful to the interests of the union or its members then the Branch Committee must hold an inquiry into that member's conduct.

2.7.4 The member must be given an opportunity to present his or her case at such an inquiry.

2.7.5 The Branch Committee may therefore decide:

2.7.5.1 to excuse the member;

2.7.5.2 suspend the member for a fixed period on such conditions as they deem fit; or

2.7.5.3 expel the member.

2.7.6 Within 7 days of the Branch Committee notifying the member of the disciplinary action they have chosen the member may lodge an appeal to the Regional Committee with jurisdiction.

2.7.7 The union may suspend or expel a member provided it follows the procedures set out in annexure 3.

2.7.8 Members may not be disciplined or have their membership terminated for failure or refusal to participate in a strike if:

2.7.8.1 no ballot was held about the strike; or

2.7.8.2 a ballot was held, but the majority of the members who voted did not vote in favour of the strike.<sup>3</sup>

2.7.9 Labour Disputes or Unfair Dismissals

2.7.9.1 If an employer terminates a member's employment as a result of a labour dispute or under circumstances which the Branch Committee believes is unfair, that member remains a member of the union:

2.7.9.1.1 for a period of 6 months from the date of termination; or

2.7.9.1.2 until legal proceedings challenging the dismissal have been finalised.

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<sup>3</sup>[Requirement of the new LRA - Section 95(5) (q).]

2.7.10 the member is exempt from paying subscription fees until he or she is re-employed or reinstated, or until the Branch Committee so determines.

#### 2.7.11 Termination of associate or honorary membership

2.7.11.1 The NEC may, on reasonable grounds, terminate associate or honorary membership at any time.

### 2.8 Re-admission

Any member who has resigned or who has been expelled from membership may be re-admitted to the union if that member complies with the conditions determined by the Branch or Regional Committee.

## 3 SUBSCRIPTIONS

### 3.1 Amount

3.1 The National Congress sets the subscription fees from time to time.

3.2 Subscription fees must not be more than 1% of a member's basic monthly pay.<sup>4</sup>

### 3.2 Collection and Banking of Subscriptions

3.2.1 Members including elected office bearers must pay their subscription fees monthly and in advance to the union.

3.2.2 The union must issue receipts immediately for these fees unless check-off facilities are in operation.

3.2.3 The union must keep a record of the contributions of each member.

3.2.4 All amounts received for membership subscriptions and other amounts due to the union from members must be deposited in a national banking account no later than 5 days after receipt thereof.

### 3.3 Exemptions from Subscriptions

The Branch Committee may exempt a member from paying subscriptions if that member has been unable to work on account of illness for a continuous period of 3 months.<sup>5</sup>

## 4 WORKPLACE STRUCTURES

### 4.1 Election of Shaft Stewards

4.1.1 Union members in good standing may elect stewards from amongst themselves to hold office for 3 years.

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<sup>4</sup>[A member's basic monthly pay means their pensionable basic remuneration.]

<sup>5</sup>[See too clause 2.7.3 for further exemptions.]

4.1.2 Only members who are committed to the union, its constitution and its aims and objectives may be elected as shaft stewards.

4.1.3 The Branch Committee oversee the election of the shaft stewards committee.

## **4.2 Election Procedure**

4.2.1 Members in good standing may nominate and second candidates for positions of stewards.

4.2.2 If a candidate is the only nomination for a work section, then the candidate becomes the particular steward in that work section.

4.2.3 If there is more than one candidate for the position, then the members must vote, and the candidate who receives the most votes will be duly elected.

4.2.4 Shaft or Workplace Committee elections must be held once in every three years.

4.2.5 Shaft or Workplace Committee members must hold office until the next election, when they may be eligible for re-elections.

## **4.3 Composition of Shaft or Workplace Committees**

4.3.1 At every mine shaft or workplace where the union has a minimum of 50 members the members may elect a Committee. The Regional Committee may require the shaft or workplace where the union has less than 50 members to elect a Committee. The members must elect the Committee from amongst all the stewards at the shaft or workplace.

4.3.2 A Shaft or Workplace Committee should consist of 5 or more stewards representing the various work sections in which the union has members at that particular shaft or workplace.

## **4.4 Meetings**

The Shaft or Workplace Committee should meet at least once a week.

## **4.5 Functions**

4.5.1 The functions of the Shaft or Workplace Committee are:

4.5.1.1 to conduct the affairs of the union at shaft or workplace level;

4.5.1.2 to receive and attend to complaints affecting members concerning their employment, and where necessary to report such complaints to the Branch Committee; and

MW JS

4.5.1.3 to report any improper employment practice, or contravention by employers of statutes, to the Branch Committee.

4.5.2 The Shaft or Workplace Committee must establish a Women's Sub-Committee to promote the equality of women and the interests of women members.

#### **4.6 Workplace or Shaft General Meetings**

4.6.1 The Shaft or Workplace Committee must call a workplace or shaft general meeting at least six times per annum.

4.6.2 The Workplace or Shaft Committee must call a general meeting at least three months before the Branch Conference.

### **5 BRANCH STRUCTURES**

#### **5.1 Establishing a branch**

5.1.1 A branch may be formed:

5.1.1.1 Where there are 100 members; or

5.1.1.2 Where there are less than 100 members if the Regional Committee directs that a branch be established but the branch must not have less 50 members. Where there are less than 50 members the union will recruit the members, sign the recognition agreement and elect shop stewards and service them as union members only, they won't have branch status but a workplace committee. A Regional committee may form a branch out of one or more workplaces or direct members to join an existing branch.

5.1.2 The NEC may establish directives or guidelines for the establishment of branches.

#### **5.2 Accountability**

5.2.1 The Regional Committee with jurisdiction must supervise the conduct of the Branch affairs.

5.2.2 The Branch must not do anything which is inconsistent with the decisions or policies of the National Congress, Central Committee, NEC or Regional Committee, or

5.2.2.1 the provisions of this Constitution or its by-laws.

#### **5.3 Composition**

A Branch Committee consists of members of the union in good standing the:

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- 5.3.1 Chairperson;
- 5.3.2 Deputy Chairperson;
- 5.3.3 Secretary;
- 5.3.4 Deputy Secretary;
- 5.3.5 Treasurer;
- 5.3.6 Chairperson and Secretary from each Shaft or Workplace Committee;
- 5.3.7 Chairperson and Secretary of the Branch Education Sub-Committee;
- 5.3.8 Chairperson and Secretary of the Branch Health and Safety Sub-Committee; and
- 5.3.9 Chairperson and Secretary of the Branch Women's Sub-Committee.
- 5.3.10 Chairperson and Secretary of the Branch Youth Sub-Committee

#### **5.4 Electing Branch Committee Office Bearers**

5.4.1 Members in good standing may nominate and second candidates for office bearer's positions. This does not apply to the Chairperson and Secretaries of the Shaft or Workplace Committees, Education, Health and Safety Committees, Women's and youth sub - Committees, who are appointed by virtue of the office they hold.

5.4.2 Unless provided otherwise by the Regional Committee and except in the case of a new branch, only workers who have been members in good standing for a continuous period of 3 years may be elected as branch office bearers.

5.4.3 If a candidate is the only nominee for a position, then that candidate becomes the particular office bearer.

5.4.4 If there is more than one candidate for the position, then the members must vote by ballot, and the candidate who receives the most votes will be duly elected.

5.4.5 If the ballot results in a tie for most votes received, the members must vote by ballot again until a candidate receives the most votes. The candidate who receives the most votes will be duly elected.

5.4.6 In the event that the position of a branch office bearer falls vacant, a new office bearer must be co-opted in an acting capacity by the Branch Committee to fill the vacancy until the next branch conference. No more than 2 office bearers may be co-opted to a vacancy in this way.

5.4.7 In the event that 3 or more branch office bearer positions fall vacant, the Regional Committee must convene a special branch conference in order to fill the vacancies.

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5.4.8 Within seven (7) days of the branch conference the member(s) may lodge an appeal to the Regional Committee with jurisdiction.

## **5.5 Period of Office**

Branch Office Bearers hold office for 3 years or, in the case of an office bearer appointed to fill a vacancy, for the unexpired portion of the term of office of the vacating office bearer.

## **5.6 Branch Committee Meetings**

5.6.1 The Branch Committee must meet at least once every month.

5.6.2 A majority of the committee members constitute a quorum.

5.6.3 Decisions must be taken by majority vote and the Chairperson has a deliberative and casting vote.

5.6.4 If within one hour of the time fixed for any meeting a quorum is not present, the meeting must stand adjourned to the same day, time and place in the following week (and if that day is a public holiday then the next succeeding working day) and at the adjourned meeting the members present shall form a quorum.

5.6.5 The Secretary must notify in writing, members who were absent, about the adjourned meeting.

5.6.6 The Secretary must keep minutes of the meetings.

## **5.7 Powers and Functions of Branch Committee**

These are:

5.7.1 to manage the affairs of the union at the mine or other workplace;

5.7.2 to deal with labour disputes at the mine or other workplace level;

5.7.3 to deal with members' grievances so as to protect their job security, and employment prospects;

5.7.4 to establish health and safety, education, women's and youth sub-committees;

5.7.5 to generally promote the interest of members;

5.7.6 to ensure that proper communication takes place between itself and the Shaft or Workplace Committees, and the Regional Committee; and

5.7.7 to do all lawful things which in the opinion of the Branch Committee;

5.7.8 are in the interest of the union and members;

MW JS

5.7.9 are not in conflict with the decisions of the Regional Committee with jurisdiction;

5.7.10 further the aims and objectives of this Constitution; and

5.7.11 are necessary to carry out its functions.

## **5.8 Branch General Meeting**

5.8.1 Branch general meetings must be held at least once every month.

5.8.2 Decisions at general meetings must be taken by majority vote.

5.8.3 The Secretary must keep minutes of the meetings.

## **5.9 Branch Conferences**

5.9.1 Every 3 years a Branch must hold a branch conference.

5.9.2 This conference must take place before the regional conference.

5.9.3 The Regional Committee will determine the number of delegates to the branch conference. Each workplace, shaft or section will be entitled to a proportionate number of delegates relative to the number of members that they each have, or

5.9.4 In the Branch whereby majority of members at the Branch General Meeting decide to elect leadership by ballot, a ballot procedure will be applied and the union membership records/subscription list will be used as voter's roll.

## **6 ESTABLISHING REGIONAL STRUCTURES**

6.1 The union may be composed of a number of geographical regions.

6.2 The NEC must determine the boundaries from time to time.

6.3 As soon as two or more branches are established in a geographic region, the NEC must convene that region's first Regional Conference.

## **7 REGIONAL CONFERENCE**

### **7.1 Convening**

The Regional Committees of the union must convene a regional conference once every three years before the National Congress.

### **7.2 Delegates**

7.2.1 Each branch can send up to 50 voting delegates. The number must be based on the proportion of each branch's membership relative to the region's total membership.

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7.2.2 Each delegate must be a member in good standing.

### **7.3 Planning for the Regional Conference**

7.3.1 Three months prior to the holding of a Regional Conference, the Regional Committee must determine the number of voting delegates for each branch on the basis of their membership. This number is based on:

7.3.1.1 The number determined by the Regional Committee must be proportionate to the number of the region's total membership.

7.3.1.2 The membership records of each branch held at the Regional Office or National Office.

7.3.2 The Regional Secretary must inform Branch Committees of the convening of the Regional Conference at least two months before it is held and of the number of voting delegates for each branch, which is determined by the formula set out in sub-clause 7.3.1.

7.3.3 The branch must:

7.3.3.1 one month before the Regional Conference send nominations for the Regional office bearers to an independent electoral commission established by the Regional Committee;

7.3.3.2 at least 21 days before the Regional Conference send their resolutions to the Regional Secretary.

7.3.4 The Regional Secretary must send to all Branch Committees at least 10 days before the Regional Conference:

7.3.4.1 copies of the resolutions; and

7.3.4.2 the Regional Conference Agenda.

### **7.4 Policies**

Each Regional Conference must formulate policies and programmes for its particular region consistent with the constitution, policies and programmes of the National Congress, the Central Committee and the NEC.

### **7.5 Election of Regional Committee**

7.5.1 Delegates must elect by ballot a Regional Committee, except for the branch chairpersons and secretaries and the chairperson and secretary for women who are by virtue of their position, members of the Regional Committee.

7.5.2 Unless otherwise determined by the National Congress or Central Committee only the following members may be nominated and elected to regional office bearer positions:

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7.5.2.1 members who have served as office-bearers at branch, regional or national level; or

7.5.2.2 members in good standing for a continuous period of 5 years.

7.5.3 If a candidate is the only nominee for a position, then that candidate becomes the particular office bearer.

7.5.4 If there is more than one candidate for a position, then the delegates must vote by ballot until a candidate receives the most votes. The candidate who receives the most votes will be duly elected.

7.5.5 If the ballot results in a tie for most votes received, the delegates must vote by ballot again and the candidate who receives the most votes will be duly elected.

7.5.6 Subject to sub-clause 7.5, the ballot must be held in accordance with the procedures prescribed in this Constitution.<sup>6</sup>

7.5.7 The Regional Committee members hold office until the next Regional Conference and are eligible for re-election.

7.5.8 In the event that the position of a regional office bearer falls vacant, a new office bearer must be co-opted in an acting capacity by the Regional Committee to fill the vacancy until the next Regional Conference. No more than 4 office bearers may be co-opted to fill a vacancy in this way.

7.5.9 A regional office bearer elected in terms of this sub-clause 7.5 may not concurrently hold office as a branch office bearer elected in terms of sub-clause 5.4. This prohibition does not apply to a regional office bearer co-opted in an acting capacity as contemplated in sub-clause 7.5.8.

## **7.6 Meeting Procedures**

7.6.1 The Regional Chairperson presides over the conference.

7.6.2 Resolutions must be adopted by the majority of delegates present and voting.

7.6.3 Delegates vote by a show of hands unless the conference decides otherwise.

7.6.4 The Regional Chairperson has a deliberative casting vote.

7.6.5 The Regional Secretary must keep minutes of the conference.

## **7.7 Regional Women's Conference**

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<sup>6</sup> [See clause 19 for more information on ballot procedures.]

7.7.1 The Regional Committee must convene the Regional Women's conference in accordance with the procedures, rules and directives of the NEC.

7.7.2 The Regional Women's Conference must formulate policies and programmes for its particular region to promote the equality of women and the interests of women members and must elect the Regional Chairperson Deputy-Chairperson, Secretary, Deputy-Secretary and Treasurer for Women structure.

7.7.3 The delegation to the women's conference shall be determined according to the total members per region.

7.7.4 Only members who are female will be allowed to vote in the women's conference.

## **7.8. Regional Youth Conference**

7.8.1. The RC must convene the Regional Youth Conference in accordance with procedures, rules and directives of the RC

7.8.2. The Regional Youth Conference must formulate policies and programmes to promote the advancement of youth and interest of young members and must elect the Regional Chairperson, Deputy-Chairperson, Secretary, Deputy Secretary and the Treasurer, and in addition elect two officers for Ideological and Political Education Officer and Sports, Recreation Arts and Culture Officer.

7.8.3. Any member of the NUM who is thirty-five (35) years or younger qualifies to be a member of the Youth Structure and can be elected as an office bearer or hold office in terms of criteria established by the Constitution and policies of the Youth Structure.

7.8.4. The delegation to the youth conference shall be determined according to the total number of members per region.

## **8 REGIONAL COMMITTEE**

### **8.1 Composition**

A Regional Committee consists of all members of the union in good standing as:

8.1.1 Chairperson;

8.1.2 Deputy Chairperson;

8.1.3 Regional Secretary;

8.1.4 Deputy Regional Secretary;

8.1.5 Regional Treasurer;

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8.1.6 Chairperson and Secretary of each Branch Committee;

8.1.7 Deputy-Chairperson for Education

8.1.8 Deputy-Chairperson for Health and Safety;

8.1.9 Deputy-Secretary for Education;

8.1.10 Deputy-Secretary for Health and Safety; and

8.1.11 Chairperson and Secretary for Women.

8.1.12 Chairperson and Secretary for the Youth Structure.

## **8.2 Period of Office**

8.2.1 The Regional Chairperson will be seconded to serve the union in a full-time capacity for a three year term of office, but remains employed by his/her employer.

8.2.2 The Regional Secretary will be seconded to serve the union in a full-time capacity for a three year term of office, but remains employed by his/her employer.

## **8.3 Meetings**

8.3.1 The Regional Committee must meet at least 6 times per annum.

8.3.2 A majority of committee members present constitute a quorum.

8.3.3 Decisions must be taken by majority vote and the Chairperson has a deliberative and casting vote.

8.3.4 If within one hour of the time fixed for any meeting a quorum is not present, the meeting must stand adjourned to the same day, time and place in the following week (and if that day is a public holiday then the next succeeding working day) and the members at the adjourned meeting shall form a quorum.

8.3.5 The Regional Secretary must notify in writing members who were absent about the adjourned meeting.

8.3.6 The Regional Secretary must keep minutes of the meetings.

## **8.4 Functions and Powers**

The functions and powers of a Regional Committee are:

8.4.1 to recruit members in a particular region and to promote their interest generally;

8.4.2 to organise regional conferences;

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- 8.4.3 to prepare the regional delegation to the National Congress;
- 8.4.4 to organise regional events with regard to trade union education and training;
- 8.4.5 to establish health and safety, education, women's and youth subcommittees;
- 8.4.6 to supervise the affairs of branch committees, and all other ad-hoc committees;
- 8.4.7 to ensure that proper communication takes place between branches, Regions and Head Office;
- 8.4.8 to open, operate and close banking accounts in the name of the Region subject to the approval, and ultimate control of the NEC;
- 8.4.9 to acquire either by purchase or lease or otherwise any movable or immovable property within the region's area on behalf of the union;
- 8.4.10 to sell, let, mortgage or dispose or otherwise deal with any movable or immovable property belonging to the union, but no immovable property shall be let or leased for a period longer than 5 years unless the transaction has the approval of the NEC;
- 8.4.11 to do all lawful things which, in the opinion of the Regional Committee appears to be in the interest of the union and which are:
  - 8.4.11.1 not in conflict with the decisions and policies of the National Congress, Central Committee and NEC;
  - 8.4.11.2. not inconsistent with the provisions of this Constitution or its by-laws; and
  - 8.4.11.3 necessary to perform its functions; and
  - 8.4.11.4 to organise regional events with regard to health and safety and related matters

## **8.5 Duties**

### **8.5.1 The Regional Chairperson must:**

- 8.5.1.1 preside at all meetings of the Regional Committee;
- 8.5.1.2 ensure that this Constitution is upheld at all times.

### **8.5.2 The Deputy Regional Chairperson must:**

- 8.5.2.1 exercise the power and perform the duties of the Chairperson in the latter's absence;

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8.5.2.2 assist the Chairperson in the discharge of his or her duties.

8.5.3 The Regional Secretary must:

8.5.3.1 deal with all Regional correspondence;

8.5.3.2 issue official receipts for all monies received;

8.5.3.3 submit financial reports to the Regional Conference;

8.5.3.4 ensure that proper books of accounts are kept and that they are audited annually;

8.5.3.5 ensure in general that all legal requirements and controls in respect of the financial matters are adhere to;

8.5.3.6 supervise the employees of the union; and

8.5.3.7 ensure that a register of members is maintained.

8.5.4 The Deputy Regional Secretary must:

8.5.4.1 assist the Regional Secretary in the discharge of his/her duties; and

8.5.4.2 exercise the power and perform the duties of the Regional Secretary in the latter's absence.

8.5.5 The Regional Treasurer:

8.5.5.1 must assist the Regional Secretary in keeping proper books of accounts; and

8.5.5.2 has the right to inspect records relating to the finances, books and assets of the union.

## **9 NATIONAL EXECUTIVE COMMITTEE (NEC)**

### **9.1 Purpose**

The NEC manages the affairs of the union by:

9.1.1 executing union policies as determined by the National Congress and the Central Committee;

9.1.2 carrying out the day-to-day running of the union; and

9.1.3 doing such lawful things which in its own opinion furthers the interests of the union and its members and are consistent with the provisions of this Constitution.

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## **9.2 Composition**

9.2.1 The NEC consists of the following positions national office bearers who are members of the union in good standing:

9.2.1.1 President;

9.2.1.2 Deputy President;

9.2.1.3 Treasurer;

9.2.1.4 Chairperson of each Regional Committee;

9.2.1.5 Regional Secretary from each Regional Committee;

9.2.1.6 National Chairperson for Education;

9.2.1.7 National Secretary for Education;

9.2.1.8 National Chairperson for Health & Safety;

9.2.1.9 National Secretary for Health & Safety;

9.2.1.10 National Chairperson for Women;

9.2.1.11 National Secretary for Women;

9.2.1.12 National Chairperson for National Youth Structure; and

9.2.1.13 National Secretary for National Youth Structure.

9.2.2 The NEC consist of official positions who are employed by the union without voting rights as"

9.2.2.1 General Secretary

9.2.2.2 Deputy General Secretary

## **9.3 Period of Office**

9.3.1 The term of office of the NEC is three (3) years.

9.3.2. The NEC holds office until the election of the next NEC at the National Congress.

9.3.3. Members of the NEC are eligible for re-election on the termination of their period of office.

## **9.4 Meetings**

9.4.1 The NEC must meet at least 6 times per annum.

9.4.2 A majority of the NEC members constitute a quorum.

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9.4.3 If within one hour of the time fixed for any meeting a quorum is not present, the meeting must stand adjourned to the same day, time and place in the following week (and if that day is a public holiday then to the next succeeding working day) and the members present at the adjourned meeting form a quorum.

9.4.4. The General Secretary must notify members in writing who were absent about the adjourned meeting.

9.4.5. Decisions are made by a majority vote.

9.4.6. The President has a deliberative and casting vote.

## 9.5 Functions

9.5.1. The NEC's personnel functions are:

9.5.1.1 to decide what employment posts should be created, maintained or terminated for the effective running of the union;

9.5.1.2 to determine terms and conditions of employment;

9.5.1.3 to employ and dismiss any employee of the union subject to its disciplinary code and procedure; and

9.5.1.4 to co-opt a Deputy President, Deputy General Secretary, Acting General Secretary, Acting President, Treasurer, National Chairpersons for Education, Health and Safety and Women and the National Secretaries for Education, Health and Safety and Women if any of these persons are unable to carry out their functions and in special circumstances a person who is not a member of the NEC may be co-opted to these positions.

9.5.2. The NEC's financial control functions are:

9.5.2.1 to generally control the funds and finances of the union in a manner consistent with the union's aims and objectives;

9.5.2.2 to open, operate and close banking accounts on behalf of the union;

9.5.2.3 to borrow or raise monies and funds;

9.5.2.4 to invest, spend or otherwise use monies and funds in a manner which furthers the union's aims and objectives, and to take decisions on the retention of the services of specialists who advise the NEC on these financial matters;

9.5.2.5 to allocate float amounts and other funds to the respective regions;

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9.5.2.6 to approve the establishment of distinct legal entities and to allocate funds (through loans or otherwise) to such entities;

9.5.2.7 to ensure that any separate legal entity established by the union which receives union funds, is audited annually by a Public accountant and that such audit is presented to the NEC and made available to members for inspection;

9.5.2.8 to take all appropriate steps to form, operate and terminate funds, schemes and trusts which serve the interest of the union or its members;

9.5.2.9 to acquire either by purchase or lease or otherwise any movable or immovable property on behalf of the union;

9.5.2.10 to sell, let, mortgage or dispose or otherwise deal with any movable or immovable property belonging to the union including dispositions of funds to a Provident Fund, Pension Scheme or Trust which serves the interest of the union and its members;

9.5.2.11 to acquire, let or lease immovable property;

9.5.2.12 to impose special levies on members;

9.5.2.13 to deal with fraudulent behaviour, theft and members who bring the union into disrepute.

9.5.2.14 The NEC's disciplinary functions in respect of members, office-bearers and elected officials are:

9.5.2.15 to implement the disciplinary code and procedure for the disciplining of members, office-bearers and elected officials as set out in annexure 3 to this constitution; and

9.5.2.16 to approve a procedure which provides for the reinstatement of members, office-bearers and elected officials.

9.5.3 The NEC's rule making functions are:

9.5.3.1 to design election procedures;

9.5.3.2 to design ballot procedures, subject to the provisions of Clause 19 below;

9.5.3.3 to design inquiry procedures; and

9.5.3.4 to design meeting procedures.

9.5.4 The NEC:

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9.5.4.1 Must establish health and safety and education, women's and youth sub - committees;

9.5.4.2 may set up other sub-committees; and

9.5.4.3 may determine the powers and functions and composition of sub-committees.

## **9.6 Legal Proceedings**

9.6.1 The NEC may initiate or defend legal proceedings on behalf of the union and any of its members.

9.6.2 In urgent circumstances the General Secretary or Deputy General Secretary may initiate or defend such proceedings.<sup>7</sup>

## **10 CENTRAL COMMITTEE**

### **10.1 Purpose**

The Central Committee considers and decides upon organisational issues of major importance between National Congresses.

### **10.2 Composition**

10.2.1 The Central Committee consists of the members of the NEC and the Regional delegates.

10.2.2 The NEC will determine the number of Regional delegates that each regional committee may send to the Central Committee. The number determined by the NEC must be proportionate to the number of the union's total membership.

### **10.3 Meetings**

10.3.1 The President or, in his or her absence, the Deputy President or, in their absence a person appointed by the NEC must preside over the Central Committee meeting.

10.3.2 The General Secretary must keep minutes of the meeting.

10.3.3 A meeting of the Central Committee must be held annually, but may be convened whenever:

10.3.3.1 the NEC requests one; or

10.3.3.2 a majority of Regional Committees request one.

10.3.4 The request, and a notice setting out the reasons for the request, must be sent to the General Secretary at the Head Office.

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<sup>7</sup>[see clause 20 for authorisation of legal proceedings concerning labour disputes.]

10.3.5 The General Secretary must convey the request to the President as soon as possible, who must refer it to the NEC for decision. After considering the request, and the reasons provided for it, the NEC must decide whether a special Central Committee meeting should be convened.

10.3.6 If the NEC decides that a special Central Committee meeting should be convened, the President must determine the date and venue of the meeting and the General Secretary must notify the Regional Committees as soon as possible and by the best practical means in the circumstances.

#### **10.4 Quorums**

10.4.1 A quorum is made up of 50% plus one of the expected delegates.

10.4.2 If within one hour of the time fixed for any meeting a quorum is not present, the meeting must stand adjourned to the same day, time and place in the following week (and if that day is a public holiday then to the next succeeding working day) and the members present at the adjourned meeting shall form a quorum.

10.4.3 The General Secretary must notify in writing members who were absent about the adjourned meeting.

#### **10.5 Voting**

10.5.1 Decisions are made by majority vote.

10.5.2 The voting strength of each Regional Committee's delegation is based on:

10.5.2.1 the proportion of Region's membership relative to the union's total membership; and

10.5.2.2 the membership records of each Region held at the Head Office.

10.5.3 The President has a deliberative and casting vote.

#### **10.6 Minutes**

The General Secretary must keep minutes of all the Central Committee meetings.

### **11 POLICY CONFERENCE**

#### **11.1 Purpose**

The Policy Conference considers and decides upon policy issues of major importance between National Congresses including making constitutional amendment to be processed by the National Congress.

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## 11.2 Composition

11.2.1 The policy conference consists of the members of the NEC and the Regional delegates.

11.2.2 The NEC will determine the number of Regional delegates that each regional committee may send to the Policy Conference. The number determined by the NEC must be the proportionate to the number of the union's total membership. Meetings

11.2.3 The President or, in his or her absence, the Deputy President or, in their absence a person appointed by the NEC must preside over the Policy Conference meeting.

11.2.4 The General Secretary must keep minutes of the meeting.

11.2.5 A meeting of the Policy Conference must be held a year before congress, but may be convened whenever:

11.2.5.1 the NEC requests one; or

11.2.5.2 a majority of Regional Committees request one.

11.2.6 The request, and a notice setting out the reasons for the request, must be sent to the General Secretary at the Head Office.

11.2.7 The General Secretary must convey the request to the President as soon as possible, who must refer it to the NEC for decision. After considering the request, and the reasons provided for it, the NEC must decide whether a special Policy Conference meeting should be convened.

11.2.8 If the NEC decides that a special Policy Conference meeting should be convened, the President must determine the date and venue of the meeting and the General Secretary must notify the Regional Committees as soon as possible and by the best practical means in the circumstances.

## 11.3 Quorums

11.3.1 A quorum is made up of 50% plus one of the expected delegates.

11.3.2 If within one hour of the time fixed for any meeting a quorum is not present, the meeting must stand adjourned to the same day, time and place in the following week (and if that day is a public holiday then to the next succeeding working day) and the members present at the adjourned meeting shall form a quorum.

11.3.3 The General Secretary must notify in writing members who were absent about the adjourned meeting.

## 11.4 Voting

11.4.1 Decisions are made by majority vote.

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11.4.2 The voting strength of each Regional Committee's delegation is based on:

11.4.2.1 the proportion of Region's membership relative to the union's total membership; and

11.4.2.2 the membership records of each Region held at the Head Office.

11.4.3 The President has a deliberative and casting vote.

## **11.5 Minutes**

The General Secretary must keep minutes of all the Policy Conference meetings.

## **12. NATIONAL WOMEN'S CONFERENCE**

12.1 The NEC must convene the National Women's Conference in accordance with the procedures, rules and directives of the NEC.

12.2 The National Women's Conference must formulate policies and programmes to promote the equality of women and the interests of women members and must elect the National Chairperson, Deputy-Chairperson, Secretary, Deputy-Secretary and Treasurer for Women structure.

## **13. NATIONAL YOUTH CONFERENCE**

13.1 The NEC must convene the National Youth Conference in accordance with procedures, rules and directives of the NEC

13.2 The National Youth Conference must formulate policies and programmes to promote the advancement of youth and interest of young members and must elect the National Chairperson, Deputy-Chairperson, Secretary, Deputy Secretary and the Treasurer, and in addition elect two officers for Ideological and Political Education Officer and Sports, Recreation Arts and Culture Officer.

13.3 Any member of the NUM who is thirty-five (35) years or younger qualifies to be a member of the Youth Structure and can be elected as an office bearer or hold office in terms of criteria established by the NUM Constitution and policies of the Youth Structure.

13.4 The delegation to the youth conference shall be determined according to the total number of members in a specific region.

## **14. NATIONAL CONGRESS**

### **14.1 Purpose**

The National Congress is the supreme governing body of the union.

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## **14.2 Composition**

14.2.1 The National congress consists of delegates determined by each region.

14.2.2 The NEC determines the number of delegates that each region may have in accordance with the formula specified below.

## **14.3 Planning for the National Congress**

14.3.1 The first NEC of the year to the holding of the Congress, the NEC must determine the voting strength of each regional delegation on the basis of their membership of July of the previous year. This number is based on:

14.3.2 the proportion of the region's membership relative to the union's total membership; and

14.3.3 the membership records of each region held at Head Office.

14.3.4 The General Secretary must inform the Regional Committees of the convening of the National Congress at least two months before it is held; and of voting strength of each region which is determined by the formula set out above in sub clause 14.3.1.

14.3.5 The regions must:

14.3.5.1 Send nominations for the 9 office bearers to an independent electoral commission decided by the NEC at least one month before National Congress; and

14.3.5.2 Send their resolutions to the General Secretary to reach his or her office at least twenty-one days before National Congress.

14.3.6 A nomination referred to in sub-clause 12.3.3.1 must be seconded by at least one other region.

14.3.7 The General Secretary must send to all Regional Committees at least 10 days before National Congress:

14.3.7.1 copies of the resolutions; and

14.3.7.2 the National Congress agenda.

## **14.4 Convening the National Congress**

The National Congress must be convened once every 3 years. The NEC may decide to convene a National Congress within 6 months at the expiry of 3 year period.

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## **14.5 Presiding over National Congress**

The President or, in his or her absence, the Deputy President or, in the latter's absence, a person appointed by the NEC, must preside over the proceedings at the National Congress.

## **14.6 The Main Business of National Congress**

At National Congress the delegates must:

14.6.1 consider the address of the President, and the reports of the General Secretary and the Treasurer, and other special reports;

14.6.2 assess the union's progress;

14.6.3 formulate policy;

14.6.4 elect office bearers (President, Deputy President, Treasurer General, National Chairperson for Education, National Chairperson for Health and Safety, National Secretary Education, National Secretary Health and Safety)

14.6.5 and elect officials (General Secretary and Deputy General Secretary); and

14.6.6 approve amendments to this Constitution.<sup>8</sup>

## **14.7 Resolutions**

14.7.1 Resolutions must be adopted by a majority vote of voting delegates.

14.7.2 Voting shall be by a show of hands unless the National Congress decides otherwise.

14.7.3 The President or the presiding person has a deciding and casting vote.

## **14.8 Electing Office Bearers and Officials**

14.8.1 Unless otherwise determined by the National Congress only the following members may be nominated and elected to national office bearer positions:

14.8.1.1 members who have served as office-bearers at branch or regional level; or

14.8.1.2 members in good standing for a continuous period of 7 years.

14.8.2 Regions with voting rights may nominate and second candidates from the floor for the positions of office bearers and officials on the NEC,

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<sup>8</sup>[See clause 22 for further details.]

except for the positions of Regional Chairperson and Regional Secretary who hold positions on the NEC by virtue of their positions.

14.8.3 A candidate nominated in terms of sub-clause 12.8.2 who was not nominated as contemplated in sub-clause 12.3.3.1 must be seconded by a majority of the regions.

14.8.4 Only officials who have been members of the union before are eligible for nomination and election to the positions of General Secretary and Deputy General Secretary.

14.8.5 If there is only 1 candidate for a position, that candidate is regarded as having been duly elected.

14.8.6 If there are 2 candidates, delegates must vote by ballot, and the candidate who receives the most votes shall be duly elected.

14.8.7 If there are 3 or more candidates, two or more ballots must be held so that the candidates who receive the least votes in each ballot must be eliminated from the next ballot.

14.8.8 If the ballot results in a tie for most votes received, the delegates must vote by ballot again until a candidate receives the most votes. The candidate who receives most votes will be duly elected.

#### **14.9 Special National Congress**

14.9.1 A Special National Congress may be convened if:

14.9.1.1 the Central Committee or the NEC requests one; or

14.9.1.2 a majority of Regional Committees request one.

14.9.2 The written request and a notice setting out the reasons for the request must be sent to the General Secretary at the Head Office.

14.9.3 The General Secretary must convey the request to the President as soon as possible, who must refer it to the NEC for decision. After considering the request, and the reasons provided for it, the NEC must decide whether a Special National Congress should be convened.

14.9.4 If the NEC decides that a Special National Congress should be convened, the President must determine the date and venue of the meeting and the General Secretary must notify the Regional Committees as soon as possible and by best practical means in the circumstances.

14.9.5 If the request is urgent, the President may allow for a Special National Congress at short notice, but not less than 7 days' notice.

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**15 DUTIES OF THE NATIONAL OFFICE BEARERS AND NATIONAL OFFICIALS**

**A. NATIONAL OFFICE BEARERS**

**15.1 President**

15.1.1 The President must preside at all meetings of the National Congress, the Central Committee, and the NEC.

15.1.2 The President must ensure that this Constitution is upheld at all times.

**15.2 Deputy President**

15.2.1 The Deputy President must exercise the power and perform the duties of the president in the latter's absences.

15.2.2 The Deputy President must assist the President in the discharge of his or her duties.

**15.3 Treasurer - General**

15.3.1 The Treasurer - General must assist the General Secretary to keep proper books of accounts.

15.3.2 The Treasurer - General has the right to inspect records relating to the finances' books and accounts of the union.

15.3.3 The Treasurer – General to issue official receipts for all monies received;

15.3.4 The Treasurer – General to submit financial reports to the National Congress;

15.3.5 The Treasurer – General shall assist the General Secretary in ensuring that all legal requirements and controls in respect of financial matters are adhered to;

**B. NATIONAL OFFICIALS**

**15.4 General Secretary**

**15.4.1 Election**

15.4.1.1 Delegates attending the National Congress elect the General Secretary.

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15.4.1.2 The General Secretary holds office until the election of the next General Secretary at the next National Congress.

15.4.1.3 The General Secretary is eligible for re-election.

15.4.1.4 The General Secretary has no voting rights in these meetings.

#### 15.4.2 Meetings

15.4.2.1 The General Secretary must attend all National Congresses, Central Committee and NEC Meetings.

15.4.2.2 The General Secretary must take proper minutes at these meetings.

15.4.2.3 The General Secretary may speak at meetings but may not vote.

#### 15.4.3 Functions

The General Secretary's functions are:

15.4.3.1 to deal with all Head Office correspondence.

15.4.3.2 to ensure that proper books of accounts are kept and that they are audited annually;

15.4.3.3 to ensure in general that all legal requirements and controls in respect of the financial matters are adhered to;

15.4.3.4 to supervise the employees of the union;

15.4.3.5 to ensure that a register of members is maintained; and

15.4.3.6 to perform such duties as are imposed by the National Congress, the Central Committee, the NEC, this Constitution and its by-laws.

15.4.3.7 In addition to the duties laid down above the general secretary shall perform the duties imposed on him/her by sections 98, 99 and 100 of the Labour Relations Act, 1995, relating to the keeping of records and the furnishing of information to the Registrar.

#### 15.5 Deputy General Secretary

15.5.1 The term in sub clause 15.3.1 (election) and 15.3.2 (meetings) apply to the Deputy General Secretary.

15.5.2 The Deputy General Secretary:

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15.5.2.1 must assist the General Secretary in the discharge of his or her duties; and;

15.5.2.2 must exercise the power and perform the duties of the General Secretary in the latter's absence;

15.5.3 may speak at meetings but may not vote.

## **16. NON-ELECTED OFFICIALS**

16.1 The NEC may appoint non-elected officials from time to time.

16.2 In general non-elected officials are responsible for the recruitment and consolidation of the union's membership.

16.3 Non-elected officials must attend Shaft, Branch, Regional Committee and Central Committee meetings as well as the National Congress.

16.4 Non-elected officials may speak but do not have the right to vote at meetings and congresses.

## **17. DISCIPLINE AND REMOVAL FROM OFFICE OF OFFICE BEARERS AND ELECTED OFFICIALS AND DISCIPLINING OF MEMBERS**

### **17.1 NEC AND Office Bearers**

17.1.1 If in the opinion of the NEC, an office bearer who serves on the NEC or a Regional Committee has behaved in a manner which is detrimental to the interests of the union and its members, it may resolve:

17.1.1.1 to remove him or her from office; or

17.1.1.2 to impose such penalty as it sees fit.

17.1.2 When disciplining an Office Bearer the NEC must follow the disciplinary code and procedure that is annexure 3 to this constitution.

17.1.3 The individual concerned may appeal against such decision (which must remain in force until the appeal is determined).

### **17.2 Shaft Stewards and Branch Office Bearers**

17.2.1 If in the opinion of the relevant disciplinary body, a shaft steward or an office bearer who serves on a Branch or Shaft or Workplace Committee has behaved in a manner detrimental to the interest of the union and its members, it may resolve:

17.2.1.1 to remove him or her from office; or

17.2.1.2 to impose such penalty as it sees fit.

17.2.2 When disciplining an office bearer the disciplinary code and procedure that is annexure 3 to this constitution must be followed.

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17.2.3 The individual concerned may appeal against such decision (which remains in force until the appeal is determined).

### **17.3 Removal or Reinstatement by Ballot**

#### **17.3.1 NEC Member or Office Bearer**

If the majority of members request the General Secretary in writing, for a ballot of members to determine whether or not an NEC member or office bearer should be removed from office, or reinstated (if such person has been removed), then the NEC must arrange to hold that ballot.<sup>9</sup>

#### **17.3.2 Office Bearer**

17.3.2.1 If the majority of members request the General Secretary in writing for a ballot of members to determine whether or not an Office Bearer of a Region, Branch or Shaft / Workplace Committee should be removed from office or reinstated (if such person has been removed), then the NEC must arrange to hold that ballot.

17.3.2.2 If the Office Bearer serves or has served in a Regional, Branch or Shaft / Workplace Committee then the ballot must be conducted amongst members in that particular region, branch or shaft (as the case may be).

17.3.3 This sub-clause 14.3 does not apply where the disciplinary proceedings contemplated in annexure 3 have been followed.

## **18 FINANCES**

18.1 The funds of the union must be applied solely in furtherance of the union's aims and objectives.

18.2 The NEC controls the union's finances.

18.3 The funds received for the union by the General Secretary or other agents of the union, must be deposited within 5 days of receipt in a National or Regional banking account.

18.4 All cheques for the National account must be co-signed by any 2 of the following persons one being a national office bearer and one national official as decided by the NEC: The President, Deputy President, Treasurer, General Secretary or Deputy General Secretary.

18.5 All cheques for a Regional account must be co-signed by any 2 of the following persons one being a regional office bearer and one regional official as decided by the NEC: the Regional Chairperson, Deputy Chairperson, and Secretary, Deputy Secretary or Treasurer.

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<sup>9</sup> [See clause 21 for ballot procedures.]

18.6 The NEC can allocate float amounts and other funds to a region from time to time.

18.7 The date of the union's financial year end is 31 December.

## **19 COUNCILS**

### **19.1 Bargaining Councils**

The Central Committee may resolve that the union shall become a 'party to a bargaining council within the Mining, Construction, Energy and Allied industries. In such event, the NEC must appoint members to represent the union at the bargaining council.

### **19.2 Statutory Bargaining Councils**

The NEC may resolve to apply for the establishment of a statutory bargaining council as provided in the Labour Relations Act, 1995.

## **20 AUTHORISATION FOR LEGAL DISPUTES**

20.1 The NEC may initiate or defend any legal proceedings concerning labour disputes involving the union or its members at national, regional or branch level.

20.2 The General Secretary on behalf of the NEC may authorise the persons in sub-clause 20.3, 20.4 or 20.5 to take all necessary steps and sign all documentation in connection with legal proceedings.

20.3 The NEC may authorise at a National level:

any of its committee members; and / or

two officials or office bearers who may be the, General Secretary, Deputy General Secretary or the President (or any person acting in one of those capacities); Legal officer, or a legal representative of the union.

20.4 The NEC may authorise at a regional level:

any two persons mentioned in sub-clause 20.3. above;

The Regional Chairperson and

The Regional Secretary

Legal Official

20.5 The NEC may authorise at a branch level:

any two persons mentioned in sub-clause 20.3 and 20.4 above:

the Branch Chairperson; and

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the Branch Secretary.

- 20.6 Any steps contemplated or taken concerning disputes shall be subject to the decisions of the NEC.

## **21 BALLOTS ABOUT A STRIKE**

“ballot” includes any system of voting by the members of a trade union that is recorded and is in secret.

- A. The following are indicative of the procedures that should be followed when conducting a secret ballot:

### ***Notice***

- B. Reasonable notice must be given to members of the holding of a ballot. Notice may be given to employees by direct communication, including emails or SMSes, or by the display of notices at the workplace and at trade union offices. While there is no fixed standard, a period of three days would generally be considered to be reasonable notice.
- C. The notice must specify the time and the place of the ballot.

### ***Ballot papers***

- D. The question that is the subject of the ballot must be clearly phrased, and must be consistent with the terms of the dispute referral.
- E. Ballot papers must be prepared in accordance with any applicable union’s Constitutional provisions.
- F. Ballots must not contain any information that would make it possible to identify voters.

### ***Voters’ roll***

- G. A ballot must be conducted in terms of a voters’ roll of those members who are in good standing in terms of the union’s union constitution that the union proposes to call on strike. The voters’ roll may be derived from the union’s membership records or from the employer’s records. The voters’ roll identifies which members are entitled to vote and must be marked to ensure that members vote once only.

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- H. In the case of an electronic ballot conducted by email or SMS, the voters' roll must reflect the email address or mobile phone number of the members concerned and must be scrutinized and conducted by the CCMA or any independent organisations. The CCMA or any independent organisation must keep the records of balloting for three months and thereafter submit to the trade union for record keeping.
- I. In the case of a postal ballot, the voter' roll must reflect the postal addresses of the members and the CCMA or any independent organisation must keep the postal ballots for three months and thereafter submit to the trade union for record keeping.
- J. A trade union may elect to ballot members outside of the bargaining unit in respect of which it proposes to call a strike or to ballot non-members within the bargaining unit. However, those ballots must be conducted and recorded separately from the ballot of members in respect of whom the trade union proposes to call on strike.

***Records of ballot***

- K. Records of voting must be retained for a period of three years. These records include the voters' rolls, ballots in sealed ballot boxes or other containers and any documents used to calculate the outcome of the ballot.
  - L. In the case of electronic ballots, appropriate records must be retained.
- 21.1 A member shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike if –
- 21.1.1. a secret ballot was not held about the strike;
  - 21.1.2 a secret ballot was held, but a majority of the members who voted did not vote in favour of the strike.

**22 GENERAL BALLOTS**

**22.1 Ballot Requirements**

Whenever a ballot is required in terms of this Constitution it must be conducted as contemplated in sub-clause 22.2, 22.3, 22.4 and 22.5 below, with the changes required by the context.

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## **22.2 With Notice**

The Branch Secretary, or the Regional Secretary or the General Secretary (as the case may be) must give notice in writing at least 3 days before the ballot is to be taken to:

each member of the union body involved in the ballot; or

members of the union generally, by placing the notice at the places of work or accommodation which shall constitute proper notice and it shall not be necessary to supply each member individually with a written notice.

## **22.3 Scrutineers**

Not more than five but not less than two scrutineers must be appointed by each Branch, Regional Committee or NEC (as the case may be) or the general meeting concerned to supervise any ballot and to ascertain the result thereof.

## **22.4 Ballot Papers**

23.4.1 Branch Secretaries or Regional Secretaries or the General Secretary, depending on the level where the balloting is going to take place, must send ballot papers where they are required.

23.4.2 The issue to be voted upon must be written clearly on the ballot papers.

23.4.3 Ballot papers must not contain any information by means of which it will be possible to identify the voter.

23.4.4 One ballot paper only shall be issued to each member of the branch who is entitled to vote, in the presence of the scrutineers, at the time and place for the taking of the ballot.

## **22.5 Voting**

22.5.1 Each member must complete, fold and deposit the ballot paper in a container provided for that purpose.

22.5.2 Members must not sign or mark the ballot papers in anyway apart from the mark required to be made to record the vote. Papers bearing any other marks must be regarded as spoilt and must not be counted.

22.5.3 The scrutineers must on completion of a ballot or as soon as possible thereafter count the ballot papers and ascertain the results in the presence of the Branch, Regional or General Secretary (as the case may be).

22.5.4 The scrutineers must communicate the results to the relevant executive committee which must immediately advise the NEC.

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22.5.5 Scrutineers must place ballot papers including spoilt papers, in a container which must be sealed and retained by the Branch, Regional or General Secretary (as the case may be) for not less than 3 years.

22.5.6 The ballot box must be inspected by scrutineers and sealed by the Branch, Regional or General Secretary for not less than three years.

## **23 AMALGAMATION**

The union may amalgamate with another union in the Mining, Construction, Energy and Metal and allied industries if at least two thirds of the delegates of the National Congress vote in favour of such amalgamation.

## **24 DISSOLUTION**

24.1 The union may be dissolved, subject to:

24.1.1 the requirements of the law;

24.1.2 a resolution of the National Congress provided at least three quarters of the delegates vote in favour thereof; and

24.1.3 Sub-clause 24.2 below

24.2 If the National Congress resolves to dissolve the union, a Special National Congress may be requested in accordance with clause 14.9 to reconsider the matter.

24.3 If no Special Congress is requested within one month of the dissolution decision, such a decision becomes final.

24.4 Once the dissolution decision becomes final, the NEC must apply to the Labour Court for an order giving effect to the resolution to dissolve the union.

24.5 The union must recommend a liquidator for appointment by the Labour Court on appropriate conditions.

24.6 The liquidator must have appropriate skills and experience.

24.7 The liquidator is vested with all necessary powers to:

24.7.1 pay the union's debts;

24.7.2 dispose of its assets; and

24.7.3 generally wind up the union's affairs.

24.8 The liquidator must distribute any remaining assets in accordance with the resolution contemplated in sub-clause 22.1.2:

24.8.1 to a labour organisation with aims similar to those of the union; or

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24.8.2 to a workers' insurance, provident or benefit fund.

24.9 The NEC must pay the liquidator's fees.

24.10 None of the assets of the union shall be distributed to members upon dissolution, other than to discharge any indebtedness to a member.

## 25 AMENDMENTS

25.1 Subject to the provisions of any law, any of the provisions of this Constitution may be repealed or amended by resolution of the National Congress provided two thirds of the delegates attending Congress vote in favour of the amendments. Notice of any proposed amendments must be reflected in the duly circulated agenda for Congress.

25.2 The Central Committee is empowered to amend the provisions of the Constitution delineating the scope of the union, provided that:

25.2.1 two thirds of its members vote in favour of the amendments; and

25.2.2 the amendments are ratified by the next National Congress.

25.3 The NEC may amend the provisions of annexures 3 and 4.

## 26 INTERPRETATION

26.1 Footnotes and headings are for explanatory and referencing purposes only, and do not form part of this Constitution.<sup>10</sup>

26.2 The Central Committee must interpret the Constitution if a dispute arises and its decision shall be final and binding.

26.3 If there is a dispute in a structure about the interpretation of any clause in this Constitution that structure must refer the dispute to the next higher structure for its decision.<sup>11</sup>

## 27 DEFINITION

Unless the context indicates otherwise, each word or term defined in the LRA will have the same meaning as in that Act, except for the following,

"by-laws" means by-laws made by the NEC relating to administrative, disciplinary and procedural matters and which are consistent with the provisions of this Constitution;

<sup>10</sup> [One of the plain language features is to include headings and footnotes to make the text more accessible and easier to read. This clause ensures that they do not form part of the Constitution if there is a dispute over interpretation.]

<sup>11</sup> [For example a dispute in a Branch Committee about the interpretation of a clause must refer the dispute to a Regional Committee for its decision.]

|   |   |
|---|---|
| "energy sources"  | include coal, gas, oil, water, sun, wind and uranium;   |
| "LRA"   | means Labour Relations Act, 1995 (Act No. 66 of 1995);  |
| "member"  | means a person as contemplated in clause 2(2) of this Constitution;   |
| "mining, energy, construction, metal and allied industries" | <p>means those industries engaged in:</p> <p>(a) mining, extracting, processing or refining minerals, including those undertakings, workplaces, services and operations which are ancillary or incidental to the mining industry;</p> <p>(b) construction and building, civil engineering, quarrying, heavy clay and applied products, road making, stone crushing, cement and cement products manufacturing and electrical contracting, including but not limited to those undertakings, workplaces, services, and operations which manufacture components incidental to the functions above (For further amplification of these terms see annexure 4);</p> <p>(c) converting energy sources into electricity, and for supplying electricity to consumers;</p> <p>(d) generating, transmitting and distributing electricity;</p> |
| "mineral"   | means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth and includes all metals, hydrocarbons, precious and natural oils;   |
| "official"  | means a full-time employee of the union excluding an office bearer;   |
| "office bearer"   | Shall have the same meaning as in the LRA section 213   |
| "Regional jurisdiction"                                     | means the Regional Committee formed to carry out functions in terms of this Constitution in a particular geographical area;   |
| "shaft steward"   | includes Shop Stewards;   |
| "union"   | means the National Union of Mineworkers (NUM);  |

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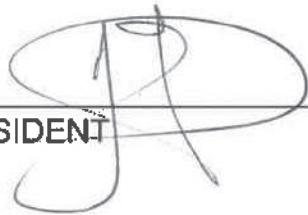
"workers" means employees;

"workplace" has the same meaning as defined in section 213 of the LRA

We hereby certify that this is a true and correct copy of the Constitution of the National Union of Mineworkers.



GENERAL SECRETARY



PRESIDENT

11th November 2021

DATE

## **ANNEXURE 1**

### **BY-LAWS ON CONGRESS PROCEDURE**

#### **Opening Congress**

- 1.1 The President, assisted by the Deputy President opens and presides over Congress during the first and final session.
- 1.2 The Congress must not commence its discussion of the individual items of the Agenda until the report of the Credentials Committee has been tabled before Congress.

#### **1 Guidelines**

The NEC must fix the duration of the sessions of Congress; and determine which languages constitute official languages at Congress.

#### **2 Recommendations and Resolutions**

- 2.1 The NEC must discuss and make recommendations on all resolutions submitted by regions for Congress's decisions.
- 2.2 The NEC may submit recommendations and resolutions to the Congress both before and during the Congress.
- 2.3 Committees may be appointed to examine questions on the Agenda. Reports of such Committees must be presented to the plenary session for adoption.
- 2.4 A mover of resolutions from a region admitted for debate is allowed up to 15 minutes to address Congress.
- 2.5 Delegates who want to address Congress must submit their names in writing to the presiding chair.
- 2.6 All speakers on resolutions are allowed to speak for up to 10 minutes.
- 2.7 The movers may reply to the points raised in debate for a further 15 minutes.
- 2.8 The Chairperson or a delegate may propose closure of the debate. It can be carried at any time by a simple majority. The motion of the closure of the debate must be voted without discussion.
- 2.9 Motions are carried on majority vote.
- 2.10 A delegate who wants to make a point of order can do so irrespective of the speakers list.

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### **3 Emergency recommendations and resolutions**

3.1 Emergency proposal and resolutions must be:

3.1.1 Supported by at least two regions; and

3.1.2 Formulated in writing

3.2 A mover presents the proposals and recommendations in plenary session, and can address the Congress for up to ten minutes.

3.3 The Congress must decide without debate whether such emergency proposals or resolutions are admissible.

3.4 If admissible, the Chairperson and Deputy Chairperson presiding over the session must determine their place on the agenda.

### **4 Observers**

Observers generally do not have the right to speak unless:

4.1 the NEC grants them such rights, or

4.2 this Constitution makes provision for a two-thirds or three quarters majority.

## **ANNEXURE 2**

### **THE FREEDOM CHARTER**

**THE FREEDOM CHARTER AS ADOPTED AT THE CONGRESS OF THE PEOPLE ON JUNE 26, 1955, AND THE NATIONAL UNION OF MINeworkERS' FIFTH ANNUAL CONGRESS OF FEBRUARY 26-28 1987.**

#### **PREAMBLE**

We, the people of South Africa, declare for our country and the world to know:

That South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of the people;

That our people have been robbed of their birth right to land, liberty, and peace by a form of government founded on injustice and inequality.

That our country will never be prosperous or free until all our people live in brotherhood, enjoying equal rights and opportunities;

That only a democratic state, based on the will of the people, can secure to all their birth right without distinction of colour, race, sex or belief.

And therefore, we the people of South Africa, black and white, together equals, countrymen and brothers, adopt this Freedom Charter. And we pledge ourselves to strive together, sparing nothing of our strength and courage, until the democratic charges set out here have been won.

#### **THE PEOPLE SHALL GOVERN**

Every man and woman shall have the right to vote for and stand as a candidate for all bodies which make laws.

All the people shall be entitled to take part in the administration of the country.

The rights of the people shall be the same regardless of race, colour or sex.

All bodies of minority rule, advisory boards, councils and authorities shall be replaced by democratic organs of self-government.

#### **ALL NATIONAL GROUPS SHALL HAVE EQUAL RIGHTS**

There shall be equal status in the bodies of the state, in the courts and in the school for all national groups and races.

All national groups shall be protected by laws against insults to their race and national pride.

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All people shall have equal rights to use their own language and to develop their own culture and customs.

The preaching and practice of national' race or colour discrimination and .contempt shall be set aside.

### **THE PEOPLE SHALL SHARE IN THE COUNTRIES WEALTH**

The national wealth of the country, the heritage of all South Africans, shall be restored to the people.

The mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership as a whole.

All other industries and trades shall be controlled to assist the well-being of the people.

All people shall have equal rights to trade when they choose, to manufacture and to enter all trades, crafts and professions.

### **THE LAND SHALL BE SHARED AMONG THOSE WHO WORK IT**

Restriction of land ownership on a racial basis shall be ended, and all the land re-divided among those who work it, to banish famine and land hunger.

The state shall help the peasants who implements, seeds, tractors and dams to save the soil and assists the tillers.

Freedom of movement shall be guaranteed to all who work on the land. All shall have the right to occupy land where everyone chooses.

People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished.

### **ALL SHALL BE EQUAL BEFORE THE LAW**

No one shall be imprisoned, deported or restricted without fair trial.

No one shall be condemned by order of any government official.

The courts shall be representative of all the people.

Imprisonment shall only be for serious crimes against people, and shall aim at re-education, not vengeance.

The police force and army shall be open to all on an equal basis shall be the helpers and protectors of the people.

All laws which discriminate on the grounds of race, colour of race, or belief shall be repealed.

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## **ALL SHALL ENJOY HUMAN RIGHTS**

The law shall guarantee to all their right to speak, to organise, to meet together, to preach, to worship and to educate their children.

The privacy of the house from policy raids shall be protected by law.

All shall be free to travel without restriction from countryside to town, from province to province, and from South Africa to abroad.

Pass laws, permits and all other laws restricting these freedoms shall be abolished.

## **THERE SHALL BE WORK AND SECURITY**

All who work shall be free to form trade unions, to elect their officers and to make wage agreements with their employers.

The state shall recognise the right and duty of all to work and to draw full unemployment benefits.

Men and women of all races shall receive equal pay for equal work. There shall be a 40-hour working week, a national minimum wage, paid annual leave and sick leave for workers, and maternity leave on full pay for all working mothers.

Miners, domestic workers, farm workers and civil servants shall have the same rights as all others who work.

Child labour, compound labour, the tot system and contract labour shall be abolished.

## **THE DOORS OF LEARNING AND CULTURE SHALL BE OPENED**

The government shall discover, develop and encourage national talent for the enhancement of our culture life.

All the culture treasures of mankind shall be opened to all, be free exchange of books, ideas and contracts with other lands.

The aim of education shall be to teach the youth to love their people and their culture, to honour human brotherhood, liberty and peace.

Education shall be free, compulsory, universal and equal for all children. Higher education and technical training shall be opened to all by means of state allowances and scholarships awarded on the basis of merit. Adult illiteracy shall be ended by a mass state education plan.

Teachers shall have the rights of all other citizens.

The colour bar in cultural life, in sports and in education shall be abolished.

## **THERE SHALL BE HOUSES, SECURITY AND COMFORT.**

All people shall have the right to live where they choose, to be decently housed and to bring up their families in comfort and security. Unused housing space shall be made

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available to the people. Rent and prices shall be lowered, food shall be plentiful and no one shall go hungry.

A preventative health scheme shall be run by the state.

Free medical care and hospital treatment shall be provided for all, with special care for mothers and young children.

Slums shall be demolished and new suburbs built where all shall have transport, roads, lighting, play fields, crèches and social centres.

The aged, the orphans, the disabled and the sick shall be cared for by the state.

Rest, leisure and recreation shall be the right of all.

Fenced locations and ghettos shall be abolished and laws which break up families shall be repealed.

### **THERE SHALL BE PEACE AND FRIENDSHIP**

South Africa shall be a fully independent state, which respects the rights and sovereignty of all nations.

## **ANNEXURE 3**

### **DISCIPLINARY CODE AND PROCEDURE**

#### **FOR MEMBERS, OFFICE BEARERS AND ELECTED OFFICIALS**

**1** Any member, office bearer or elected official<sup>12</sup> may be disciplined by the union for:

**1.1** acting in a manner contrary to the union's Constitution;

**1.2** acting contrary to the interests of the union and its members, or any federation of unions to which the union belongs;

**1.3** failing without an adequate apology to attend 3 consecutive meetings of the constitutional bodies that the person is required to attend;

**1.4** failing to be in good standing with the union; or

**1.5** committing any other act of misconduct.

**2** **Members may not be disciplined or have their membership terminated for failure or refusal to participate in a strike if:**

**2.1** no ballot was held about the strike; or

**2.2** a ballot was held but a majority of the members who voted did not vote in favour of the strike.

#### **3 Disciplinary Committees**

**3.1** The NEC, Regional and Branch Committees must establish Disciplinary Committees.

**3.2** The NEC, Regional or Branch Committees may establish disciplinary committees for each disciplinary matter. They may be composed of members, office bearers, and officials or appropriate outside persons.

**3.3** A Branch Disciplinary Committee will usually discipline a member or an office bearer of the workplace, shaft or branch. The relevant Regional Committee or NEC may determine otherwise.

A Regional Disciplinary Committee will usually discipline an office-bearer or official of the region. The NEC may determine otherwise.

A National Disciplinary Committee will usually discipline an office bearer or official at the national level.

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<sup>12</sup>This does not apply to non-elected officials of the Union.

**3.4** If the Disciplinary Committee believes that the charge has been satisfactorily proven it may recommend to the NEC to:

3.4.1 remove the member concerned from his or her office in the union;

3.4.2 expel the member concerned from the union or from his or her office in the union;

3.4.3 suspend the member for a definite period from his or her position in the union or from his or her membership in the union; or

3.4.4 impose any other fair and appropriate penalty.

#### **4 Procedure**

**4.1** In disciplining members, elected officials or office-bearers the relevant Disciplinary Committee must follow the disciplinary procedure set out below.

**4.2** The member, elected official or office bearer to be disciplined must be given at least 7 days written notice of the charges against him or her, the time of and place for the disciplinary hearing.

**4.3** The notice of the charges may be sent to the person charged by registered post to his or her last known address, *domicilium citandi et executandi*, delivered by hand, faxed or sent by email.

**4.4** The relevant Disciplinary Committee, as the case may be, may proceed to hear and determine the charges if satisfied that:

4.4.1 the person charged is present; or

4.4.2 although absent from the hearing, it is reasonable to assume that the person charged received the notice and does not have an acceptable reason for not attending.

**4.5** At the hearing of the charges the person charged must have the opportunity to state his or her case personally and to call and question witnesses.

**4.6** The person charged must receive written notice of the decision.

**4.7** If there is good cause, the committee or persons hearing the matter may deviate from the above procedures provided that the procedure adopted is fair in the circumstances.

#### **5 Appeal Procedure**

**5.1** Any person found guilty has a right of appeal, which must be submitted in writing to the relevant appeal body contemplated in clause 5.3 within 7 days of the notice of the decision.

**5.2** If the General Secretary or Deputy General Secretary is being disciplined, he or she must submit the appeal notice to the President.

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**5.3 Appeals against decisions of:**

5.3.1 the Branch Disciplinary Committee must be heard by the Regional Disciplinary Committee;

5.3.2 the Regional Disciplinary Committee must be heard by the National Disciplinary Committee;

5.3.3 the National Disciplinary Committee must be heard by the NEC or any other body that the NEC appoints to hear the appeal.

**5.4** The relevant appeal body must determine the procedure for the appeal.

**5.5** The relevant appeal body may confirm, vary or reverse the decision appealed against.

**6 Precautionary Suspension**

**6.1** The NEC may suspend a member, elected official or office-bearer as a precautionary measure if this is in the interests of the union and the investigation of the matter or the prosecution of the disciplinary proceedings.

**6.2** The NEC may determine the terms and conditions of the suspension except that where applicable such a suspension must be on full pay.



## ANNEXURE 4 SECTORS

### "CONSTRUCTION AND BUILDING INDUSTRY"

Construction Industry means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the purpose of erecting, completing, renovating, repairing, maintaining or altering buildings and structures and/or making articles for use in the erection, completion or alteration of building structures, whether the work is performed, the material prepared or the necessary articles are made on sites of the buildings or structures or elsewhere, and shall include all work executed or carried out by persons therein who are engaged in the following activities or subdivisions thereof, namely: concrete work; bricklaying; carpentry; french polishing; glazing; joinery; lead and light making; masonry; metal work; painting; plastering; plumbing; shop office and bank fitting; steel reinforcing; steel construction; and woodworking; and including excavations; demolitions and the preparation of sites for buildings as well as the demolition of buildings, unless it can be shown by the employer concerned that such demolition was not carried out for the purpose of preparing the sites for building operations. Companies under the Bargaining Council for Iron, Steel, Engineering and Metallurgical Industry shall be excluded from this definition.

In amplification of this definition, the following terms are explained:-

**"Bricklaying"** which includes concreting and the fixing of concrete blocks, slabs or plates and glass bricks, the tiling of walls and floors, pointing, paving, mosaic work, facing work in slate, in marble and in composition, drain laying, slating and roof tiling, bituminous work, asphaltting and sheeting and the erecting of prefabricated structures, or garden walls and/or boundary walls with posts, slabs or any other materials;

**Concrete Paving** which, includes the laying of concrete on the ground between buildings as well as concrete paths which are laid on the same site as a building, whether such paving forms an integral part of the structure or not;

**French Polishing**, which includes polishing with a brush or pad and spraying with any composition;

**Joinery**, which includes the manufacture of all articles or joinery, whether or not the fixing of the articles in the building or structure is done by the person making or preparing the article used;

**Lead light making**, which includes the manufacture and/or fixing of lights and display signs and the glazing relating thereto;

**Masonry**, which includes stone cutting and building also the cutting and building of ornamental stonework, concreting and the fixing or building of precast and/or artificial stone or marble paving, mosaic work, pointing, wall and floor tiling, operating stone working machinery, other than stone polishing machinery and the sharpening of mason's tools whether or not the fixing in the building or structure is done by the person making or preparing the article used;

**Metal work**, which includes the manufacture to specification for installation in specified buildings and the manufacturing of stocks, the fixing of steel ceilings, metal windows, metal doors, builders' smith work, metal frames, metal stairs and architectural metalwork and the manufacture and/or fixing of drawn metalwork and sheet and extruded metal, whether or not the fixing in a building or structure is done by the person making or preparing the article used;

**Painting** which includes the processes of signwriting and wall decoration, decorating enamelling, graining, marbling, staining, varnishing, glazing, gliding, lining, stencilling, paperhanging, spraying, wax-polishing, distempering, lime and colour washing and woodwork preservation and which also includes paint removal, scraping, the washing and cleaning of woodwork when such removal, scraping, washing and cleaning are preparatory to any of the said processes;

**Plastering**, which includes modelling, granolithic and composition flooring, composition wall covering and polishing, precast or artificial stonework, wall and floor tiling and paving and mosaic work, including the application of asphaltting or bituminous mastics for the purpose of waterproofing on horizontal or vertical surfaces, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

**Plumbing**, which includes lead burning, gas fitting sanitary and domestic engineering, drain laying, caulking, ventilating, heating, hot and cold water fittings, fire prevention equipment installation, and the manufacture and fitting of all sheet-metal work, whether or not the fixing on the building or structure is done by the person making or preparing the articles used.

**Shop office and bank fitting**, which includes the manufacture or specification for installation in specified buildings and the manufacture of stocks and/or the fixing of shop fronts, window enclosures, showcases, counters, screens and interior fitting and fixtures;

**Steel reinforcing** which includes the making and erection of shuttering and the supervision of the bending, placing and fixing in position of steel and concrete;

**Steel construction**, which includes the fixing of all classes of steel or other metal columns, girders, steel joists, or metal in any other form which forms part of a building or structure.

**Woodworking**, which includes carpentry, woodworking, the manufacturing of fixtures to specification for installation in specified buildings and the manufacturing of stocks, machining, turning, carving, the fixing of corrugated iron, asbestos tiles, shingling and other roof coverings, sound and acoustic material, cork and asbestos insulation, wood lathing, composition ceilings and wall covering, the plugging of walls, the covering of woodwork with metal, block and other flooring, including wood, cork and rubber, and the sand papering of same, cork carpeting and any class or kind of linoleum when fixed in any building or structure, and the application of asphaltic saturated felt or fabrics to floors and/or walls and for roofs, whether or not the fixing in the building or structure is done by the person making or preparing the article used.

## **CIVIL ENGINEERING INDUSTRY**

Civil Engineering Industry means the industry in which employers (other than municipalities and municipal entities) and their employees are associated for the purpose carrying out work of a civil engineering character and includes such work in connection with any one or more of the following activities:

- (a) The construction of aerodrome runways or aprons, aqueducts, bins or bunkers, bridges, cable ducts; caissons; raft or other marine structures, canals, cooling, water or other towers, dams, docks, harbours, quays or wharves, earthworks, encasements, housings, or supports for plants, machinery or equipment, factory or works chimneys, filter beds, land or sea defence works, mine headgear, pipe liners, piers, railways, reservoirs, river works, road or streets, sewerage works, sewers, shafts or tunnels, silos, sports fields or grounds, swimming baths, viaducts or water treatment plants;
- (b) Excavation work or the construction of foundations lift shafts, piling, retaining walls, underground parking garages, or other underground structures;
- (c) The asphaltting, concreting, gravelling, levelling or paving of parking areas, pavements, roads, streets, aerodromes, runways or aprons, premises or sites.
- (d) Underground surface and open cast mining performed by civil engineering contractors and plant hire earth-moving contractors.

## **HEAVY CLAY AND APPLIED PRODUCTS INDUSTRY**

Heavy Clay and Allied Products Industry, means the industry in which employees and their employees are associated in establishments where employees are engaged in;

- (a) the manufacture of any one or more of the following articles (other than ceramic ware), namely bricks, silica, sand bricks, quarry tiles, slabs, hollow blocks, refractories, acid proof or fireproof earthenware pipes, earth ware pipe fittings, ventilators, insulating products or any other article which is made from clay or of which clay or any other article which in the process of being manufactured are hardened by burning in a kiln or by any other heat process which are made from clays or of which clay or any other heat resisting or insulating mineral, ore or material or a combination of clay and such other mineral, one or material forms the principle component;
- (b) The extraction, mining, winning or preparation of the clay or heat resisting or insulating mineral, ore or material used in the manufacture of any of any other articles referred to paragraph (a), if carried on by employers who are engaged in such manufacture, and includes all operations incidental to or consequence on any of the aforesaid activities.

## **ROADMAKING INDUSTRY**

Roadmaking Industry, means the industry in which employers and their employees are associated for the purpose of making roads and streets, or levelling, gravelling, covering with concrete or asphaltting premises or sites, and includes any workshop where tools, vehicles or equipment, used in any or all the above-mentioned activities are made, repaired and further includes all operating incidental to or consequent on any of the aforesaid activities;

## **STONECRUSHING**

Stone crushing Industry means the industry in which employers and their employees are associated for:-

- (a) The crushing of stone;
- (b) The quarrying or winning of stone for crushing if carried on by employers who are engaged in the crushing such stone, and includes all operations incidental to or consequent on any of the aforesaid activities.

## **CEMENT MANUFACTURING INDUSTRY**

Cement Manufacturing Industry, means the industry in which employers and their employees are associated for:

- (a) The manufacture of cement or plaster of paris.
- (b) The quarrying, winning or production or any material used in the manufacture of either of the goods referred to in paragraph (a) if carried on by employers who are engaged in such manufacture, and includes all operations incidental to or consequent on any of the aforesaid activities.

## **CEMENT PRODUCTS INDUSTRY**

Cement Products Industry means the industry in which employers and their employees are associated in establishments for the purpose of manufacturing one or more of the following articles:-

Bricks, tiles, roof tiles, blocks, pillars, pots, pipes, pipe fittings, ventilators or any other articles of which cement or lime or both cemented lime form the principal binding material and which are not hardened by means of burning in a kiln or subjected to any other heat process except for the purpose of accelerating the hardening of the binding agent, and includes all operations incidental to or consequent on any of the activities.

## **CIVIL ENGINEERING INDUSTRY**

Civil Engineering Industry, means the industry in which employers, other than municipalities or municipal entities, and their employees are associated for excavation work on the construction of docks, harbours, bridges, viaducts, aqueducts, canals pipe lines, cable ducts, aerodromes, bunkers, quays wharves, reservoirs, filter-beds, sewerage works, sewers, tunnels or gas holders and includes any work of a similar nature but does not include the road-making industry.

## **CERAMICS INDUSTRY.**

Ceramics Industry, meaning the industry in which employers and their employees are associated in establishments for:

- (a) The manufacture of any one more of the following articles, namely, electrical porcelain insulators or fitting crockery, pottery, overware, white or coloured glaze, sanitary ware, laboratory equipment, bathroom fittings, wall tiles or floor tiles other than quarry tiles) which in the process of being manufactured are hardened by burning in a kiln or by any other heat process and which are made from clay or which clay or any other heat resisting or insulating mineral, ore or material or a combination of clay and any such other mineral, ore or material forms the principal component; or
- (b) The extraction, mining, winning or preparation of the clay or heat resisting or insulating mineral, ore or material used in the manufacture of any articles referred to in paragraph (a), if carried on by employers who are engaged in such manufacture; and includes all operations incidental to or consequent on any of the aforesaid activities.

## **LANDSCAPING**

Landscaping refers to any activity that modifies the visible features of an area of land, including: living elements, such as flora or fauna; or what is commonly called gardening, the art and craft of growing plants with a goal of creating a beauty within the landscape:-

- (a) Adding ornament features, planting grass and trees and maintaining the existing ground.
- (b) Re-designing area or ground along the National roads in order to ensure that there is no land erosion.

## **ELECTRICAL CONTRACTING INDUSTRY**

"Electrical Contracting Industry" means the industry in which employers and employees are associated with -

- (a) the design, preparation, erection, installation, repair and maintenance of all electrical equipment forming an integral and permanent part of buildings and/or structures, including any wiring, cable jointing and laying, electrical overhead line construction and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere.
- (b) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the purpose for which a building and/or structure is used, including any wiring, cable jointing and laying, electrical overhead line construction and all other operations incidental thereto, whether

the work is performed or the material prepared on the site of the buildings or structures or elsewhere;

- (c) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the conclusion, alteration, repair and maintenance of buildings, and/or structures, including any wiring, cable jointing and laying, electrical overhead line construction and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere;
- (d) the design, preparation, erection, installation, repair and maintenance of .all electrical equipment not covered by (a), (b) and (c) above, including any writing, cable jointing and laying, electrical overhead line construction and all other operations incidental thereto, whether the work is performed or the material prepared on the side of the buildings or structures or elsewhere; and
- (e) the installation and/or maintenance and/or repair and/or associated with domestic and/or industrial and/or commercial installations and/or street lighting.

### **ELECTRICAL ENGINEERING INDUSTRY**

Electrical Engineering Industry which means the manufacture and/or assembly from component parts of electrical equipment namely, generators, motors, converters, switch and control gear, electrical lighting, heating, cooking, refrigeration and cooling equipment, transformers, radio or electronic equipment, incandescent lamps, and electric cables and domestic electrical appliances.

### **AUTOMOBILE MANUFACTURING INDUSTRY**

Automobile manufacturing industry which means the industry for the assembly of motor vehicle from new components on an assembly line.

### **MOTOR INDUSTRY**

Motor industry which means assembling, erecting, testing, remanufacturing, repairing, adjusting, overhauling, wiring, upholstering, spraying, painting, automotive engineering, repairing or re-treading tyres, repairing and servicing batteries for motor vehicles, vehicle body building, the business conducted by filling and services stations and kiosks linked to garages.

### **TYRE AND RUBBER MANUFACTURING INDUSTRY**

Tyre and rubber manufacturing industry means the industry to manufacture rubber.

### **BATTERY MANUFACTURING INDUSTRY**

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Battery manufacturing industry which means the industry to manufacture of dry cell and lead acid batteries.

### **METAL INDUSTRY**

Metals industry which means scrap metal users, recycling, steel merchants, steel products, and base and precious metal smelters.











