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ONSTITUTION

Food & Allied Workers Union

AS AMENDED AT THE
BI-ENNIAL NATIONAL CONFERENCE
26 - 30 JULY 1999



**AN INJURY TO ONE
IS AN INJURY TO ALL**

PART ONE

1. DEFINITIONS

- 1.1 "Union" shall mean Food and Allied Workers Union, abbreviated to FAWU.
- 1.2 "Factory" shall include any workplace at which workers perform work.
- 1.3 "Office-Bearers" shall mean any person who is elected to an office in the Union, and who may act as a spokesperson or representative of the Union at the Branch, Regional or National level, as the case may be.
- 1.4 "Official" shall mean an employee of the Union other than a person employed in an administrative capacity only, and includes an Office-Bearer who is permanently employed by the Union.
- 1.5 "Employee" shall include officials and all other employees permanently employed by the Union.
- 1.6 "Worker" shall mean any person employed by or working for any employer in the Food Industry and who is receiving or is entitled to receive any remuneration.
- 1.7 "Seasonal worker" shall mean any person employed in a sector of the Food Industry wherein employees are required to work less than twelve (12) consecutive months.
- 1.8 "FGM" shall mean a Factory General Meeting.
- 1.9. "SSC" shall mean a Shopstewards Committee.
- 1.10 "BC" shall mean a Branch Conference.
- 1.11 "BEC" shall mean a Branch Executive Council.
- 1.12 "RC" shall mean a Regional Conference.
- 1.13 "REC" shall mean a Regional Executive Council.
- 1.14 "NC" shall mean the National Conference.
- 1.15 "NEC" shall mean the National Executive Council.

Any other expression used in this constitution and which is defined in the Labour Relations Act 66 of 1995, shall have the same meaning as the Act unless indicated otherwise by the context in which it is used.

2. NAME:

The name of the Union shall be "Food and Allied Workers Union (FAWU).

3. HEAD OFFICE:

The Head Office of the Union shall be in Cape Town or at such other place as the Biennial National Conference may determine from time to time.

STATUS OF THE UNION:

- 4. The Union shall be a corporate body having perpetual succession and legal existence and it shall be entitled to sue and be sued in its own name.

The Union shall be an organization not for gain.

5. **AIMS AND OBJECTIVES:**

The aims and objectives of the Union shall be:

- 5.1 To organize all workers engaged in the Food Industry in South Africa into one (1) National Union and to use every legitimate means to induce all workers who are eligible for membership to become members.
- 5.2 To promote a spirit of trade union unity and solidarity amongst members of the Union and amongst all workers irrespective of race or sex and to oppose any policy, practice or measure which will cause division or disunity amongst members or workers.
- 5.3 To promote the interest of the members in particular and workers in general.
- 5.4 To regulate relations between members and their employers and to protect and further the interest of members in relation to their employers.
- 5.5 To negotiate and enter into collective agreements between members and their employers in relation to their employment.
- 5.6 To promote worker leadership and build democratic structures at all levels within the Union.
- 5.7 To consider and advise on legislation or policies affecting the interest of members, to provide support for or oppose any such legislation or policies and to make representations to public and other bodies.
- 5.8 To co-operate with and assist other progressive trade unions or worker organizations within South Africa and internationally in the general interest of the working class movement.
- 5.9 To assist members in obtaining employment and to endeavour to induce employers in the Food Industry to employ trade union labour.
- 5.10 To educate workers about their rights.
- 5.11 To provide legal assistance to members and /or Officials where it deems it in the interest of the Union to do so.
- 5.12 To endeavor to achieve decent standards of living and social justice.
- 5.13 To do such other things as appear to be in the interest of the union and its members and which are not inconsistent with the aims and objectives or any matter specifically provided for in this Constitution.

6. **MEMBERSHIP:**

6.1 **SCOPE**

All workers engaged in the *Food Industry* shall be eligible for membership of the Union. "*Food Industry*" shall for the purpose of this Constitution mean the industry in which food is processed, by any means, for human and/or animal consumption and without limiting the scope of this meaning, shall include the following sectors:

6.1.1 Baking:

Baking, distribution and packaging of bread and confectionery and the manufacturing of any commodity or ingredient used in baking.

6.1.2 Biscuit Manufacturing:

The manufacturing, packaging and distribution of biscuits, wafers and cones.

6.1.3 Brewing:

The brewing, packaging and distribution of beers and malt liquor.

6.1.4 Cool Drinks and Minerals:

Manufacturing, bottling, packaging and distribution of cool drinks and minerals.

6.1.5 Dairy:

Includes the bottling or packaging, sales and distribution of whole or skimmed milk and the manufacturing of cream, butter, cheese, yoghurt, buttermilk, Ice cream and milk powder.

6.1.6 Fruit and Vegetable Processing:

The processing, packaging, distribution and preserving of fruit and vegetables and includes the following products:

"Canned or bottled fruit or vegetables, frozen fruit and vegetables, jams, fruit juices, squashes and cordials, dried fruit and minced dried fruit, glaze and crystallized fruit, soups, pickles, sauces, herbs, spices, condiments, chutney, infant and invalid foods, dehydrated fruit or vegetables."

6.1.7 Fishing and Fish Processing:

The processing, packaging, distribution or preserving of fish, rock lobster, perlemoen, fish, fish meal or fish oil and fishing operations incidental to these activities as well as sea-going workers.

6.1.8 Meat Packing and Processing:

The slaughtering of livestock, the preparation, preservation and distribution of meat, polony, bacon, sausage, raw skins and hides and meat canning.

6.1.9 Milling:

The milling of wheat, maize or other cereals, peanut and oil seeds and the manufacturing, packaging and distribution of the following products:

"Wheat flour, maize flour, meal, maize rice, samp, mabella meal, rice, breakfast cereals, animal feeds, edible oils, oil, cake, margarine, peanut butter, macaroni, spaghetti, sago, tapioca, beans, peas, lentils, glucose and starches."

6.1.10 Poultry and Eggs:

The slaughtering of poultry, the preparation and preservation of poultry meat and the packaging and distribution for sale of eggs.

6.1.11 Nuts and Snacks:

The packaging, distribution and processing of edible nuts and snacks.

6.1.12 Sugar Manufacturing and Refining:

Refining, processing, production, packaging and distribution of sugar, sucrose and sugar by-products.

6.1.13 Sweets and Chocolate Making:

The making, packaging and distribution of sweets and chocolates and any commodity or ingredient used in making sweets or chocolates.

6.1.14 Tea, Coffee and Chicory:

The packaging, distribution or processing of tea, coffee or chicory, the roasting of coffee or chicory and the manufacturing of instant tea or coffee powder, essences or extracts.

6.1.15 Wine and Spirit Manufacturing:

The manufacturing, distilling, packaging and distribution of wines and spirits.

6.1.16 Tobacco:

The processing, manufacturing, packaging and distribution of tobacco and its derivative products.

6.1.17 Cold Storage, Distribution and Fresh Produce Markets:

The preservation of food by cold storage, the distribution and packaging of food and the marketing of fresh produce.

6.1.18 Salt:

The mining, processing, manufacturing, packaging, distribution and extracting of salt.

6.1.19 Hotel, Catering, Liquor Trade and Tearooms:

The establishments involved in the hotel, accommodation and catering industry and selling of liquor.

6.2 APPLICATION FOR MEMBERSHIP:

6.2.1 Application for admission or re-admission to membership shall be made in writing to the Regional Secretary on the Union's application form and shall be accompanied by a signed stop order authorization form in favour of the Union for the payment of the Union subscription fee.

6.2.2 An applicant shall be deemed to be a member of the Union on completion of the application form accompanied by a signed stop order form unless the REC resolves to refuse membership to such applicant. The REC shall consider such application within a reasonable time.

6.2.3 An applicant to whom admission to membership is refused shall be notified in writing together with reason(s) for such refusal and shall be entitled to a refund of the membership fee paid by him/her on application.

6.2.4 If admission to membership is refused by the REC, the applicant shall have the right to appeal to the NEC which shall have the power to confirm or reverse the REC's decision. Such an appeal shall be in writing and shall be submitted to the General Secretary within one (1) week of such a decision being taken. This decision shall be final.

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

6.3. PAID-UP MEMBERSHIP:

6.3.1 Only paid-up members shall be entitled to the benefits of membership, including the right to vote. A paid-up member shall be regarded as a member who pays his/her subscription fees and other fees/charges/levies due to the Union timeously and who has signed a stop order authorisation form in favour of the Union for all monies due by him/her to the Union.

6.3.2 A member shall forfeit all benefits of membership if:

6.3.2.1 The subscriptions or other charges due by him/her to the Union are more than thirteen (13) weeks in arrears provided that if the arrears are caused by the member's participation in a strike; or a lockout by the employer; or an employer's failure to pay over subscriptions; or any other reason which is beyond the member's control, the member shall be deemed to be a member in good standing. In the event that a member is released from his/her company to perform Union business and the Union is responsible for the loss of wages, the Union should ensure that subscriptions are deducted from such loss of wages paid.

6.3.2.2 The member cancels the stop order authorisation form.

6.3.2.3 S/he is expelled from the Union or during any period, which s/he is under suspension in terms of the Constitution.

6.3.2.4 S/he ceases to be employed in the Food Industry excepts in the case of seasonal workers during any period of seasonal unemployment.

6.3.2.5 S/he intentionally causes or permits subscription fees not to be paid to the Union.

6.3.2.6 In the event of the subscriptions due to the Union by a member being more than thirteen (13) weeks in arrears s/he shall continue to be a member subject to the disabilities imposed by clause 6.3.2 until all arrears have been paid.

6.4. TERMINATION OF MEMBERSHIP:

6.4.1. A member may resign by giving four (4) weeks notice in writing to the Regional Secretary, provided that no resignation shall take effect:

6.4.1.1 Until all monies due to the Union by the member concerned have been paid;

6.4.1.2 If the resignation is received on a standard form compiled for the purpose of enabling more than one (1) member employed by the same employer to resign from the Union;

6.4.1.3 If the resignation is received through the agency of the member's employer.

6.5. SUBSCRIPTIONS:

6.5.1. Active members shall pay weekly, fortnightly or monthly subscription fees. This amount shall not exceed one comma four percent (1.4%) of the members weekly, fortnightly or monthly remuneration, provided that such amount shall not exceed forty rand (R40.00) in a month.

6.5.2 A seasonal and / or contract worker shall be liable for the payment of subscription fees during his/her periods of employment only.

6.5.3 In addition to subscriptions all members shall be liable to pay:

6.5.3.1 contributions towards any benefit fund established by the Union;

6.5.3.2 any fines and levies imposed by the Union in terms of this constitution.

PART TWO

- 7.1 The control of the Union at factory level shall be vested in the following meetings or committees, in order of supremacy:

- 7.1.1 Factory General Meeting
- 7.1.2 Shopstewards Committee

8. FACTORY GENERAL MEETINGS:

8.1 COMPOSITION:

An FGM shall be composed of the SSC and the general membership of the factory.

8.2 MEETINGS:

An FGM shall be held once a month, on a date to be fixed by the Chairperson in consultation with the Office-Bearers. Special FGM shall be called whenever it is deemed necessary by a majority i.e. fifty percent (50%) plus one (1) of the members of the SSC.

8.3 NOTICE:

Notice of every FGM shall be given to all members at the factory not less than three (3) days before the date of such meeting, provided that in the case of a Special FGM shorter notice, being not less than twenty-four (24) hours, may be given. The proceedings of any meeting shall not be invalidated merely by reason of non-receipt by any member of the notice of the meeting.

8.4 QUORUM:

The quorum for FGM's shall be more than half ($\frac{1}{2}$) the number of members and Shopstewards required to attend and one quarter ($\frac{1}{4}$) in the case of Special FGM's. If within thirty (30) minutes of the time fixed for any meeting a quorum is not present; the meeting shall stand adjourned until a further meeting can be arranged. Such adjourned meetings shall take place at a date not sooner than six (6) days and not later than fourteen (14) days from the date of the meeting which was adjourned. Notices of adjourned meetings shall be given to all members. At such adjourned meetings the members present shall form a quorum.

8.5 MINUTES:

Minutes of the FGM shall be sent to the Branch and Regional Secretary as soon as possible but not later than fourteen (14) days after the FGM. These minutes shall be read and approved at the following FGM.

8.6 POWERS:

8.6.1 The powers of the FGM is to deal with all matters which may affect the general membership of the factory, subject to the direction and control of this Constitution, and shall include but not be limited to the following:

- 8.6.1.1 Implementation of structural decisions;
- 8.6.1.2 To determine all resolutions submitted to it for consideration;
- 8.6.1.3 Removal of shop stewards;
- 8.6.1.4 To elect SSC Office Bearers.

8.6.2 Subject to the terms of this Constitution, the agenda of a FGM shall include the following matters:

- 8.6.2.1 A report from the Shopstewards' meetings with the employers and/or structural meetings;
- 8.6.2.2 Resolutions to be submitted to the employers or the Branch;
- 8.6.2.3 Elections or Biennial elections;
- 8.6.2.4 Any other matter of importance that needs to be discussed.

9. SHOPSTEWARD COMMITTEES

9.1 A SSC shall be elected at any factory or workplace where the Union is representative of workers, and shall be established at any factory or workplace at which it is in the opinion of the BEC, REC or NEC necessary to do so.

9.2 SSC shall be elected in accordance with this Constitution and such elections shall take place during January up to March of every second year, i.e. in the same year as the Biennial National Conference.

9.3 COMPOSITION:

A Chairperson, 1st Vice Chairperson, 2nd Vice Chairperson, Treasurer and Secretary shall be elected by the FGM from amongst the SSC members within one (1) month of the elections by the FGM of the SSC.

They shall be Chairperson, 1st Vice Chairperson, 2nd Vice Chairperson, Treasurer and Secretary at FGM and at SSC meetings. The SSC shall be composed of the Office-Bearers and all Shop stewards and will be assisted by alternate Shop stewards whose number shall be determined at a FGM.

9.4 MEETINGS:

The SSC shall meet once every month. Any committee that has not met once in three (3) months shall be deemed to be non-existent except where otherwise decided by the NEC, REC or BEC, as the case may be, in circumstances judged to be extraordinary by that body.

A special SSC may be called whenever it is deemed necessary by the Chairperson in consultation with the Office-Bearers or within seven (7) days of receipt of a requisition signed by not less than fifty percent (50%) plus one (1) of the members, calling for a special SSC.

9.5 NOTICE:

Written notice of every SSC meeting shall be given to all members of the committee not less than three (3) days before the date of such meeting provided that in the case of special meetings shorter notice, being not less than twenty-four (24) hours, may be given. The proceedings of any meeting shall not be invalidated merely by reason of non-receipt by any member of the notice of the meeting.

9.6 QUORUM:

A quorum at meetings of the SSC shall be one half (1/2) the number of SSC members required to attend and one-quarter (1/4) in the case of special meetings. If within thirty (30) minutes of the time fixed for any meeting a quorum is not present; the meeting shall stand adjourned until a further meeting can be arranged. Such adjourned meetings shall take place at a date not sooner than six (6) days and not later than fourteen (14) days from the date of the meeting which was adjourned. Notices of adjourned meetings shall be given to all members. At such adjourned meetings, the members present shall form a quorum.

9.7 MINUTES:

Minutes of all SSC meeting shall be taken by the Secretary and copies of all minutes shall be submitted to the Branch and Regional Secretaries as soon as possible after the meeting, and in any event within seven (7) days. These minutes shall be read and approved at the following SSC meeting.

9.8 DUTIES OF SHOP STEWARDS COMMITTEE:

The shop stewards shall, subject to the approval, confirmation or review of the BEC, REC, or the NEC, as the case may be, have the following powers and duties:

- 9.8.1 To enroll new members and to use every legitimate means to ensure that all workers at the factory who are eligible for membership become members;
- 9.8.2 To ensure that all members are paying subscriptions;
- 9.8.3 To take up all complaints of members and to negotiate with the employer on all matters affecting the interests of the members at the factory;
- 9.8.4 To attend the negotiation of collective agreements applicable to the factory and to ensure that such collective agreements are observed by members and their employers;
- 9.8.5 To report to the Branch Secretary or BEC any dispute arising at the factory, or any grievance of the members which the SSC had not been able to resolve;
- 9.8.6 To convey decisions of the Union to members at the factory and to convey resolutions of the members to the Union;
- 9.8.7 To endeavor to settle disputes at the factory by lawful methods;
- 9.8.8 To attend any structural meeting of the Union as delegated by the members of the Union;
- 9.8.9 To at the request of an employee in the workplace, assist and represent an employee in grievance and disciplinary proceedings as well as at Bargaining Councils and CCMA;
- 9.8.10 To monitor the employer's compliance with any law regulating terms and conditions of employment;
- 9.8.11 To report any alleged contravention of any law regulating terms and conditions of employment to the employer, Union or any responsible authority or agency; and
- 9.8.12 To perform any other functions as the Union structures may direct.

9.9 DUTIES OF SSC OFFICE BEARERS

- 9.9.1 They shall perform the same duties *mutatis mutandis* in respect of the Factory as are imposed on the National Office Bearers.

PART THREE

ESTABLISHMENT AND CONTROL OF BRANCHES

10. A branch of the Union may be established in an area where there are two (2) or more organised factories within the Region. The REC shall demarcate its region into Branches. Factories may apply to the REC for the establishment of a Branch. If the REC approves the establishment of a branch, the REC shall convene an inaugural BC. At this meeting branch office-bearers and delegates to the REC shall be elected and hold office until the next Bi-ennial BC. The inaugural BC shall also decide on the name of the Branch. Branches shall be under the supervision and control of the Region. The control of the Union at this level shall be vested in the following structures in order of supremacy:

10.1 Biennial Branch Conference

10.2 Branch Executive Council

11. BRANCH CONFERENCE:

A BC shall be composed of the Branch Chairperson, 1st Vice-Chairperson, 2nd Vice-Chairperson, Branch Secretary, Treasurer and BEC members who shall be delegates elected from factories as follows:

- 11.1 Each Factory shall elect one delegate for the first fifty (50) members or part thereof.
- 11.2 One delegate for every two-hundred and fifty (250) members or part thereof, thereafter.

Each delegate shall be a Shopsteward at the factory where s/he is employed.

11.3 MEETINGS

A BC shall be held once every two (2) years during the month of May or June, i.e. in the same year as the Biennial National Conference, on a date and at such place to be fixed by the Branch Office-Bearers. A Special BC may be held if and when this is deemed necessary by the BEC, REC or NEC or within seven (7) days of receipt of a requisition signed by fifty percent (50%) plus one (1) of the members of the BEC calling for a special meeting.

11.4. NOTICE:

The Branch Secretary, or a nominee of the BEC for this purpose, shall notify all SSC's at least one (1) month before the date of the BC, provided that in case of a Special BC such shorter notice, being not less than fourteen (14) days shall be given at the discretion of the Branch Chairperson. The proceedings of any meeting shall not be invalidated, merely by reason of non-receipt by any member of the notice of the meeting.

11.5. QUORUM:

The quorum for a BC shall be at least half ($\frac{1}{2}$) of the number of delegates and Office-Bearers required to attend and one-quarter ($\frac{1}{4}$) in the case of special meetings. If within two (2) hours of the time fixed for a meeting a quorum is not present; the meeting shall be adjourned until a further meeting can be arranged. Such a meeting shall take place at a date not sooner than twelve (12) days and not later than thirty (30) days from the date of the meeting which was adjourned. Notice of adjourned meetings shall be given to each SSC. At such a meeting the members present shall form a quorum.

11.6. MINUTES:

Copies of minutes of a BC shall be submitted to the General Secretary, Regional Secretary and to each Factory within the Branch concerned within a reasonable time and approved at the following BC.

11.7. POWERS:

11.7.1 A BC shall decide, subject to the directions of this Constitution, on all matters affecting the Branch, and may submit resolutions to the REC, RC, NEC or NC as to such matters or matters affecting any Branch, Region or the Union as a whole.

11.7.2 The agenda of the BC shall include the following items:

- 11.7.2.1 The Chairperson's address;
- 11.7.2.2 Report on the activities of the Branch by the Branch Secretary of behalf of the BEC;
- 11.7.2.3 Report on the finances of the Branch by the Treasurer;
- 11.7.2.4 Resolutions for the BC, REC, RC, NEC and NC;
- 11.7.2.5 Proposed amendments to the Constitution;
- 11.7.2.6 Elections of Branch Office-Bearers, REC delegates and RC delegates.

12. BRANCH EXECUTIVE COUNCIL

The management of the affairs of a Branch shall be vested in the BEC subject to the direction and control of this Constitution. The BOB's shall have the power to manage the affairs of the Branch in between the BEC's.

12.1 COMPOSITION:

The BEC shall be composed of a Chairperson, 1st Vice-Chairperson, 2nd Vice-Chairperson, Treasurer and Secretary and Factory delegates who shall be represented as follows:

12.1.1 Each Factory shall elect (1) delegate for the first two hundred and fifty (250) members or part thereof;

12.1.2 Each Factory with more than two hundred and fifty (250) members shall be entitled to two (2) delegates.

12.2 MEETINGS:

Each BEC shall meet quarterly on a date to be fixed by the Chairperson in consultation with the Office-Bearers. Special meetings of a BEC shall be called by the Chairperson in consultation with the Office-Bearers whenever it is deemed necessary or within seven (7) days of receipt of a requisition, signed by not less than fifty percent (50%) plus one (1) of the BEC members, calling for such a meeting.

12.3 NOTICE:

Members of a BEC shall be notified in writing of the time and place of BEC meetings by the Branch Secretary or a nominee of the BEC, at least ten (10) days before the date of such meetings, provided that shorter notice of not less than twenty-four (24) hours may, at the discretion of the Chairperson in consultation with the Office-Bearers, be given in respect of special meetings. The proceedings of any meetings shall not be invalidated merely by reason of the non-receipt by any member of the notice of the meeting.

12.4 QUORUM:

The quorum for the meetings of the BEC shall be half ($\frac{1}{2}$) the number of Office-Bearers and members required to attend and one-quarter ($\frac{1}{4}$) in the case of special meetings. If within sixty (60) minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to a day not sooner than six (6) days and not later than fourteen (14) days from the date of the meeting which was adjourned. Notices of adjourned meetings shall be given to all members of the BEC and at such adjourned meetings the members present shall form a quorum.

12.5 MINUTES:

Copies of minutes of BEC meetings shall be submitted to the General and Regional Secretaries as well as to each factory as soon as possible after the meeting and in any event within thirty (30) days and shall be approved at the following BEC meeting.

12.6 POWERS:

A BEC shall, subject to the direction of this Constitution, have the power:

12.6.1 To co-ordinate the activities of the Union within the Branch;

12.6.2 To convey decisions of the Union to SSC's;

12.6.3 To deal with disputes and to endeavour to settle disputes by conciliatory methods;

12.6.4 To appoint from time to time such sub-committees as it may deem necessary;

12.6.5 To review decisions and activities of the SSC's;

12.6.6 To remove any Shopsteward(s) or SSC's for cause appearing sufficient to the BEC, and to take over management of the affairs of such SSC(s) until another SSC(s) is elected by members of that factory;

12.6.7 To do such other things as in the opinion of the BEC appears to be in the interests of the Union or its members and which are not inconsistent with the objects or any matter provided for in this Constitution.

13. **BRANCH OFFICE BEARERS**

13.1 POSITIONS:

The Branch Office bearers are the branch Chairperson, 1st Vice-Chairperson, 2nd Vice-Chairperson, Branch Secretary and the Treasurer. They shall all be shop stewards at the factory where they are employed.

13.2 DUTIES AND FUNCTIONS:

They shall perform the same duties *mutatis mutandis* in respect of the Branch as are imposed on the National Office-Bearers.

PART FOUR

14. ESTABLISHMENT AND CONTROL OF REGIONS

- 14.1 A Region of the Union may be established in any Province of the Republic of South Africa.
- 14.2 Application for the establishment of a Region shall be made in writing to the NEC by a BEC.
- 14.3 The NEC may, in its discretion, authorise the establishment of a Region and define its scope which may be in line with COSATU's demarcation.
- 14.4 If the NEC approves of the establishment of a Region, the NEC shall convene an Inaugural RC. At this meeting Regional Office-Bearers shall be elected and shall hold office until the next Biennial RC. Delegates to an Inaugural RC shall be elected in the same manner as to the Biennial RC. The Inaugural RC shall decide on the name of the region.
- 14.5 The control of the Union regionally shall be vested in the following structures in order of supremacy:
- 14.5.1 Regional Conference
 - 14.5.2 Regional Executive Council

15. REGIONAL CONFERENCE

15.1 COMPOSITION:

A RC shall be composed of a Regional Chairperson, 1st Vice-Chairperson, 2nd Vice-Chairperson, Secretary and Treasurer and delegates elected from each Branch as follows:

- 15.1.1 Each Branch shall elect one (1) delegate for every five-hundred (500) members of the Branch or part thereof.

15.2 MEETINGS:

A RC shall be held once every two (2) years during July or August, i.e. during the same year as the Biennial National Conference, on a date and at such place to be decided by the ROB's. A special RC may be held if and when this is deemed necessary by the ROB, REC or NEC or within ten (10) days of receipt of a requisition signed by fifty percent (50%) plus one (1) of the members of the REC, calling for such a meeting.

15.3 NOTICE:

Written notice shall be given to each Branch Secretary and the General Secretary at least one (1) month before the date of the RC, provided that in case of a Special RC such shorter notice being not less than fourteen (14) days shall be given at the discretion of the Regional Chairperson. The proceedings of any meeting shall not be invalidated by reason of the mere non-receipt by any member of the notice of the meeting.

15.4 QUORUM:

The quorum for a RC shall be at least half ($\frac{1}{2}$) the number of delegates and Office-Bearers required to attend and one quarter($\frac{1}{4}$) in the case of special meetings. If within one-hundred and twenty (120) minutes of the time fixed for a meeting a quorum is not present, the meeting shall stand adjourned until a further meeting can be arranged. Such an adjourned meeting shall take place at a date not sooner than twelve(12) days and not later than thirty(30) days from the date of the meeting which was adjourned. Notice of all adjourned meetings shall be given to all members of the REC. At such adjourned meetings the members present shall form a quorum.

15.5 MINUTES:

Copies of minutes of RC shall be submitted to the General Secretary and to each RC delegate and Branch Secretary within the Region concerned as soon as possible after the meeting and in any event within thirty(30) days. The minutes will be approved at the following RC meeting.

15.6 POWERS:

15.6.1 A RC may subject, to such directions of this Constitution, decide on all matters concerning the Region and may submit resolutions to a NC or NEC on any matter concerning the Union.

15.6.2 The agenda of the RC shall include the following matters:

15.6.2.1 Regional Chairperson's Address;

15.6.2.2 An annual report on the activities of the Region by the Regional Secretary on behalf of the REC;

15.6.2.3 An audited financial report by the Treasurer;

15.6.2.4 Resolutions;

15.6.2.5 Election of the Regional Chairperson, 1st Vice-Chairperson, 2nd Vice-Chairperson, Secretary and Treasurer;

15.6.2.6 Election of delegates to the NEC and NC;

15.6.2.7 Proposed amendments to the Constitution.

16. **REGIONAL EXECUTIVE COUNCIL**

The management of the affairs of a Region shall be vested in the REC

subject to the direction and control of this Constitution. The ROB's shall have the power to manage the affairs of the Region in between REC's.

16.1 COMPOSITION:

The REC shall be composed of a Chairperson, 1st Vice-Chairperson, 2nd Vice Chairperson, Treasurer, Secretary and Branch delegates elected at a BC as follows:

16.1.1 A Branch with less than one thousand(1000) members shall be entitled to two(2) delegates;

16.1.2 A Branch with more than one thousand(1000) members shall be entitled to four(4) delegates;

16.2 MEETINGS:

The REC shall meet quarterly on a date to be fixed by the Regional Chairperson in consultation with the Office-Bearers. Special meetings of a REC shall be called by the Chairperson in consultation with the Office-Bearers whenever it is deemed necessary or within fourteen (14) days of receipt of a requisition, signed by not less than fifty(50%) plus one(1) of the members of the REC, calling for such a meeting.

16.3 NOTICE:

Members of the REC shall be notified in writing of the time and place of REC meetings by the Regional Secretary or nominee of the REC, at least seven(7) days before the date of such meetings, provided that shorter notice of not less than twenty-four(24) hours may, at the discretion of the Chairperson in consultation with the Office-Bearers, be given in respect of special meetings. The proceedings of any meeting shall not be invalidated merely by reason of the non-receipt by any member of the notice of the meeting.

16.4 QUORUM:

The quorum for meetings of the REC shall be more than half ($\frac{1}{2}$) the number of members and Office-Bearers required to attend and *one quarter(1/4) in the case of special meetings*. If within sixty(60) minutes of the time fixed for a meeting a quorum is not present, the meeting shall stand adjourned until a further meeting can be arranged. Such an adjourned meeting shall take place at a date not sooner than six(6) days and not later than fourteen(14) days from the date of the meeting which was adjourned. Notice on all adjourned meetings shall be given to all members of the REC and at such adjourned meetings the members present shall form a quorum.

16.5 MINUTES:

Copies of minutes of REC meetings shall be submitted to the General Secretary and each Branch within a Region concerned as soon as possible after the meeting, and in any event within thirty(30) days and shall be approved at the following REC meeting.

16.6 POWERS:

A REC shall, subject to the direction and control of this Constitution, have the power:

- 16.6.1 To co-ordinate the activities of the Union within the Region;
- 16.6.2 To convey decisions of the Union to Branches;
- 16.6.3 To deal with disputes and to endeavour to settle disputes by conciliatory methods.
- 16.6.4 To appoint from time to time such sub-committees as it may deem necessary.
- 16.6.5 To discipline any member for any offense and or misconduct committed in terms of the discipline clause subject to approval of the NEC;
- 16.6.6 To open and operate a banking account in the name of the Region, subject to the approval of the NEC;
- 16.6.7 To review the decisions and activities of the FGM, SSC, BEC and BC and to ensure that elections of Branch Office Bearers are held timeously.
- 16.6.8 To appoint staff and officials in new positions which are deemed necessary upon prior approval by the NEC. In the case of vacancies that have arisen, the REC shall have the power to fill such vacancies subject to confirmation by the NEC.
- 16.6.9 To do such other things as in the opinion of the REC appear to be in the interest of the Union or its members and which are not inconsistent with the objects or any matter provided for in this Constitution.
- 16.6.10 To deal with the finances of the Region in terms of the provisions of this Constitution.

17. REGIONAL OFFICE-BEARERS

17.1 POSITIONS:

The Regional Office-Bearers of the Union are the Regional Chairperson, 1st Vice-Chairperson, 2nd Vice-Chairperson, Secretary and Treasurer. They shall be shopstewards at the factory where they are employed except in the case of the Regional Secretary who shall be a full-time employee of the Union.

17.2 FUNCTIONS AND DUTIES:

They shall perform the same duties *mutatis mutandis* in respect of the Region as are imposed on the National Office-Bearers.

PART FIVE

18. CONTROL OF THE UNION NATIONALLY

The control of the Union nationally shall be vested in the following structures or committee in order of supremacy:

- 18.1 National Conference
- 18.2 National Executive Council
- 18.3 National Office-Bearers

19. NATIONAL CONFERENCE

The NC shall be the supreme authority of the Union.

19.1 COMPOSITION:

An NC shall be composed of the President, 1st Vice-President, 2nd Vice-President, Treasurer, General Secretary, Assistant General Secretary and delegates from each Branch as follows:

- 19.1.1 Each Region shall elect one(1) delegate for every five hundred(500) members of part thereof;
- 19.1.2 Each delegate shall be a Shopsteward at the factory where s/he is employed.

19.2 MEETINGS:

An NC shall be held once every two(2) years during September or October on a date and at such a place decided by the National Office-Bearers. A Special NC may be held if and when this is deemed necessary by the NOB, NEC or within two(2) months of receipt of a requisition signed by the majority of the Regions i.e. fifty percent (50%) plus one(1).

19.3 NOTICE:

Written notice shall be given to each Regional Secretary at least two(2) months before the date of the NC and at least one(1) month's notice for a Special NC is required. The proceedings of any meeting shall not be invalidated merely by reason of the non-receipt by any member of the notice of the meeting.

19.4 QUORUM:

The quorum for NC shall be at least half ($\frac{1}{2}$) the number of delegates and Office-Bearers required to attend and *one quarter(1/4) in the case of a Special NC*. If within one hundred and twenty(120) minutes of the time fixed for a meeting a quorum is not present, the meeting shall stand adjourned until

A further meeting can be arranged. Such an adjourned meeting shall take place at a date not sooner than thirty(30) days and not later than sixty(60) days from the date of the meeting which was adjourned. Notice of all adjourned meetings shall be given. At such a meeting the members present shall form a quorum.

19.5 MINUTES:

Minutes of the NC shall be submitted to each Region and Branch by the General Secretary or a nominee for that purpose within two(2) months of the NC and shall be approved at the following NC.

19.6 POWERS:

19.6.1 An NC may decide on all matters submitted to it for consideration. A Special NC shall decide on the matter for which was called. A NC shall have the powers of the NEC and the right to vary or reverse any structural decision unless this Constitution provides otherwise.

19.6.2 The agenda of the NC shall include the following matters:

19.6.2.1 A Presidential Address;

19.6.2.2 A report on the activities of the Union by the General Secretary on behalf of the NEC;

19.6.2.3 An audited financial report presented by the Treasurer of the Union for the Financial year;

19.6.2.4 Resolutions;

19.6.2.5 Constitutional amendments

19.6.2.6 Elections of National Office-Bearers

19.6.2.7 Any other matter that the NC agrees to discuss.

20. **NATIONAL EXECUTIVE COUNCIL**

The management of the Union shall be vested in the NEC subject to the direction and control of the NC. The NOB's shall have the power to manage the affairs of the Union in between NEC's.

20.1 COMPOSITION:

The NEC shall be composed of the President, 1st Vice-President, 2nd Vice-President, General Secretary, Assistant General Secretary, Treasurer, and:

20.1.1 Two(2) delegates for every region up to ten thousand(10 000) members;

20.1.2 Four(4) delegates for every Region between ten thousand(10 000) and twenty thousand(20000) members;

20.1.3 Six(6) delegates for every Region with more than twenty thousand(20000) members.

20.2 MEETINGS:

The NEC shall meet quarterly at such time and place as the President in consultation with the Office-Bearers may decide. Special NEC meetings May be called if and when this is deemed necessary by the President in consultation with the Office-Bearers or within fourteen(14) days of receipt of a requisition by a majority i.e. fifty percent (50%) plus one(1) of the members of the NEC calling for such a meeting.

20.3 NOTICE:

Written notice of every NEC meeting shall be given to all members of the NEC not less than fourteen (14) days before the date of such meeting, provided that in the case of special meetings, shorter notice being not less than forty-eight (48) hours, may be given. The proceedings of any meeting shall not be invalidated merely by reason of the non-receipt by a member of the notice of the meeting.

20.4 QUORUM:

The quorum of meetings of the NEC shall be half($\frac{1}{2}$) the number of delegates and Office-Bearers required to attend and *one-quarter($\frac{1}{4}$) in the case of special meetings*. If within ninety (90) minutes of the time fixed for a meeting a quorum is not present, the meeting shall stand adjourned until a further meeting can be arranged. Such an adjourned meeting shall take place at a date not sooner than twelve(12) days and not later than thirty(30) days from the date of the meeting which was adjourned. Notice on all adjourned meetings shall be given to all members. At such adjourned meetings the members present shall form a quorum.

20.5 MINUTES:

Copies of minutes of NEC meetings shall be submitted to each Region and Branch by the General Secretary or a nominee for that purpose as soon as possible after the meeting and in any event within thirty(30) days. The minutes will be approved at the following NEC meeting.

20.6 POWERS:

The NEC, subject to the provisions of this Constitution, shall have the power:

- 20.6.1 To appoint any Officials or employees of the Union, to define their duties and to fix their remuneration and other conditions of employment.
- 20.6.2 To appoint from time to time such committees as it may deem necessary.
- 20.6.3 To nominate and elect persons to represent the Union at any negotiations or

- On any body constituted in terms of any law or on which it is deemed necessary that the Union be represented.
- 20.6.4 To regulate the form of procedure in committees.
- 20.6.5 To institute or defend all legal proceedings by or against the Union which are deemed necessary.
- 20.6.6 To open and operate a banking account in the name of the Union.
- 20.6.7 To sanction all expenditure on behalf of the Union.
- 20.6.8 To sanction any agreement with employers or employer organisations on behalf of the Union and to settle any disputes by conciliatory methods if possible.
- 20.6.9 To establish, re-establish, or close down Branches or Regions in any area and to define the scope of the Branches or Regions.
- 20.6.10 To suspend any BEC, REC or Office-Bearer or members for violations of provisions of this Constitution or in the interests of the Union; and to take over the management of the affairs of any Branch or Region until a BC or RC can be held and a new committee and or Office-Bearers can be elected.
- 20.6.11 To delegate any of its powers in such a manner as it deems necessary.
- 20.6.12 To provide legal assistance to members on matters related to their employment.
- 20.6.13 To do such other lawful things as in opinion of the NEC may appear to be in the interest of the Union or its members and which are not inconsistent with the objectives or any other matter provided for in this Constitution.

21. **NATIONAL OFFICE-BEARERS**

The National Office-Bearers of the Union are the President, 1st Vice-President, 2nd Vice-President, General Secretary, Assistant General Secretary and Treasurer. They shall be Union members and Shopstewards at the factory where they are employed, except in the case of the General Secretary and Assistant General Secretary who shall be full-time employees.

21.1 DUTIES AND FUNCTIONS

Their duties and functions shall be to manage the affairs of the Union in between NEC's and shall include:

- 21.1.1 **President**
The President shall:
 - 21.1.1.1 Attend all NC's and NEC's meetings and shall preside at such meetings;
 - 21.1.1.2 Enforce observance of the Constitution of the Union;
 - 21.1.1.3 Sign minutes of meetings after confirmation;

21.1.1.4 Exercise supervision over the work of the General Secretary and generally over the affairs of the Union;

21.1.1.5 Perform such other duties as by usage and custom pertain to the office;

21.1.1.6 Give Presidential Addresses to NC and NEC meetings.

21.1.2 Vice-Presidents

The Vice -Presidents shall assist the President in performing his/her duties and perform such duties and tasks as are delegated to them by the President.

21.1.3 Acting President

In the event of the President being unable, either temporarily or permanently, to perform his/her duties, the Vice-Presidents shall assume his/her duties until the next NEC who shall elect a member of the NEC as Acting President. The Acting President shall hold office until the President is able to resume his/her duties or until the next Biennial election, as the case may be.

21.1.4 Treasurer

The Treasurer shall:

21.1.4.1 Manage all finances of the Union and ensure that the provisions of the Constitution with regard to the finances of the Union are complied with.

21.1.4.2 Endorse all accounts for payment, sign all cheques on the banking account of the Union and perform such other duties as by usage and custom pertain to the office.

21.2 OFFICIALS:

21.2.1 General Secretary

The General Secretary shall:

21.2.1.1 Be a full-time employee of the Union. His/her terms and conditions of employment shall be determined by the NEC.

21.2.1.2 In general be responsible for the proper administration of the Union, co-ordinating all organising activities of the Union, co-ordinating all the negotiations of any collective agreements on behalf of the Union, the training of Officials, Shopstewards and employees of the Union and such other matters as are generally in the interest of the Union.

- 21.2.1.3 Receive requisitions for meetings of the NEC or NC.
- 21.2.1.4 Issue notices of meetings.
- 21.2.1.5 Conduct all Head Office correspondences of the Union, keep the originals of letters received and copies of those dispatched and at each meeting of the NEC present all correspondence which have taken place since the previous meeting.
- 21.2.1.6 Attend all NC and NEC meetings, record the minutes of the proceedings and at each succeeding meeting present the minutes of the previous meeting for adoption.
- 21.2.1.7 Issue official receipts for all monies received, keep such books on account as are prescribed by the NEC and in collaboration with the Treasurer submit statements of income and expenditure of the Union to each meeting of the NEC.
- 21.2.1.8 Supervise the work of the Head of Departments and Regional Secretaries.
- 21.2.1.9 Perform such other duties as are imposed by this Constitution or as the NEC may direct.
- 21.2.1.10 Report to each NC and NEC on his/her activities.
- 21.2.1.11 In consultation with the Office-Bearers appoint any ad hoc official(s) of the Union, subject to the prior approval or subsequent confirmation of the NEC.
- 21.2.1.12 Perform any other duties as by usage and custom pertain to the office.

21.2.2 **Assistant General Secretary**

- 21.2.2.1 The Assistant General Secretary shall assist the General Secretary in performing his/her duties and perform such duties of the General Secretary as are delegated to him/her.
- 21.2.2.2 S/he shall monitor the work of all Secretaries and co-ordinate the implementation of structural decisions in conjunction with relevant structures and other tasks allocated to him by the General Secretary.
- 21.2.2.3 S/he shall assume the duties of the General Secretary in his/her absence.

21.2.3 **Acting General Secretary**

In the event of the General Secretary being unable, either temporarily or permanently, to perform his/her duties, the Assistant General Secretary

shall assume his/her duties until the next NEC who shall appoint an Acting General Secretary. The Acting General Secretary shall hold office until the General Secretary is able to resume his/her duties or until the next Biennial election, as the case may be.

PART SIX

23. ELECTION PROCEDURES FOR SHOP STEWARDS AND OFFICE BEARERS

23.1 Shopstewards and Alternates

Shop stewards for each factory shall be elected by the members in good standing who are employed at such factory. The election of shopstewards shall be subject to the following provisions:

- 23.1.1 Only members in good standing employed at the factory shall be eligible for election as shop stewards for such factory;
- 23.1.2 The number and distribution of shop stewards shall be in accordance with the nature of their employment and the BEC having jurisdiction shall decide such numbers and distribution after consultation with the membership at each factory;
- 23.1.3 An official(s) of the union shall be present at the meeting convened in each factory for the purpose of electing shop stewards;
- 23.1.4 The nomination of members as shop stewards shall take place at a meeting of the members of the factory, who shall be given at least seven (7) days notice thereof. All nominations shall be moved and duly seconded;
- 23.1.5 Written notice of such meetings may be posted on the notice boards in the factory where an election is to be held and may be posted on the notice board of the relevant branch office of the Union at least three (3) days prior to such meeting, but no election shall be invalidated solely by the non-receipt of any such notice by any member;
- 23.1.6 Voting for the election of shopstewards in each factory shall be by ballot only and in the event of only one (1) person duly nominated, he/she shall be declared to be duly elected;
- 23.1.7 Shopstewards duly elected at each factory respectively shall assume and hold office for a period of two (2) years as from the date of the election and shall exercise the rights and discharge the duties assigned to them by this Constitution. They shall be eligible for re-election. Elections shall be held as

soon as possible but before the end of March failing which the affairs of the factory shall be taken over by the Branch until elections have taken place.

23.2 Office Bearers

- 23.2.1 Office Bearers of each structure will be elected by delegates to the relevant conference and in the case of SSC Office Bearers, by the FGM.
- 23.2.2 Only members in good standing and who are shop stewards at the factory where they are employed shall be eligible for election as Office Bearers. In the case of Regional Secretaries, the Assistant General Secretary and the General Secretary, they shall be full time employees of the Union.
- 23.2.3 Office Bearers shall hold office until the next election and shall be eligible for re-election.
- 23.2.4 All elections of Office Bearers shall be by ballot only and on a motion duly seconded. Candidates receiving the highest number of votes shall be declared elected. In the event of only one (1) person being nominated and seconded, he/she shall be declared to be duly elected.

PART SEVEN

24. VACANCIES

24.1 A member of the SSC, BEC, REC and/or NEC shall vacate his/her seat in any of the following circumstances:

- 24.1.1 On resignation, suspension or expulsion from membership of the Union or being unable to perform his/her duties;
- 24.1.2 On ceasing to be a Union member in good standing;
- 24.1.3 On ceasing to be a shopsteward or to be employed at the factory where he/she was elected as a shopsteward;
- 24.1.4 On resignation from the relevant structure in writing;
- 24.1.5 On being absent from two (2) consecutive meetings without sending a written apology acceptable to the relevant structure;
- 24.1.6 If the relevant structure he/she represents so decides, by a majority of that structure;

24.2 Vacancies in the relevant structures shall be filled as follows:

- 24.2.1 In the case of Office Bearers of the relevant structure, vacancies shall be filled by an election in the relevant structure amongst its members;
- 24.2.2 In the case of other delegates of the relevant structure, the structure whose representative has vacated his/her position shall fill the vacancy by forwarding one of the alternate delegates as elected by that structure.

24.3 An Office Bearer or member elected to fill a vacancy shall hold office for the unexpired period of office of his/her predecessor.

25. REMOVAL FROM OFFICE OF OFFICE-BEARERS, OFFICIALS AND SHOP STEWARDS

25.1 An Office Bearer, official or shopsteward may be removed from office if he/she:

- 25.1.1 Infringes any provision(s) of this Constitution;
- 25.1.2 Acts in any manner which is detrimental to the interests of the Union.

- 25.2 No Office Bearer, official or shop steward may be removed from office unless he/she has been afforded an opportunity to state his/her case personally or in writing to the FGM, BEC, REC or NEC as the case may be.
- 25.3 An Office Bearer, official or shopsteward who has appeared before the applicable body and who is dissatisfied with the decision of the body concerned shall have the right to appeal as follows:
- 25.3.1 Notice of appeal shall be given to the General Secretary, in writing, within seven (7) days of the date on which the decision of the structure was communicated to the person concerned. The NEC will consider the written appeal and may confirm, vary or reverse such decision. The decision of the NEC shall be final.
- 25.3.2 In the case of a National Office Bearer, to the NC of the Union. The appeal shall be noted in the agenda of the NC and the NC may confirm, vary or reverse the decision of the NEC and the decision of the NC shall be final.
- 25.4 In the case where an official is removed from office, such as the Secretaries, he/she will still remain an employee of the union but no longer in the elected position which he/she held prior to the removal. Where such a person is however disciplined in terms of the FAWU Disciplinary Code and Procedures and be dismissed, he/she shall automatically lay down his elected position as from the date of such dismissal.

26. **DISCIPLINE OF MEMBERS**

- 26.1 A member may be suspended, fined or expelled as may be determined by the ROB/NOB if he/she infringes any of the terms of this Constitution or acts in a manner which is detrimental to the interests of the Union.
- 26.2 No member may be suspended, fined or expelled unless s/he has been afforded the opportunity to state his /her case personally or in writing at a meeting of the ROB/NOB which intends to consider the matter. Such member shall be given not less than seven (7) days notice in writing from the Secretary of the ROB/NOB. The matter with which the member is charged shall be set out in such notice.
- 26.3 If the ROB/NOB is satisfied that the member charged, though absent, received the prescribed notice, or if the person charged is present, the ROB/NOB may proceed to hear the matter and determine it and if it finds the charge proved to its satisfaction may:
- 26.3.1 Expel the member from the Union

- 26.3.2 Suspend the member for a definite period from membership of the Union.
- 26.3.3 Impose a fine not exceeding forty-rand (R40) for the first offence and one hundred-rand (R100) for subsequent offences, and may suspend a person from membership until such a fine is paid without prejudice to any right of action to recover such monies by civil action;
- 26.3.4 Remove such person from any position of leadership within the Union for the term of office to which he/she was elected.
- 26.4. The accused member shall be entitled to call such witnesses in support of his/her case as are reasonably necessary when attending a disciplinary hearing. The ROB/NOB may call such further witnesses as it finds necessary and may take such further investigations as it deem expedient before arriving at a decision.
- 26.5. APPEALS:
 - 26.5.1 A member who has appeared before the ROB/NOB and who is dissatisfied with the decision of the ROB/NOB shall have the right to appeal to the NEC. Notice of such an appeal shall be given to the General Secretary, in writing, within fourteen (14) days of the date on which the decision of the disciplinary action was communicated to the person concerned. The notice of appeal shall state the grounds of appeal.
 - 26.5.2 The appeal shall be considered at the next meeting of the NEC. The General Secretary shall prepare a summary of the disciplinary hearing. The appellant shall have the right to address the NEC in person or in writing on the issues on the grounds of appeal and the representative of the ROB/NOB who conducted the disciplinary hearing shall have the right of personal or written response. The NEC shall make such further investigations as it deems fit and shall thereafter confirm, vary or reverse the decision taken at the disciplinary hearing. The decision of the NEC on appeal shall be final and the member concerned shall have no further right of appeal.
 - 26.5.3 Upon expulsion of a member, all monies due to the Union by such member shall become payable.
- 27. **DISCIPLINE OF ELECTED OFFICIALS, OFFICIALS AND EMPLOYEES**
 - 27.1 The discipline of elected officials, officials and employees shall at all times take place in accordance with the FAWU Disciplinary Code and Procedures as endorsed and amended from time to time by either the NC and/or the NEC (elected officials in this case referring to all secretaries permanently employed by the Union).

PART EIGHT

28. RULES OF PROCEDURE AT UNION MEETINGS:

The following rules of procedure shall apply to all Union meetings:

- 28.1 The Chair shall be taken by the President in the case of national meetings, Regional Chairperson in the case of Regional meetings, Branch Chairperson in the case of Branch meetings and Chairperson of the Shopsteward committee in the case of factory meetings. In the absence of the President or Chairperson or in the event that s/he recuses him/herself, the Vice-President or Vice-Chairperson may take the chair, or in his/her absence, the meeting may elect an acting Chairperson.
- 28.2 In addition to the delegates required in terms of this constitution to attend any meeting, meetings may be attended by Union officials who shall have speaking rights but no voting rights, as agreed upon by such meeting. Visitors may attend Union meetings and have speaking rights, as agreed by the meeting, but no voting rights.
- 28.3 All meetings shall be conducted in accordance with the agenda unless otherwise decided by the meeting.
- 28.4 No items, other than those appearing on the agenda shall be debated provided that the meeting may agree to discuss a matter not included on the agenda.
- 28.5 All decisions/resolutions shall be decided on a motion moved and duly seconded. If the meeting decides it is necessary, or ten percent (10%) of the delegates entitled to be present at any meeting request a vote by ballot, such decision/resolution shall be voted upon by ballot. Except where the constitution provides otherwise, all matters shall be decided upon by a majority vote.
- 28.6 The mover of a motion shall have the right to speak for ten (10) minutes except with the permission of the meeting and shall have the right to reply to debate provided such reply shall not be longer than five (5) minutes.
- 28.7 All other speakers have the right to speak for five (5) minutes, except with permission of the meeting.
- 28.8 No subject shall be debated for longer than one and a half hours provided that any delegates shall have the right to propose an extension of time, and such motion if seconded shall be put to the vote without debate and shall not have effect unless carried by a two-third(2/3) majority.
- 28.9 The Chairperson shall be entitled to make a ruling on matters of procedure, a ruling given by the Chairperson shall be final, provided that it shall be in order to move and second a motion to over-rule or rescind from the Chairperson, and a

majority of members present shall be sufficient to carry such motion, provided that there shall be no discussion on any such motion to overrule or rescind the Chairperson's ruling at any meeting other than a statement by the mover of the motion and a reply by the Chairperson limited to five(5) minutes in each case.

29. BALLOTS

29.1 National Ballots:

In addition to matters in respect of which the taking of a ballot of members of Union in general meetings is compulsory in terms of this Constitution, a ballot on any specific question, **if it does not contradict any other part of this constitution**, shall be taken if the National Executive Committee so decides. Furthermore within thirty (30) days of either Branch ballot or a petition of not less than twenty percent (20%) of the members of the Union in good standing being presented to the General Secretary requiring a Union ballot on any issue, such ballot shall be held.

29.2 Regional Ballots:

In addition to matters in respect of which the taking of a ballot of members of Region in general meetings is compulsory in terms of this Constitution, a ballot on any specific question, **if it does not contradict any other part of this constitution**, shall be taken if the Regional Executive Committee so decides. Furthermore within thirty (30) days of either Branch ballot or a petition of not less than twenty percent (20%) of the members of the Region in good standing being presented to the Regional Secretary or nominee requiring a Regional ballot on any issue, such ballot shall be held.

29.3 Branch Ballot:

In addition to those cases in respect of which the taking of a ballot of the members of any Branch of the Union is compulsory in terms of the Constitution, a ballot upon any issue, **if it does not contradict any other part of this constitution**, shall be taken within any Branch of the Union if the NEC or the BEC of the Branch concerned so decides. Furthermore within thirty (30) days of any resolution carried by a majority of the Shopstewards of the Branch or a petition of not less than twenty percent (20%) of the members of the Branch in good standing being presented to the Branch Secretary or nominee requiring a Branch ballot on any issue, a Branch ballot shall be held.

29.4 Factory Ballot:

A ballot on any issue, **if it does not contradict any other part of this constitution**, shall be taken amongst the members of the Union in the relevant factory if the SSC concerned, the NEC or the relevant REC or BEC so decide. Furthermore within thirty (30) days of a petition signed by not less than ten (10%) of members in good standing in the relevant factory requesting a ballot on any issue being presented to the Chairperson of the

SSC or the Branch Secretary shall convene a meeting of members in the establishment, as the case may be, for the holding of such ballot.

29.5 Procedure:

29.5.1 Ballots shall be conducted by the following committees:

29.5.1.1 National Ballots:

The National Executive Committee.

29.5.1.2 Regional ballots:

The REC or in the event of the ballot being conducted in consequence either of an NEC resolution or a petition of members presented to the General Secretary, by the NEC.

29.5.1.3 Branch Ballots:

The BEC or in the event of the ballot being conducted in consequence either of an NEC resolution or a petition of members presented to the General Secretary, by the NEC.

29.5.1.4 Factory Ballots:

The relevant SSC or in the event of the ballot being conducted in consequence of a petition of members by the BEC.

29.5.2 Ballots shall be conducted in the following manner:

29.5.2.1 Unless otherwise provided in this Constitution the relevant committee conducting the ballot shall cause notice of the ballot to be given in writing to each member entitled to vote at least three (3) days in the case of a Union or Branch ballot and twenty four(24) hours in the case of a factory ballot, before the ballot is to be taken.

29.5.2.2 No ballot shall be invalidated merely by the non-receipt of such notice by any member.

29.5.2.3 The relevant committee conducting the ballot shall appoint at least two (2) scrutineers from among the members of the Union, who shall count the ballots.

29.5.2.4 Ballots shall be conducted at the various Branches and/or local offices of the Union or at such other convenient place as may be specified in the notice referred to in 29.5.2.1 above on the date(s) and during the hours specified in the said notice.

29.5.2.5 Each voter shall in the presence of a scrutineer be issued with a ballot paper which s/he shall thereupon complete, fold and deposit in a sealed container provided for the purpose.

29.5.2.6 Such ballot papers shall not be signed or marked in any way apart from the mark required to be made by a member in recording his/her vote. Papers bearing any other marks shall be regarded as spoilt.

- 29.5.2.7 Ballot boxes shall be inspected by the scrutineer and sealed in their presence. In the event of an election being conducted by ballot, candidates shall have the right to inspect such ballot boxes prior to the ballot being taken and shall also have the right to be present when the ballot boxes are sealed.
- 29.5.2.8 On completion of the ballot or as soon as possible thereafter, the results thereof shall be ascertained by the scrutineer thus appointed and shall be made known to the member concerned and also the relevant committee conducting the ballot.
- 29.5.2.9 Ballot papers including spoilt papers shall be placed in a sealed container again after being counted and shall be handed to the Branch Secretary, or in the case of a Union ballot, the General Secretary who shall retain the same for not less than three (3) years.
- 29.5.2.10 The body responsible for the conducting of a ballot shall be bound to take action according to a decision of the majority of the members voting in any ballot, provided that such committee shall not be so bound where less than thirty percent (30%) of the members of the Union entitled to vote have voted.
- 29.5.2.11 While members shall be entitled to express their view for or against any candidate standing for election and to express their views on any other issues on which any ballot is called, the scrutineer shall have the right and duty to ensure that no discussion on the merits of any issue related to the ballot are discussed with any voter from the time s/he is given his/her ballot paper until after s/he has deposited his/her ballot paper in one of the aforementioned sealed ballot boxes.

29.6 BALLOTS AT MEETINGS:

Whenever any meeting of the Union decided to take a ballot on any question the meeting shall elect as many scrutineers as it may deem necessary from amongst the members of the union present at such a meeting who shall conduct the ballot.

29.7 STRIKES:

- 29.7.1 Before calling a strike, a ballot of those members for whom the Union intend to call a strike must be conducted.
- 29.7.2 Members may not be disciplined or have their membership terminated for failure or refusal to take part in a strike if:
- 29.7.2.1 No ballot was held about the strike;

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

30. **FINANCE**

30.1 The Funds of the Union shall be made up of all monies received by means of subscription, levies, donations, functions and in any other lawful manner.

30.2 The Funds of the Union shall be deposited in a bank account of the NEC ("the NEC account") decided upon by the NEC or subject to the approval of the NEC, the funds collected by each Region may be deposited in a bank account of the Region.

30.3 The Funds of the Union shall be applied to the payments of such expenses, the acquisition of such property and such other purposes as may be decided on or approved by the NEC, and subject to the following:

30.4 Payments:

30.4.1 Payments shall require the prior approval or subsequent confirmation of the NEC and shall be made by cheques signed by any three (3) of the following; President, Vice-President, General Secretary, or Treasurer. Payments may be made in cash for petty cash expenses and/or for travel expenses. In the event of any one or more signatories being unable to be a signatory to a cheque, the NEC may appoint other such signatories as it deems suitable provided that all cheques be signed by three (3) persons.

30.4.2 The NEC shall approve the amount for funds for petty cash that may be made available during any one month, provided that the amount of petty cash not exceed R500,00 in any month, and shall determine the manner in which this money may be spent and should be accounted for.

30.5 Head Office:

The Head Office may apply the funds belonging to them to the payments of expenses and such other purposes as may be determined by the NEC. Such payments shall be made by cheque, and the signatories of the Head Office account shall be the same as those of the NEC account.

30.6 Regional Finance:

Regions may apply the funds belonging to them to the payment of expenses for such other purposes as may be determined by the REC, subject to the approval of the NEC. Such payment shall be made by cheque signed by any three (3) of the following: Chairperson, Vice-Chairperson, Secretary or Treasurer, except when payment of the amount in question may be made from petty cash which shall be provided for *mutatis mutandis* in the manner prescribed in sub clause 30.4.2

30.7 General:

- 30.7.1 All monies collected in the name of the Union shall be handed to the Regional Secretary or General Secretary to receipt within four (4) days of collection.
- 30.7.2 Funds received by a Regional Secretary or General Secretary shall be deposited in the Union's bank account within seven (7) days of receipt.
- 30.7.3 A Regional Secretary shall prepare a statement of monies banked and submit it to the general Secretary as soon as possible after banking and within any event within fourteen (14) days.
- 30.7.4 Statement of income and expenditure and the financial position of the Region in respect of each month shall be prepared monthly by each Regional Secretary and submitted to the General Secretary and to his/her REC. Similar statements in respect of the Head Office in respect of each month shall be prepared by the General Secretary and submitted to the National Office Bearers in respect of each period of three (3) months and also be submitted to the NEC.
- 30.7.5 All accounts of the Union shall be audited annually by a person registered as an accountant and auditor under section 23 of the Public Accountant's and Auditor's Act No 51 of 1951, appointed by the NEC in respect of the Regions having their own Bank account and in respect of the consolidated Union account and Head Office account. True copies of the various audited accounts of the Union, together with the auditor's report shall be made available to members of the Union at all offices of the Union.
- 30.7.6 The audited financial statement, balance sheet and auditor's report in respect of a Region having its own bank account shall be presented to the RC for confirmation and the consolidated audited statement, balance sheet and auditor's report of the Union, together with the Head Office audited statement balance sheet and auditor's report, for each financial year end as at 31 March shall be confirmed by the National Conference.
- 30.7.7 The auditor's report contemplated in 30.7.6 and 30.7.7 shall state whether the auditor:
- 30.7.7.1 is satisfied that proper books have been kept;
 - 30.7.7.2 has satisfied him/herself of the existence of the securities and has examined the books of accounts and records of the Union;
 - 30.7.7.3 in his/her opinions satisfied that the statement of income and expenditure and the balance sheet audited by him/her have been properly drawn up so as to exhibit a true and correct reflection of the state of affairs of the Union according to the best of his/her and as shown by the books of the Union as

At the date of the balance sheet;

- 30.7.7.4 the auditor has obtained all the information and explanation required;
 - 30.7.7.5 in his/her opinion is satisfied that the provision of the Constitution of the union in so far as they related to financial affairs, have been complied with.
 - 30.7.7.6 A member who resigns or is expelled from membership shall have no claim on the funds of the Union as and from the date on which resignation or expulsion takes place.
- 30.8 The NEC shall, subject to confirmation by NC, have the power to invest surplus monies in such a manner that the Union stands to benefit from the investments.

31. DISPUTES

- 31.1 In the event of a dispute existing between the Union and any other party, the General Secretary or the Regional Secretary in whose Region the dispute occurs shall have the right, subject to the prior approval or subsequent confirmation of the NEC, to take appropriate action on behalf of the Union, and to do all the things necessary on behalf of the Union in respect thereof.
- 31.2 If such action is taken by a Regional Secretary s/he shall do so only after consulting the General Secretary.

32. INDEMNIFICATION OF SHOPSTEWARDS, OFFICIALS, OFFICE-BEARERS AND COMMITTEE MEMBERS

The Shopstewards, officials, Office-bearers and committee members of the Union, provided that they have not acted in a manner which would constitute misconduct, shall be indemnified by the Union against all proceedings, costs and expenses incurred by reason of any omission, negligence or other act done in performance of their duties on behalf of the Union and they shall not be personally liable for any of the liabilities of the Union.

33. REPRESENTATION ON BARGAINING AND STATUTORY COUNCILS

- 33.1 The NEC, may at any time recommend that the union shall become a party to a bargaining or statutory council established in terms of the Labour Relations Act, 1995.
- 33.2 Representatives and their alternates shall be appointed by the NEC or by a structure/committee to whom such powers have been delegated by the NEC.
- 33.3 Representatives or their alternates on a bargaining or statutory council may be removed by the NEC, NC, RC or BC and may resign on giving one (1) month's notice to the NEC or by such notice as may be prescribed in the constitution of the council concerned.
- 33.4 In the event of the resignation or death of a representative or an alternate or

his/her removal, the vacancy shall be filled by the NEC or by the structure/committee as per clause 33.2.

- 33.5 Representatives or their alternates shall have the full power to enter into agreements on behalf of the trade union and such agreement shall not be subject to ratification by the NEC or NC.

34. **WINDING-UP/DISSOLUTION**

- 34.1 The union shall be winded-up if 60% of the total membership voted in favour of a resolution that the union be winded-up.

- 34.2 If a resolution for winding-up the union has been passed or for any reason the union is unable to continue to function the following provision shall apply:

- 34.2.1 The last elected/appointed president of the union or if he/she is not available, the available members of the last elected/appointed national executive committee of the union, shall forthwith transmit to the labour court a statement sign by him/her or them setting forth the resolution adopted or the reasons for the union's inability to continue to function as the case maybe, and request the labour court to grant an order in terms of the Labour Relations Act 1995.

- 34.2.2 The labour court shall appoint the liquidator who shall call the last appointed/elected national office-bearers or National Executive Committee members of the Union to deliver to them the books of accounts showing the assets and liabilities together with register of members showing for the last twelve(12) months prior to the date on which the resolution for winding up was passed prior the date on which the Union was unable to function, as the case may be (hereinafter referred to as the date of dissolution) the membership fees paid by its member and his/her address as at the said date.

- 34.2.3 The liquidator shall also call upon the last elected president or National Office Bearers to hand over to him/her or them all unexpended funds of the Union and to deliver to him/her or them, the union's assets and the necessary documents to liquidate the assets.

- 34.2.4 The liquidator shall take the necessary steps to liquidate the debts of the Union from the unexpended funds and any other moneys realised from any assets of the Union, and if the said funds and moneys are insufficient to pay all the creditors the liquidator's fees and expenses of winding-up have been met the order in which creditors shall be paid, shall be the same as prescribed in any law for the time in force relating to the distribution of assets of an insolvent estate and as though the expenses were the costs of sequestration of an insolvent estate.

at least one (1) month's written notice prior to the meeting of the NEC of an intended increase.

We, the undersigned, being the President and Secretary of the Union, certify that all the provisions of the existing Constitution have been complied with in the adoption of amendments to the Constitution.

SIGNED BY



PRESIDENT

29th December 1999

DATE

SIGNED BY



GENERAL SECRETARY

4th January 2000

DATE