

*For discussion purposes only*  
*Draft 1: 6 June 2005*

**DRAFT**  
**CONSTITUTION**  
**OF THE**  
**NATIONAL ASSOCIATION OF PUBLIC SECTOR LAWYERS**  
**(NAPSL)**

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OF THE  
NATIONAL ASSOCIATION OF PUBLIC SECTOR LAWYERS  
(NAPSL)**

**PREAMBLE**

**WHEREAS** we, Public Sector Lawyers attached to various departments and administrations in the respective spheres of government in the Republic of South Africa, affirm that our country and government is founded on –

- democratic values;
- the recognition of human rights;
- the recognition of the need for moral regeneration;
- the recognition of the family;
- the recognition of freedom of religion and worship;
- the principles of mutual trust and co-operation;
- co-operative, responsible and accountable government and good governance;
- the Rule of Law; and
- the recognition of, respect for, and loyalty to, the Constitution of the Republic of South Africa as the supreme law of the Republic of South Africa;

**WE HEREBY** commit ourselves to serve and uphold these values and principles in providing professional, non-partisan legal services and legal advice to government;

**NOW, THEREFORE,** in dedication to the above commitment, **WE HEREBY FORM THIS ASSOCIATION** in accordance with the provisions of this **CONSTITUTION:-**

## 1. NAME OF ASSOCIATION

The name of the Association is the **National Association of Public Sector Lawyers** (“NAPSL”).

## 2. AIMS AND OBJECTS OF ASSOCIATION

The aims and objects of the Association are –

- 2.1 to uphold and to strive for the fulfilment and attainment of the values, principles and commitment in the Preamble to this Constitution, and especially, to maintain and promote throughout the public service the Rule of Law and the recognition of, respect for, and loyalty to, the Constitution of the Republic of South Africa as the supreme law of the Republic of South Africa;
- 2.2 to promote co-ordination of transversal legal issues within the public sector in the Republic of South Africa;
- 2.3 to promote uniformity of public law legal practice;
- 2.4 to promote increased co-operation between public sector lawyers;
- 2.5 to facilitate networking amongst public sector lawyers, both nationally and internationally;
- 2.6 to promote interest in all aspects of public law and practice;
- 2.7 to provide a focus and *fora* for the exchange of information and ideas;
- 2.8 to support public sector lawyers in the carrying out of their professional duties and functions;
- 2.9 to facilitate and promote training, formal and informal, for public sector lawyers;
- 2.10 to facilitate and promote skills development for public sector lawyers;
- 2.11 to promote greater collaboration and co-operation between public and private sector lawyers and other bodies in respect of legal matters of mutual importance; and
- 2.12 to engage government, as our employer, with a view to –
  - 2.12.1 the improvement of the service conditions and benefits of public sector lawyers in South Africa; and
  - 2.12.2 attracting and retaining scarce legal knowledge, skills and experience in the public sector in South Africa;

2.13 to engage in any activity relevant to and calculated to implement and foster all or any of the preceding objects to the benefit of –

2.13.1 the Association and its members, in particular; and

2.13.2 public sector law and public sector lawyers, in general.

### **3. POWERS, FUNCTIONS AND DUTIES OF ASSOCIATION**

3.1 The Association must –

3.1 actively promote its aims and objects referred to in section 2;

3.2 engage government with a view to –

3.2.1 the recognition of the Association as a trade union as defined in terms of section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995), in respect of lawyers as a category of public servants in the public sector; and

3.2.2 the establishment of a bargaining council for the legal sector of the public service in terms of section 37(1)(a) of the Labour Relations Act, 1995;

3.2.3 the review, rationalisation and codification of legislation; and

3.2.4 the establishment, by law, of a professional legislative services agency or agencies for the national government and the provincial governments to enhance the delivery of legislative drafting and legal advisory services to both the executive and legislative branches of the national government and the provincial governments; and

3.3 apply for institutional membership of similar bodies, nationally and internationally, such as the Commonwealth Association of Public Sector Lawyers.

3.2 The Association may –

3.2.1 adopt –

3.2.1.1 a coat of arms;

3.2.1.2 a crest;

3.2.1.3 a logo;

3.2.1.4 a banner;

3.2.1.5 a motto; or

- 3.2.1.6 a slogan;
- 3.2.2 establish and maintain a website;
- 3.2.3 print and distribute a newsletter;
- 3.2.4 hold conferences, workshops and meetings;
- 3.2.5 attend conferences workshops and meetings of similar bodies, both nationally and internationally;
- 3.2.6 advise government on any matter referred to the Association;
- 3.2.7 render assistance to its members on legal matters referred to the Association;
- 3.2.8 canvass issues of mutual importance with other public sector lawyers; and
- 3.2.9 co-ordinate liaison between the respective spheres and branches of government and other persons or bodies, including lawyers in the private sector, on legal matters of mutual importance.

#### **4. STATUS OF ASSOCIATION**

4.1 The Association is –

- 4.1.1 an independent voluntary association;
- 4.1.2 a body corporate with perpetual succession;
- 4.1.3 capable of entering into contractual and other relations; and
- 4.1.4 capable of suing and of being sued in its own name.

4.2 The Association may hold property apart from its members.

4.3 The liability of members is limited to the amount of their subscriptions outstanding or other monies due to the Association at any time in terms of this Constitution.

#### **5. DEFINITIONS**

In this Constitution, unless the context indicates otherwise –

- 5.1 “**Association**” means the National Association of Public Sector Lawyers referred to in section 1;

- 5.2 "**Branch**" means the Branches referred to in section 12;
- 5.3 "**Branch Executive Committee**" means a Branch Executive Committee referred to in section 14;
- 5.4 "**Branch General Meeting**" means a Branch General Meeting referred to in section 13;
- 5.5 "**founder member**" means a founder member of the Association referred to in section 7.1;
- 5.6 "**General Council**" means the supreme governing body of the Association referred to in section 18;
- 5.7 "**Headquarters**" means the Headquarters of the Association referred to in section 6;
- 5.8 "**honorary member**" means an honorary member of the Association referred to in section 7.4.2;
- 5.9 "**National Executive Committee**" means the National Executive Committee of the Association referred to in section 19;
- 5.10 "**national public entity**" means a national public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- 5.11 "**ordinary member**" means an ordinary member of the Association referred to in section 7.4.1;
- 5.12 "**provincial public entity**" means a provincial public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- 5.13 "**Region**" means a Region referred to in section 12;
- 5.14 "**Regional Executive Committee**" means a Regional Executive Committee referred to in section 16.2 and 16.3; and
- 5.15 "**Regional Council**" means a Regional Council referred to in section 16.1.

## 6. HEADQUARTERS OF ASSOCIATION

The Headquarters of the Association is at such place as the General Council from time to time determines.

## 7. COMPOSITION AND MEMBERSHIP OF ASSOCIATION

7.1 The signatories to this Constitution are regarded as the founder members of the Association.

7.2 Subject to section 7.4.1, a public sector lawyer in the employ, and on the establishment of –

7.2.1 a national department;

7.2.2 a provincial department;

7.2.3 Parliament;

7.2.4 a provincial legislature;

7.2.5 a municipality; or

7.2.6 a national public entity or a provincial public entity,

is eligible for membership as set out hereunder provided that such person subscribes to the objects set out in section 2.

7.3 The founder members who are signatories to this Constitution are regarded as the first ordinary members of the Association.

7.4 Subject to the power of the General Council to exclude any person from any category of membership, there are two categories of membership –

7.4.1 Ordinary Membership

A public sector lawyer who is eligible for membership and who, in the opinion of the General Council, should be allowed ordinary membership is eligible, on application in terms of section 9.1 for ordinary membership of the Association; and

7.4.2 Honorary Membership

Any person, whether a public sector lawyer or not, may be invited by the General Council to become an honorary member of the Association.

7.5 Every ordinary member is liable to pay a subscription which may be determined from time to time by the General Council.

7.6 A member may resign by giving 30 days written notice to the Branch Secretary: Provided that no resignation takes effect until all monies due to the Association by the member concerned have been fully paid up.

## **8. RIGHTS AND OBLIGATIONS OF MEMBERS**

8.1 Subject to the rights of membership as might be prescribed in this Constitution, a member is entitled –

8.1.1 to participate in meetings and activities of the Association;

8.1.2 to elect other members as Office Bearers or to any committee of the Association; and

8.1.3 to timely receipt of notices, agendas and minutes of meetings.

8.2 Members of the Association must –

8.2.1 attend all meetings; and

8.2.2 participate meaningfully in any activity which promotes any aim or object of the Association.

8.3 Apologies must be forwarded in writing before a meeting if a member will not be attending.

## **9. APPLICATION FOR MEMBERSHIP**

9.1 Applications for admission of membership must be made in writing to the Branch Secretary.

9.2 If admission to membership is refused by the Branch Executive Committee, the applicant concerned must be notified and may appeal up the ranks of the Association as follows, upon the refusal of an appeal at each level, to the Branch General Meeting, to the National Executive Committee and to the General Council whose decision is final.

9.3 Whenever an appeal is lodged the applicant must be afforded an opportunity to state his or her case personally to the Branch General Meeting, National Executive Committee or the General Council, as the case may be and may, if he or she so desires, call witnesses in support of any statement made by him or her.

9.4 An applicant to whom membership is refused is entitled to a refund of any subscription paid by him or her on application.

9.5 A member who has resigned or been expelled from the Association may be re-admitted to membership on such conditions as the Branch Executive Committee may determine.

## **10. MEMBERSHIP SUBSCRIPTIONS**

10.1 The national subscriptions payable by members are determined from time to time by decision of the General Council.

10.2 Any member who falls more than three months behind in payment of subscriptions ceases to be in good standing and is not entitled to any benefits of the Association.

10.3 In addition to the aforementioned subscription, a member is also liable for the payment of other fees or any levy imposed by the General Council, or his or her Branch General Meeting.

## **11. STRUCTURES OF ASSOCIATION**

The Association operates at the following levels of organisation –

### **11.1 BRANCH LEVEL:**

11.1.1 Branch General Meeting

11.1.2 Branch Executive Committee

### **11.2 REGIONAL LEVEL:**

11.2.1 Regional Council

11.2.2 Regional Executive Committee

### **11.3 NATIONAL LEVEL:**

11.3.1 General Council

11.3.2 National Executive Committee

## **12. BRANCH LEVEL**

12.1 The following Branches in each Region are hereby established –

### **12.1.1 Region 1:**

12.1.1.1 the **Legislative Interest Branch** comprising members attached to Parliament and the Gauteng Provincial Legislature;

12.1.1.2 the **Executive Interest Branch** comprising members attached to the national departments, departments in the Gauteng Provincial Government and national and provincial public entities with their head offices situated in Gauteng Province; and

12.1.1.3 the **Local Interest Branch** comprising members attached to the municipalities in Gauteng Province;

### **12.1.2 Region 2:**

12.1.2.1 the **Legislative Interest Branch** comprising members attached to the provincial legislatures of the following provinces: Northern Cape, Western Cape, North-West and Free State;

12.1.2.2 the **Executive Interest Branch** comprising members attached to departments in the Provincial Governments of the following provinces: Northern Cape, Western Cape, North-West and Free State; and members attached to provincial public entities with their head offices situated in those provinces; and

12.1.2.3 the **Local Interest Branch** comprising members attached to the municipalities in the following provinces: Northern Cape, Western Cape, North-West and Free State;

### **12.1.3 Region 3:**

12.1.3.1 the **Legislative Interest Branch** comprising members attached to the provincial legislatures of the following provinces: KwaZulu-Natal, Mpumalanga, Eastern Cape and Limpopo;

12.1.3.2 the **Executive Interest Branch** comprising members attached to departments in the Provincial Governments of the following provinces: KwaZulu-Natal, Mpumalanga, Eastern Cape and Limpopo; and members

attached to provincial public entities with their head offices situated in those provinces; and

12.1.3.3 the **Local Interest Branch** comprising members from municipalities in the following provinces: KwaZulu-Natal, Mpumalanga, Eastern Cape and Limpopo;

12.2 The National Executive Committee may depute one or more of its members or any official to investigate the affairs of any Branch at any time and must notify the Branch concerned of the reason therefor. Such deputies may access all the records of the Branch and have the power to take copies of the records into custody for consideration by the National Executive Committee.

### **13. BRANCH GENERAL MEETINGS**

13.1 A Branch General Meeting is composed of all ordinary members of the Association living or working within the interest area covered by the Branch.

13.2 A Branch General Meeting must meet at least once every 3 months.

13.3 Notice of every Branch General Meeting with an agenda must be provided to the ordinary members of the Branch.

13.4 A *quorum* for Branch General Meeting is at least 25 percent of the ordinary members in the Branch. In the event of there not being a *quorum* the meetings must stand adjourned and be reconvened within 14 days and notice of such adjourned meeting must be provided by the Branch Secretary to the ordinary members in the Branch. At such adjourned meeting the members present form a *quorum*.

13.5 Minutes of all Branch General Meetings must be submitted for approval at the following meeting. Copies of minutes of Branch General Meetings must be sent to the General Secretary and Regional Secretary by the Branch Secretary within 30 days of being approved.

13.6 A Branch General Meeting may, subject to the direction of the Regional Council and General Council, decide on all matters concerning the Branch and may submit resolutions to the Regional Council, General Council and the National Executive Committee.

13.7 A Branch General Meeting has the power to discipline members as provided for in this Constitution.

#### **14. BRANCH EXECUTIVE COMMITTEE**

14.1 The Branch Executive Committee consists of not more than 10 ordinary members elected annually at the Annual General Meeting of the Branch from among its members.

14.2 The Branch Office Bearers are the Branch Chairperson, the Branch Deputy Chairperson, the Branch Secretary and the Branch Treasurer elected by the Branch General Meeting at the same meeting at which the Branch Executive Committee members are elected.

14.3 The Branch Executive Committee meets at least monthly.

14.4 A *quorum* for Branch Executive Committee meetings is a majority of the members.

14.5 Copies of minutes of Branch Executive Committee meetings must be approved at the Branch General Meeting.

14.6 Subject to direction from the Branch General Meeting, the Regional Council and the General Council, the Branch Executive Committee is responsible for the day-to-day administration of the Branch.

14.7 The Branch Executive Committee must ensure that all money collected by the Branch and due to the National Treasurer are properly receipted and forwarded to the National Treasurer.

14.8 The Branch Executive Committee must report regularly to the Regional Executive Committee and National Executive Committee on any disputes or problems that have occurred within the Branch.

14.9 The Branch Executive Committee acts as a link between members in that Branch and the rest of the Association.

14.10 The Branch Executive Committee may –

14.10.1 reprimand members and recommend disciplinary action by the Branch General Meeting;

14.10.2 acquire by purchase, lease or otherwise or dispose of any property or hold same on behalf of the Branch subject to ratification by the Branch General Meeting;

14.10.3 open and operate a bank account in the name of the Branch; or

14.10.4 do such other things as in the opinion of the Branch General Meeting appears to be in the interests of the Association and which are consistent with the provisions of this Constitution.

14.11 A member of the Branch Executive Committee vacates office in any of the following circumstances –

14.11.1 on resignation, suspension or expulsion from membership of the Association;

14.11.2 on ceasing to be eligible to be a member of the Association, or ceasing to be a member of the Association in good standing;

14.11.3 by decision of the Branch General Meeting;

14.11.4 on absenting himself or herself from three consecutive meetings without sending an apology acceptable to the Branch Executive Committee;

14.11.5 on being elected President of the Association, provided that he/she is entitled to sit as an *ex-officio* member of the Branch Executive Committee.

14.12 Vacancies occurring on the Branch Executive Committee are filled by election of the members of the Branch General Meeting from among themselves.

## **15. REGIONAL LEVEL**

15.1 The Association operates in three Regions, namely –

15.1.1 **Region 1:** comprising Parliament; departments in the national sphere of government; departments in the Gauteng Provincial Government; municipalities situated in Gauteng Province; and national public entities and provincial public entities with their head offices in Gauteng Province;

15.1.2 **Region 2:** comprising departments in the following provincial governments: Northern Cape, Western Cape, North-West and Free State; the provincial legislatures of those provinces; municipalities situated in those provinces; and national public entities and provincial public entities with their head offices in those provinces; and

15.1.3 **Region 3:** comprising departments in the following provincial governments: KwaZulu-Natal, Mpumalanga, Eastern Cape and Limpopo; the provincial legislatures of those provinces; municipalities situated in those provinces; and national public entities and provincial public entities with their head offices in those provinces.

15.2 The National Executive Committee may depute one or more of its members or any official to investigate the affairs of any Region at any time and must notify the Region concerned of the reason therefor. Such deputies may access all the records of the Branch and have the power to take copies of the records into custody for consideration by the National Executive Committee.

## **16. REGIONAL COUNCIL**

16.1 Branches in a Region may constitute a Regional Council for such purposes and at such times as the Branches in the Region deem fit: Provided that the Regional Council must meet as provided for in sections 16.8 and 21 of this Constitution.

16.2 The Regional Executive Committee consists of –

16.2.1 The Regional Executive Committee members elected in terms of section 16.3;

16.2.2 No more than 10 delegates from each Branch appointed by the Branch

General Meeting from among its members.

16.3 The Regional Council may elect a Regional Executive Committee consisting of at least the following: the Regional Chairperson, the Regional Secretary, and such other members as the Regional Council may determine.

16.4 The Regional Executive Committee may meet at such times and for such purposes as the Regional Council may determine.

16.5 The provisions of this Constitution relating to notice and agendas for and minutes of meetings in respect of Branches apply, with the necessary changes, to Regional Councils and Regional Executive Committees.

16.8 The Regional Council must be convened prior to the annual meeting of the General Council to elect the Regional Chairperson for the Region who must serve on the National Executive Committee as a Deputy President of the Association.

## **17. NATIONAL LEVEL**

The control of the Association nationally is vested in the following bodies in the order of supremacy –

17.1 General Council

17.2 National Executive Committee

## **18. GENERAL COUNCIL**

18.1 The General Council is the supreme governing body of the Association.

18.2 The General Council consists of –

18.2.1 a minimum of one representative per Branch;

18.2.2 each Branch has one additional representative for every 10 members;

and

18.2.3 the members of the National Executive Committee.

18.3 The General Council must meet at least once a year. At the Annual General Council Meeting, National Office Bearers are elected and reports on the activities of the Association are received.

18.4 The National Executive Committee determines the number of delegates to which each Branch is entitled and must notify each Branch of the date and venue of the Annual General Council Meeting.

18.5 Special meetings of the General Council may be called by the National Executive Committee on 14 days written notice to Branches. Representatives at such special meetings of the General Council are as determined by the National Executive Committee for the previous ordinary meeting of the General Council.

18.6 Only the following resolutions may be considered at General Council Meetings –

18.6.1 resolutions from Branches, Regions, or the National Executive Committee which have been circulated in writing to all Branches and Regions and the Headquarters at least 14 days prior to the General Council Meeting;

18.6.2 resolutions on current topics and which the General Council agrees to debate; and

18.6.3 any motion of no confidence in any Office Bearer or official of the Association.

18.7 The *quorum* for a meeting of the General Council is a majority of delegates eligible to be present: Provided that at least two-thirds of the Branches are represented. In the event of there not being a *quorum*, the meeting must stand adjourned and be reconvened within a period of eight weeks. At such adjourned meeting the members present form a *quorum*. 14 days written notice of such adjourned meeting must be given to all Regions and Branches.

18.8 Minutes of the General Council Meeting must be sent to each Region and Branch by the General Secretary or a nominee of the National Executive Committee for that purpose within four months of the General Council Meeting and must be read and approved at the following Annual General Council Meeting.

## 18.9 The General Council –

18.9.1 must decide on all matters submitted to it for consideration. A special meeting of the General Council decides on the matter for which the special meeting was called;

18.9.2 has all the powers vested in the National Executive Committee;

18.9.3 has the right to vary or reverse any decision of the National Executive Committee or of any Regional or Branch meeting;

18.9.4 considers and decides, in addition to any other matters which may be submitted to it for consideration, on the following –

18.9.4.1 an annual report on the activities of the Association by the President and the General Secretary;

18.9.4.2 a financial report presented by the National Treasurer and the approval of the auditor's reports and the financial statements of the Association for the financial year;

18.9.4.3 resolutions;

18.9.4.4 once a year at the Annual General Council Meeting, elects the National Executive Committee;

18.9.4.5 any matter which the General Council agrees to discuss; or

18.9.5 may establish, re-establish or close down Branches and defines the scope of the Branches.

## **19. NATIONAL EXECUTIVE COMMITTEE**

19.1 The administration of the Association vests in the National Executive Committee subject to the direction and control of the General Council.

19.2 The National Executive Committee consists of the President, the Regional Chairperson of each Region who are the Deputy Presidents of the National Executive Committee, a National Treasurer, a Publicity Secretary, the General Secretary, an Assistant General Secretary, a member of the National Executive Committee responsible for the Women's Desk and such other members as the General Council deems necessary and expedient: Provided –

19.2.1 that as far as possible, each Branch is represented on the National Executive Committee; and

19.2.2 that the National Executive Committee has the power to co-opt up to two additional members of the Association after consultation with the Branches.

19.3 The National Executive Committee must meet at least once every three months at such time and place as the President in consultation with the General Secretary may decide. Special National Executive Committee meetings may be called by the President and must be called on a requisition by not less than one-third of the members of the National Executive Committee. In the latter event the meeting must be convened within 14 days of receipt of the requisition by the President or General Secretary.

19.4 The General Secretary or a nominee of the National Executive Committee must send to members of the National Executive Committee and all others entitled to attend not less than seven days written notice of meetings. Such notice must specify the time and the place of the meeting and must include an agenda.

19.5 The *quorum* for meetings of the National Executive Committee is a majority of members. In the event of there not being a *quorum* the meeting must stand adjourned and be reconvened within a period of 14 days. At such adjourned meeting the members present form a *quorum*. 7 days written notice of such adjourned meeting must be given to all National Executive Committee members.

19.6 Copies of minutes of National Executive Committee meetings must be submitted for approval at the following National Executive Committee meeting and be sent to each Branch Secretary or a nominee of the National Executive Committee as soon as possible after the meeting and in any event within 30 days.

19.7 The National Executive Committee, subject to the provisions of this Constitution

–

19.7.1 must co-ordinate the activities of the Association, and promote the interests of the Association and its members generally;

19.7.2 must decide what employment posts should be created, maintained or terminated for the effective running of the Association;

19.7.3 may engage and dismiss any employees of the Association, to fix their remuneration and other conditions of employment and to define their duties;

19.7.4 may nominate and elect persons to represent the Association on any body constituted in terms of any law or any other body on which it is desired that the Association must be represented;

19.7.5 may institute and defend legal proceedings by or against the Association, or any of its members;

19.7.6 may acquire or dispose of either by purchase, lease, sale or otherwise any movable or immovable property;

19.7.7 may open, operate and close banking accounts on behalf of the Association and, generally, control the funds and finances of the Association;

19.7.8 may borrow, raise, invest monies and funds and allocate funds to the Regions and Branches; and sanction all expenditure on behalf of the Association;

19.7.9 may conclude any agreement it deems necessary;

19.7.10 may review any decision of any Branch, Regional Executive Committee or Regional Council and may confirm, amend or reverse such decision;

19.7.11 may provide legal assistance to members on matters related to their functions;

19.7.12 must decide all matters of procedure on which this Constitution is silent.

19.8 A member of the National Executive Committee vacates his or her seat in any of the following circumstances –

19.8.1 on resignation, suspension or expulsion from membership of the Association;

19.8.2 on ceasing to be eligible to be a member of the Association;

19.8.3 in the case of the President or a Deputy President of a Region, if the Regional Council of the Region so decides;

19.8.4 on being absent from three consecutive meetings without sending an apology acceptable to the National Executive Committee;

19.8.5 in the case of a co-opted member, if the National Executive Committee should so decide.

19.9 Vacancies on the National Executive Committee are filled as follows –

19.9.1 in the case of a Deputy President, the Regional Council of the Region whose Deputy President has vacated his or her position fills the vacancy by electing a new representative at the first Regional Council meeting after the vacancy has occurred;

19.9.2 In the case of any other member of the National Executive Committee, is filled by appointment by the National Executive Committee from amongst themselves on a temporary basis and the vacancy must be properly and permanently filled at the next meeting of the General Council.

19.10 A member elected to fill a vacancy shall hold office for the unexpired portion of the period of office of his or her predecessor.

19.11 The National Office Bearers of the Association are the members of the National Executive Committee who hold office until the next Annual General Council Meeting and are eligible for re-election.

19.12 The National Office Bearers are elected as follows –

19.12.1 the President is elected from among the membership of the Association;

19.12.2 the Regional Chairpersons of each of the Regions of the Association are *ex officio* members of the NEC;

19.12.3 the General Council elects the remaining Office Bearers; and

19.12.4 should any one Branch not have a member on the National Executive Committee after the above elections, its members may nominate a member to be elected as a Branch Representative.

19.13 The following procedure applies in respect of each election –

19.13.1 Ballot papers must be prepared with names of all the candidates for the position.

19.13.2 Each General Council delegate present will have one (1) vote for each post.

19.13.3 After the votes are cast, the scrutineers must determine whether any

candidate must be declared duly elected. If not, further rounds of secret balloting must be held but in each round the names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot.

19.13.4 The results of each round of balloting must be disclosed to the General Council before the following round commences.

19.13.5 Office Bearers are elected in the following order –

19.13.5.1 President;

19.13.5.2 General Secretary;

19.13.5.3 Assistant General Secretary;

19.13.5.4 National Treasurer;

19.13.5.5 Publicity Secretary; and

19.13.5.6 such others as the General Council deems fit to elect.

19.13.6 The newly elected National Office Bearers take office at the closure of the General Council Meeting at which they are elected.

#### 19.14 DUTIES OF NATIONAL OFFICE BEARERS

19.14.1 The President must attend all General Council and National Executive Committee meetings and preside at such meetings but has no vote at a meeting of the General Council and only a deliberative vote at meetings of the National Executive Committee.

19.14.2 The Deputy Presidents assist the President in performing his or her duties and perform such duties of the President as are delegated to him or her or them. A Deputy President designated by the National Executive Committee, assumes the duties of the President in the absence of the President. Deputy Presidents are responsible for liaison between –

19.14.2.1 the National Executive Committee and the Branches in the Region;  
and

19.14.2.2. the Branches in the Region.

19.14.3 In the event of both the President and the Deputy Presidents being unable either temporarily or permanently to perform their duties, the National Executive

Committee must appoint a member of the National Executive Committee to act as President, who holds office as Acting President until the President or any Deputy President is able to assume his or her duties or until the next election, as the case may be.

19.14.4 The Treasurer must –

19.14.4.1 keep proper books of account;

19.14.4.2 ensure that the books of accounts are audited annually;

19.14.4.3 have the right to inspect all records relating to the finances and books of account of the Association; including Branch and Regional books of account; and

19.14.4.4 submit statements of income and expenditure of the Association's national accounts to each meeting of the National Executive Committee and in respect of each annual period to the General Council.

19.14.5 The Publicity Secretary attends to the publication and dissemination of information pertaining to the affairs and views of the Association and is also the Chief Information Officer of the Association.

19.14.6 The General Secretary is responsible for the proper administration and co-ordination of the Association, including the duties to –

19.14.6.1 supervise the work of the officials of the Association;

19.14.6.2 perform such other duties as the National Executive Committee may direct;

19.14.6.3 report fully to each meeting of the General Council and the National Executive Committee on all aspects of the Association's activities; and

19.14.6.4 ensure that a register of members is established and maintained.

19.14.7 The Assistant General Secretary assists the General Secretary in performing his or her duties and performs such duties of the General Secretary as are delegated to him or her. The Assistant General Secretary assumes the duties of the General Secretary in the absence of the General Secretary.

## **20. RULES OF PROCEDURE AT ASSOCIATION MEETINGS**

The normal Rules of Meeting Procedures apply to all Association Meetings.

## **21. REMOVAL FROM OFFICE OF OFFICE BEARERS**

21.1 Despite any other provision in the Constitution for the removal of Office Bearers, such persons may be removed from office on the written request of at least 20 percent of the members in good standing in the constituency in which the Office Bearer has been elected or appointed.

21.2 The responsible Executive Committee for the constituency must arrange for a ballot of all the members in good standing within the constituency to determine whether they desire to have the Office Bearer or official concerned removed from office.

21.3 A majority vote in favour of the removal effects the removal.

## **22. INDEMNIFICATION OF OFFICIALS, OFFICE BEARERS AND COMMITTEE MEMBERS**

The officials, Office Bearers and committee members of the Association, provided that they have not acted in a manner which would constitute wilful misconduct, are indemnified by the Association 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 Association and they are not personally liable for any liabilities of the Association.

## **23. DISPUTES**

23.1 In the event of a dispute existing between the Association and any other party, the General Secretary of the Association, or the Regional Secretary within whose Region the dispute occurs, or the Branch Secretary with whose Branch the dispute occurs, may take legal action on behalf of the Association in respect thereof.

23.2 If such legal action is taken by a Branch Secretary or a Regional Secretary, he or she may do so only with the written approval of the National Executive Committee.

## **24. OFFICIALS**

24.1 National Officials may be employed by the National Executive Committee.

24.2 Regional Officials may be employed by the Regional Executive Committee subject to ratification by the National Executive Committee.

24.3 Every newly appointed official of the Association must serve a three month probation period before that official's appointment may be confirmed. If his or her appointment is not confirmed at the end of the probation, he or she has no claim whatsoever against the Association arising therefrom.

24.4 All officials who attend Association meetings in terms of this Constitution may participate and speak, but may not vote.

## **25. DISCIPLINE OF MEMBERS OR OFFICE BEARERS**

25.1 Any member or Office Bearer who –

25.1.1 fails to comply with any of the terms of this Constitution;

25.1.2 acts in a manner contrary to the provisions of this Constitution; or

25.1.3 acts against the interests of the Association,

may be disciplined by the National Executive Committee or the Branch General Meeting.

25.2 The National Executive Committee or the Branch General Meeting, as the case may be, must advise the person concerned by not less than seven days notice in writing, of the substance of the charge and of the time and place of his or her hearing. Such notice may be sent by registered post to the last known address of the person charged or delivered by hand.

25.3 If the National Executive Committee or the Branch General Meeting as the case may be, is satisfied that the person charged has, though absent, received the prescribed notice, or if the person charged is present, the National Executive Committee or the Branch General Meeting may proceed to hear and determine the charge, and if it finds the charge proved to its satisfaction, may –

25.3.1 expel the member or Office Bearer from the Association;

25.3.2 suspend for a definite period, the member or Office Bearer from the Association; or

25.3.3 impose a fine not exceeding ONE THOUSAND RAND (R1 000-00); or

25.3.4 impose a fine referred to in section 25.3.3 and suspend a member until such fine is paid.

25.4 At the hearing of the charge and in the case of an appeal, the National Executive Committee or the Branch General Meeting, as the case may be, must afford the person concerned an opportunity to state his or her case personally and to call members or officials of the Association as witnesses in support of his or her case.

25.5 There is a right of appeal from a decision of a Branch General Meeting to the next meeting of the National Executive Committee, and from a decision of the National Executive Committee to the next General Council which has the power to confirm, vary or reverse the decision of the National Executive Committee. The decision of the General Council is final.

25.6 An appeal must be lodged in writing with the Regional Secretary in the case of an appeal to the National Executive Committee or the General Council, within seven days of notification of the decision appealed against: Provided that when notification of the decision has been conveyed, the person concerned must also be advised that he or she has a right of appeal and that notice of appeal must be given in writing within seven days.

25.7 A member or Office Bearer ceases to be entitled to the benefits of membership, including the right to vote, during any period while he or she is under suspension in terms of this Constitution. An Office Bearer who has been suspended ceases to act on behalf of the Association during the period of his or her suspension.

## **26. FINANCES OF ASSOCIATION**

26.1 The national funds of the Association consist of all monies received by means of the national subscriptions, levies, donations, functions and in any other manner for the national running of the Association and its campaigns; and for allocation to Branches or Regions. Save that where the General Council so decides, a portion of the national subscription may be retained by the Branches.

26.2 The national funds of the Association must be deposited in a national bank account decided upon by the National Executive Committee.

26.3 Branches and Regions may raise funds in addition to the annual subscriptions, and such funds may be retained by the Branch: Provided that such funds are raised or levied in accordance with the Association's policies.

26.4 If any Branch or Region ceases to exist as such, its assets and liabilities devolve on the Association.

26.5 Branch and Regional Treasurers must prepare income and expenditure statements and submit them annually to the General Council and to the Branch General Meeting and the Regional Council, respectively.

## **27. LEVIES IMPOSED BY ASSOCIATION**

The National Executive Committee may, at any time, with a view to securing funds for any particular purpose, impose such levy as it may determine on each ordinary member: Provided –

27.1 that notice of the proposed levy has been given to all Branches; and

27.2 that any Branch General Meeting may demand that a ballot of members of the Association be taken on the subject.

## **28. NOTICES**

No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

## **29. MANDATORY BALLOTS**

29.1 Members in good standing in a constituency may in writing request that a ballot of members within that constituency be held on any issue: Provided that the request is signed by at least 20 percent of all members in good standing.

29.2 On receipt of such written request, the responsible Executive Committee for the constituency must arrange for a ballot of all members in good standing within the constituency to determine the issue which must then be regarded as its policy.

## **30. AMALGAMATION OR MERGER**

30.1 In the event of the General Council determining that the objects of the Association will be better achieved by a merger or amalgamation between the Association and any other association, the General Council may, by majority decision, resolve to amalgamate or merge with any other association.

30.2 In that event, the newly formed Association acquire all assets and liabilities and all rights and obligations of the Association and the newly formed Association is the successor in title of the Association.

## **31. DISSOLUTION OF ASSOCIATION**

31.1 The Association may be dissolved at any time by resolution of a majority of two-thirds of the General Council if for any reason the Association is unable to continue functioning: Provided that no such resolution is effective unless a ballot of members of the Association has been conducted and more than 60 percent of the members in good standing and participating in the ballot so approve.

31.2 If the Association has been so dissolved, the following procedures apply –

31.2.1 the available members of the Association's last appointed National

Executive Committee must appoint a liquidator to carry out the dissolution. The liquidator may not be a member of the Association and must be paid such fees as may be agreed upon between the liquidator and the said available members;

31.2.2 After payment of all debts, the remaining funds, if any, must be disposed of by a decision of a ballot of the members of the Association who were in good standing as at the date of dissolution.

### **32. AMENDMENT TO CONSTITUTION**

32.1 Any of the provisions of this Constitution may be repealed, amended or added to in any manner by resolution of the General Council: Provided that at least 21 days prior notice has been given to each Branch.

32.2 Amendments are effective upon a resolution to that effect being passed by the General Council.

32.3 The notice period may be waived if two-thirds of those present and entitled to vote at a General Council meeting so approve.

### **33. INTERPRETATION OF CONSTITUTION**

The responsibility for the interpretation of the provisions of this Constitution or any matter arising in connection therewith is vested in the General Council and the decision of the General Council is final and binding.

### **34. ADOPTION OF CONSTITUTION**

ADOPTED AT ..... ON THIS ..... DAY OF ..... 2005  
BY THE UNDERMENTIONED SIGNATORIES WHO ARE REGARDED AS THE **FOUNDER MEMBERS** AND THE **FIRST ORDINARY MEMBERS** OF THE **NATIONAL ASSOCIATION OF PUBLIC SECTOR LAWYERS (NAPSL)**: