

4. OBJECTIVES, POWERS AND FUNCTIONS:

The objectives of SARPBAC shall be:-

- 4.1. To consider and regulate matters of mutual interest between the Parties and to prevent and resolve disputes.
- 4.2. To negotiate, conclude, monitor and enforce Collective Agreements.
- 4.3. To foster sound relationships between Employers, Employees and Trade Unions.
- 4.4. To use its best endeavours to maintain and enhance industrial peace.
- 4.5. To conciliate, mediate and arbitrate, in accordance with the agreed dispute resolution procedures, on matters in dispute that are referred to SARPBAC.
- 4.6. To consider, advise and make representations in relation to any legislation or proposed legislation affecting the relationship between the Parties, the functions of SARPBAC, and the interests of the Road Passenger Transport Industry or Sector.
- 4.7. To consider and deal with such other matters as may affect the interests of the Parties.
- 4.8. To establish and administer a fund to be used for resolving disputes.
- 4.9. To seek accreditation with regard to Mediation, Conciliation and Arbitration as defined in the Act.
- 4.10. To exercise and discharge those powers and functions conferred on SARPBAC in terms of the Act.

5. MEMBERSHIP

- 5.1. The Parties to SARPBAC shall be Employers' Organisations and Trade Unions, registered in terms of Section 96 of the Act, which have been admitted to membership of SARPBAC.
- 5.2. Membership of SARPBAC is open to all registered Employers' Organisations and to all registered Trade Unions subject to the following criteria:-
 - 5.2.1. Members of the Employers' Organisations and the Trade Unions must be engaged in the Road Passenger Transport Industry.
 - 5.2.2. Trade Unions must be recognised and active in the business

operations of one or more Employers that are members of an Employers' Organisation which is a Party to SARPBAC.

- 5.2.3 Members must comply with the applicable criteria stipulated in Clause 6.2 below.
- 5.3. The Council will ensure that small and Medium Enterprises are represented in the Council through the Employer's Organizations.
- 5.4 SARPBAC shall submit annually, by January of each year, the LRA 3.20 B Form to the Registrar of Labour Relations.

6. ADMISSION OF PARTIES TO SARPBAC

- 6.1. Any Employers' Organisation or Trade Union complying with Section 56 of the Act, and with the provisions of Clause 5 and 6.2 of this Constitution, may be admitted to membership of SARPBAC, subject to the unanimous consent of all existing Parties.
- 6.2. Any Employers' Organisation or Trade Union applying for admission shall comply with the following criteria:-
 - 6.2.1. An Employers' Organisation must represent two or more Employers who collectively employ not less than 5 000 Eligible Employees.
 - 6.2.2. A Trade Union shall have not less than 1 000 registered and fully paid up members, who are Eligible Employees.
 - 6.2.3 Confirmation of the thresholds referred to in terms of Clauses 6.2.1 and 6.2.2 above shall take the form of a certificate issued by an auditor, registered to practice as a public accountant and auditor.
 - 6.2.4. An Employers' Organisation or Trade Union seeking membership of SARPBAC, shall provide SARPBAC with copies of its Constitution approved by, and its registration certificate issued by, the Registrar of Labour Relations.
- 6.3. SARPBAC must decide, at the first Central Committee meeting following receipt of an application for membership referred to above, whether to grant or refuse the application.
- 6.4. SARPBAC must advise the applicant, in writing, within 30 Days of the date of making the decision referred to in Clause 6.3 above, of such decision.
- 6.5. Once admitted, the new Party's representivity on the Central Committee, and within SARPBAC structures must be determined by

the Central Committee, subject to the following:-

- 6.5.1. In the case of a new Employers' Organisation, the Central Committee shall allocate at least one seat to such Employers' Organisation, and allocate such additional seats as may be required to accord with the Proportional Representivity of such Employers' Organisation.
 - 6.5.2. In the case of a new Trade Union Party, the Central Committee shall allocate at least one seat, and shall allocate such additional seats as may be required to accord with the Proportional Representivity of such Trade Union.
- 6.6 Any Party may withdraw from SARPBAC by giving six calendar months notice, in writing, to the General Secretary. Withdrawal notice would have to be on the the Organisation's official letterhead and signed by a designated Official.

7. CENTRAL COMMITTEE

The Central Committee shall comprise ten (10) Representatives nominated by the Employers' Organisation and ten (10) Representatives nominated by the Trade Unions that are party to SARPBAC.

8. APPOINTMENT OF REPRESENTATIVES:

- 8.1. The nomination of Representatives to the Central Committee shall remain domestic to the Employers' Organisation and Trade Union Parties to SARPBAC, provided that the number of Representatives of individual Employers' Organisation or Trade Union Party shall be determined with reference to the Proportional Representivity of such Employers' Organisation or Trade Union Parties. The proportional representivity of both Employers' Organisation and Trade Union Parties shall be reviewed by the Central Committee in October of each year, based on the verified size, in terms of Eligible Employees, of the respective Employers' Associations and Trade Unions.
- 8.2. SARPBAC may, by unanimous vote, increase or otherwise vary the total number of Representatives on condition that the total number of Representatives of Employers' Organisations and Trade Unions on the Central Committee shall at all times be equal.
- 8.3. Each Party may appoint Alternates, equal in number to the number of its Representatives on the Central Committee, in the same manner and subject to the same conditions as such Representatives, with the changes required by the context.

- 8.4. An Alternate so appointed may, in the absence of the Representative, attend meetings of the Central Committee, participate in deliberations, vote if necessary and act in the place of a Representative of a Party.
- 8.5. The appointment of Representatives and Alternates shall be in accordance with the constitution of the respective Parties.
- 8.6. Parties shall notify the General Secretary of the names of their respective Representatives in November of each year and such Representatives shall hold office for a period of twelve (12) months commencing in January of the following year.
- 8.7. Representatives of the respective Parties shall, subject to the Constitutions of the respective Parties, be eligible for re-election.
- 8.8. Notwithstanding anything to the contrary contained in this Constitution and the provisions of Clauses 8.6 and 8.7 above:
 - 8.8.1. A Party may withdraw any of its Representatives, or Alternates, after having given at least 14 Days' notice, in writing, to the General Secretary of SARPBAC.
 - 8.8.2. A Representative, or Alternate, shall be entitled to resign upon giving at least 14 Days' notice, in writing, to the General Secretary of SARPBAC.
 - 8.8.3. A Representative who without good cause, is absent from three (3) consecutive meetings of the Central Committee, is disqualified from continuing in that office.
 - 8.8.4. A Representative, including the Chairperson and Vice-Chairperson, who, following upon an enquiry conducted by a panel appointed by SARPBAC for this purpose, is found guilty of misconduct or conduct warranting removal from the position of a Representative on the Central Committee, shall be disqualified from holding such office.
- 8.9. If a seat on the Central Committee becomes vacant through the withdrawal, disqualification, resignation or death of a Representative, the vacancy shall be filled by the Party who appointed such Representative.

The person so appointed shall act for the unexpired portion of the predecessor's term of office.
- 8.10. Save as provided for in clause 10.11, observers shall not attend meetings of the Central Committee.

9. ROLE AND FUNCTION OF THE CENTRAL COMMITTEE

The Central Committee is charged with administering SARPBAC's Constitution, the setting up of Sub-Committees, the appointment of staff, matters of policy, the establishment and maintenance of a dispute resolution process as provided for in Section 28(1)(d) read with Section 51 the Act, and any other function as detailed in this Constitution.

10. MEETINGS OF THE CENTRAL COMMITTEE

10.1. The Central Committee shall meet at least once per quarter at such place, date and time as may be determined by the Chairperson or by agreement of the Parties.

10.2. Additional meetings may be called at the request of any Party.

10.2.1. Requests must be submitted, in writing, to the General Secretary at least twenty-one (21) Days prior to the proposed meeting.

10.2.2. The subject matter of the meeting or, alternatively, a proposed agenda for the meeting must be communicated, in writing, to the General Secretary together with the written request for the meeting.

10.2.3 The General Secretary shall, in writing, inform all other Parties of any request for an additional meeting of the Central Committee within two (2) working days of receipt of the request for such meeting and, at the same time, provide Parties with a proposed agenda and/or the subject matter of the meeting. Should the Parties agree that sufficiently good reason exists for the calling an additional meeting, the Chairperson of the Central Committee shall convene such meeting within twenty-one (21) Days of the request or such meeting.

10.3. A special meeting of the Central Committee may be convened should the Chairperson and Vice- Chairperson, having firstly consulted with each other, agree on the need for and timing of such a meeting. The General Secretary shall, in writing, advise Parties of the special meeting and set out the subject matter, and/or proposed agenda, of the special meeting.

10.4. A quorum for meetings of the Central Committee shall be sixty (60) percent of the Employers' Organisation Representatives and sixty (60) percent of Trade Union Representatives on the Central Committee.

10.4.1. For the purposes of determining whether a quorum is present, Alternates of Representatives who are absent, shall be

regarded as Representatives.

- 10.4.2. If within thirty (30) minutes of the time fixed for any meeting a quorum is not present, the meeting shall decide on what additional time, if any, shall be allowed for the establishment of a quorum.
- 10.4.3. If after such additional time a quorum is still not present, the meeting shall stand adjourned to a date and time agreed by the Parties.
- 10.4.4. The General Secretary shall advise all Representatives of the date, time and place of such subsequent meeting.
- 10.4.5. A quorum at any such subsequent meeting shall be twenty (20) percent of the Employers' Organisation Representatives and twenty (20) percent of Trade Union Representatives on the Central Committee.
- 10.5. If any Representative is absent from any meeting and an Alternate is not in attendance, then the number of votes of the Representatives of the Employers' Organisation, or of the Trade Unions, as the case may be, shall be reduced to the extent necessary to maintain an equality of voting between the respective Parties to the Central Committee.
- 10.6. No decisions taken either at a Central Committee or at National Bargaining Forum level shall be invalidated by the absence of any Representative who has been properly notified.
- 10.7. After any meeting of the Central Committee the minutes of the meeting shall be circulated to all Representatives within the timeframe determined by the Central Committee. At the next meeting of the Central Committee these minutes will be confirmed by the meeting and signed by the Chairperson.
- 10.8. If the Chairperson so decides, a motion shall be submitted in writing, and shall be read out by him.
 - 10.8.1. No motion shall be considered unless seconded.
 - 10.8.2. Except where otherwise provided for in this Constitution, or decided by the Central Committee, all matters forming the subject matter of motions shall be decided by secret ballot with the votes of the majority being carried.
 - 10.8.3. Both the Chairperson and the Vice-Chairperson shall have full voting rights but no casting vote.
- 10.9. Any Sub-Committee of the Central Committee shall conduct its meetings in accordance with the procedures set out in this Constitution.

10.10. A representative of the Department of Labour may be invited to attend any meeting of the Central Committee as an observer.

10.11. The Central Committee may, by agreement, meet at such times, places and dates as may be determined by the Parties to negotiate and conclude Collective Agreements provided such agreements do not regulate Substantive Conditions of employment.

11. ELECTION AND DUTIES OF THE CHAIRPERSON AND VICE-CHAIRPERSON:

11.1. The Central Committee shall, at its first meeting following the appointment of Representatives, appoint a person as an acting Chairperson to conduct proceedings for the election of a Chairperson and a Vice-Chairperson.

11.2. The acting Chairperson shall call for nominations for the position of Chairperson. Nominees, who have indicated their willingness to make themselves available, must be Representatives on the Central Committee and must be seconded. The General Secretary shall record and read out the names of those nominated.

11.3. If more than one Representative is nominated for the position of Chairperson, the acting Chairperson will call for a secret vote by ballot. The nominee who receives the highest number of votes shall be declared as Chairperson.

11.4. If two or more nominees receive an equal number of higher votes, then a further ballot will be called to elect a Chairperson from such nominees.

11.5. If after three secret ballots a clear result cannot be obtained, then the General Secretary shall write the names of such nominees remaining after the third ballot on separate pieces of paper which will be placed in a suitable container and the acting Chairperson shall draw one name from the container and this nominee shall be declared Chairperson.

11.6. Subsequent elections for Chairperson shall be conducted in the same manner, read with the changes required by the context, except that if the outgoing Chairperson was a Representative of an Employers' Organisation Party, the incoming Chairperson shall be a Representative of a Trade Union Party. An outgoing Chairperson may be nominated for election to the position of Vice-Chairperson.

11.7. A like procedure shall be followed in the election of a Vice-Chairperson; provided that if the Chairperson of the Central Committee is a Representative of an Employers' Organisation Party, then nominees for the position of Vice-Chairperson shall be restricted to Representatives

of the Trade Union Parties and if the Chairperson is a Representative of the Trade Union Party, then the nominees for the position of Vice-Chairperson shall be restricted to Representatives of the Employers' Organisation Parties. An outgoing Vice-Chairperson may be nominated for election to the Chairperson position.

- 11.8. The Chairperson shall preside over and maintain order at all meetings of the Central Committee at which he is present, sign minutes of meetings after confirmation and perform such other duties as by usage and custom pertain to the office of Chairperson.
- 11.9. In the event of both the Chairperson and the Vice-Chairperson being unable to perform their duties for whatever reason, the Central Committee shall by a show of hands or motion duly seconded, elect an acting Chairperson from among those present who shall exercise the powers and perform the duties of the Chairperson.

12. SARPBAC SUB-COMMITTEES

- 12.1. The Central Committee may establish Sub-Committees to perform any of its functions or to carry out special duties, including investigating and reporting to SARPBAC on any matter considered appropriate by the Central Committee.
- 12.2. Half of the members of any Sub-Committee so appointed must be nominated by the Employers' Organisation Representatives, and the other half by the Trade Union Representatives within the Central Committee.
- 12.3. Committee members must be:-
 - 12.3.1. Persons drawn from the ranks of the Employers or Eligible Employees within the registered scope of SARPBAC or,
 - 12.3.2. Office Bearers or Officials of the Parties to SARPBAC.
- 12.4. The Representatives on any Sub-Committee shall appoint from amongst themselves a Chairperson and Vice-Chairperson in the manner set out in clause 11 of this Constitution.
- 12.5. Should a seat on a Sub-Committee become vacant; it shall be filled by an appointment to be made by the Central Committee of SARPBAC.
The individual so appointed to fill the vacancy on the Sub-Committee shall hold office for the unexpired portion of the period of office of his predecessor.
- 12.6. A Sub-Committee shall ordinarily meet as occasion arises and at such time and place as might, in the opinion of its Chairperson, be

convenient or necessary.

- 12.6.1. Fourteen (14) Days' written notice of each meeting shall be given to the members of the Sub-Committee by the General Secretary, except in cases of emergency when its Chairperson in his discretion may authorise shorter notice, such notice being not less than seventy-two (72) hours.
 - 12.6.2. Special meetings shall be called upon request by not less than fifty percent (50%) of the Representatives on the Sub-Committee. At least seven (7) Day's notice of a special meeting shall be given to Representatives.
- 12.7. A quorum for meetings of a Sub-Committee shall be sixty (60) percent of the Employers' Organisation Representatives and sixty (60) percent of the Trade Union Representatives on such Sub-Committee.
- 12.8 For the purposes of determining whether a quorum is present, Alternates of Representatives who are absent shall be regarded as Representatives.
- 12.9. If within thirty (30) minutes of the time fixed for any meeting a quorum is not present, the meeting shall decide on what additional time, if any, shall be allowed for the establishment of a quorum.
- 12.9.1. If after such additional time, a quorum is still not present; the meeting shall stand adjourned to a date at least twenty one (21) Days after such adjourned meeting.
 - 12.9.2. The General Secretary must advise all Representatives of the date,time and place of such a subsequent meeting.
 - 12.9.3. A quorum at any such subsequent meeting shall be twenty (20) percent of the Employers' Organisation Representatives and twenty (20) percent of Trade Union Representatives on the Sub-Committee.
- 12.10.Sub-Committees shall operate strictly within the terms of their mandates and shall have no power to bind Parties unless specifically given such a mandate by the Central Committee.