

Res. 1

3.

**MOTION: TO ADOPT A CONSTITUTION FOR THE EDUCATION
LABOUR RELATIONS COUNCIL AND TO AMEND AND
SUPPLEMENT THE FIRST AGREEMENT REFERRED TO
IN SECTION 21(7) OF THE EDUCATION LABOUR
RELATIONS ACT 146 OF 1993.**

- 1.1 The Education Labour Relations Act, 1993, came into operation on 20 October 1993.

- 1.2 The founding meeting of the Education Labour Relations Council will commence on 1 March 1994, and will:
 - 1.2.1 appoint a chairman and a secretary and relieve the interim chairman and the secretary of their duties;
 - 1.2.2 arrange for the administration of the Council in terms of section 13 of the Act;
 - 1.2.3 deal with applications for admission and registration submitted to it in terms of sections 10 and 11 of the Act;
 - 1.2.4 adopt a constitution for the Council; and

S.

1.5 Section 12(5) of the Act, further contemplates agreements of the Council providing for:

1.5.1 deductions which employers are required or permitted to make; from remuneration payable to employees;

1.5.2 the registration of professional educators;

1.5.3 the regulation of other matters of mutual interest.

1.6 The Constitution of the Republic of South Africa, 1993, which will come into operation on 27 April 1994, provides that certain laws will continue in force until replaced or amended.

-

2. The employee parties to the Council agree that -

2.1 the budget of the council should be met from a fund which shall be raised by agreement between the parties; Provided that in principle all employers and employees as defined in the Act shall contribute to the said fund;

7.

**SUMMARY OF AMENDMENTS TO THE DRAFT CONSTITUTION
OF THE EDUCATION LABOUR RELATIONS COUNCIL.
(DRAFT AS DISCUSSED ON 17th FEBRUARY 1994)**

Note: Insertions in text are indicated by _____

Deletions from the text are indicated by []

2. Definitions

- (b) "chamber" means a chamber of the council established in terms of clause [11] 12 of this constitution, and section 9(1)(j) of the Act;

3. Constitutional scope

- (2) [This] The contents of this constitution shall be supplementary to vested rights and legitimate expectations in terms of any other applicable law, convention or practice.

5. Powers of the council

- (e) to establish a pension fund, provident fund, medical scheme and any other [similar] funds or schemes; and

(22) (e) (i) unless the employee parties agree otherwise, the secretary shall determine the paid-up membership of parties at least 30 days before the annual general meeting and shall forthwith notify all parties in writing of his determination and for the purposes of the formulae contained in sub-clause (22) (b)(i) and (ii), the paid-up membership thus determined shall be used to calculate the weight of the vote cast by any party in terms of the above formulae until the next annual general meeting.

(ii) should an agreement between the employee parties as contemplated in (i) above require the secretary to perform specific administrative tasks in respect of an election by individual employees who are members of one or more employee parties as to which party should represent them in the council, the secretary shall perform such specific administrative tasks and the council shall pay all costs incidental thereto from its expenditure budget.

(iii) For the purposes of (i) and (ii) above, a motion passed amongst the employee parties to the council shall constitute an agreement.

- (6) The mediator shall commence with mediation within 7 days from his appointment, in terms of the following procedure:
- (i) The mediator shall conduct a thorough investigation into the dispute, and for the purposes of this investigation, the mediator shall hear argument and/or evidence on behalf of all parties to the dispute.
 - (ii) After hearing argument and/or evidence, the mediator shall:-
 - (a) make a finding on any disputes of fact; and
 - (b) express a view as to what, in his opinion, would constitute the most equitable settlement of the disputes before him.
 - (iii) The mediator shall only disclose his finding on the disputes of fact and his opinion as to what would constitute the most equitable settlement to either of the parties on the date on which it is deemed that the dispute is incapable of settlement by the council referred to in (7) below.