

# **EDUCATION LABOUR RELATIONS COUNCIL**

Established in terms of the S (37)(2) of the LRA of 1995 as amended



**elrc**

EDUCATION LABOUR  
RELATIONS COUNCIL

**23 AUGUST 2016**

## **CONSTITUTION:**

### **PART B**

# ***NEGOTIATION AND CONSULTATION PROCEDURES (BASIC EDUCATION AND TVET)***

*H.M. Mj*

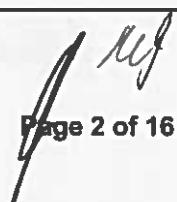
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## **PART 1: NEGOTIATION AND CONSULTATION PROCEDURES ON MATTERS OF MUTUAL INTEREST (BASIC EDUCATION)**

### **1. Negotiation and *consultation* procedures on matters of *mutual interest*: National**

- 1.1. The *Executive Committee* shall each year agree on a schedule of meetings for the purposes of negotiation and *consultation*.
- 1.2. Any party may:
  - 1.2.1 submit proposals for *consultation* or for the conclusion of a Collective Agreement in the *Council* and
  - 1.2.2 request, in writing, a Special consultation or negotiating meeting of the Council to deal with such matter.
- 1.3 Within five *days* of the submission of the proposals or request the *General Secretary* must *serve* copies of the proposals or requests on the *parties* to the *Council*.
- 1.4 Within 14 *days* of receiving the proposals or the written request for such a meeting, the *General Secretary* must, after consulting in writing with other parties and receiving an assurance of a quorum, call a *Special Consultation* or *Negotiation* meeting of the *Council*;
- 1.5 Any *party* to the *Council* may, prior to the holding of the next *Consultation* or *Negotiating* meeting of the *Council*, request in writing that an item/matter be placed on the agenda of such meeting. The *Consultation* or *Negotiating* meeting will decide whether these issues must be included on the agenda, or whether to refer them to the relevant forum.
- 1.6 If a majority *party* does not agree with the decision of the meeting with regard to the exclusion, or inclusion, of an item on the agenda of the *Council*, that *party* may refer the matter to the *General Secretary* for resolution in terms of the provisions of the *Dispute Resolution Procedures*.
- 1.7 At the first or Special negotiating or *consultation* meeting of the *Council*, the *parties* must try to agree on a negotiation or *consultation* process which may include the following issues:
  - 1.7.1 the submission of counter proposals;
  - 1.7.2 the establishment of a negotiation committee or task team;
  - 1.7.3 the appointment of a panellist, if necessary, to facilitate the negotiations or consultations and chair the meetings; and
  - 1.7.4 the timetable for negotiations or consultations.
- 1.8 In the event of the *parties* not agreeing on a negotiating or *consultation* procedure, the *parties* must, within seven *days*, commence negotiations or *consultations* in the *Council*.

- 1.9 If the *parties* do not conclude a Collective Agreement dealing with all the proposals referred to the *Council* after the expiry of 30 days after the matter was first included on the agenda of the negotiating meeting, which period may be extended by agreement between the *parties* to the *dispute*, any *party* may declare a *dispute*. Where the *parties* to the *dispute* have agreed to extend the negotiation period, any *party* may declare a *dispute* at any time during such extended period only if, in its view, negotiations have failed and the party holding such view has informed all the other parties, in writing, of its view.
- 1.10 Subject to clause 1.7 if any one of the *parties* declares a *dispute* the *General Secretary* must take the steps as set out in the applicable provisions of the *Dispute Resolution Procedures*.
- 1.11 Notwithstanding any provision to the contrary in *this Constitution*, an *employee party* to a *dispute* regarding an alleged unilateral change to terms and conditions of employment may immediately refer such *dispute* to the *General Secretary* in terms the *Dispute Resolution Procedures*.

## 2. **Negotiating task teams: National**

- 2.1 The negotiating meeting of the *Council* may from time to time, for the purposes of negotiations and *consultation*, establish task teams and may, subject to such conditions as it may determine, refer any matter of *mutual interest* for investigation, fact finding or research and for such task team to consider such matter of *mutual interest* for recommendation to the *Council*. A task team so established is referred to below as 'a task team'.
- 2.2 A task team shall consist of at least one representative per *party* admitted to the *Council*, subject to the *Trade Union party* meeting the threshold set in clause 9.3 of *this Constitution*: General Provisions (Part A).
- 2.3 A task team must submit regular written reports to the *Council*.
- 2.4 A task team may co-opt experts to render assistance: Provided that where such co-option has financial implications prior *consultation* with the *General Secretary* must occur to appropriate funds from the relevant Budget vote.

## 3. **Collective Agreements of the Council: National**

- 3.1 Unless otherwise agreed to, all proposals must be submitted in writing and read by the proposing *party* or the Chairperson as a prerequisite to any debate or resolution thereof.
- 3.2 Any proposal of substance shall be referred to as a "Draft Collective Agreement of the *Council*". The *General Secretary* shall allocate a provisional number to each Draft Collective Agreement, which shall apply until the requirements of clause 3.7.3 are complied with, as follows: "Draft Collective Agreement No x of y", where y is the year in which the proposal is first submitted to the *Council*, and x is a *capital letter* of the *alphabet* allocated

- sequentially in one year relative to the date of the first submission to the *Council*.
- 3.3 Decisions in respect of matters of negotiation shall be by way of Collective Agreements of the *Council*.
- 3.4 A draft Collective Agreement shall be put to the vote, and it shall be considered approved only when a vote of the *employer* on the one side and a majority vote of the *Trade Unions* on the other side is cast in favour of its adoption.
- 3.5 A Collective Agreement of the *Council* must comply with the provisions of the *Act*.
- 3.6 The *General Secretary* shall ensure that a draft Collective Agreement adopted by the *Council* in terms of clause 3.4.
- 3.6.1 is reduced to writing;
- 3.6.2 is presented within 30 *days* of the *Council* adopting the draft Agreement for signature to at least the *Chief Executive Officer* (or his or her delegate) of each of the *parties* that voted for the Draft Agreement during the relevant *Council* meeting; and
- 3.6.3 if signed within such period by sufficient *parties* to comply with clause 3.4, is circulated to all *parties* within five *days* of signing of the agreement by the last *party* to ensure compliance with that clause;
- 3.6.4 if not signed within such time period by sufficient *parties* to comply with clause 3.4, table the Draft Agreement at the next negotiating meeting of the *Council* to confirm the *parties'* position regularly; Provided that, if there is no majority support at that *Council* meeting for the Draft Resolution:
- 3.6.4.1 it falls away;
- 3.6.4.2 or by agreement of the *Council* it can be reopened for discussion or negotiation;
- 3.6.5 if there is majority support for the Draft Agreement at a *Council* meeting referred to in clause 3.6.4, take the steps provided for in clauses 3.6.1 to 3.6.4.
- 3.7 The following requirements and procedure shall apply regarding a Collective Agreement of the *Council*:
- 3.7.1 It must be reduced to writing and it will take effect only on the date on which sufficient *parties* to the *Council* have signed the agreement to comply with the requirements for the adoption of a Collective Agreement in clause 3.1;
- 3.7.2 Each *party* signing a draft Collective Agreement of the *Council* shall note the date on which it signs the Draft Collective Agreement and place where it is signed in the vicinity of its signature, although failure to do so shall not invalidate the Collective Agreement.

- 3.7.3 The date of the Collective Agreement of the *Council* shall be the first date on which the agreement has been signed by sufficient *parties* to comply with the majority provision of clause 3.4. The *General Secretary* shall insert such date as the date of the Collective Agreement at the end of the Agreement.
- 3.7.4 The *General Secretary* shall allocate a number to each Collective Agreement of the *Council* that is signed as provided in clause 3.7.3 as follows: the Agreement shall be numbered "Collective Agreement No x of y", where y is the year in which clause 3.7.3 is complied with, and x is a *number* allocated sequentially in one year relative to the date on which clause 3.7.3 is complied with.
- 3.8 Unless the Collective Agreement provides to the contrary:
- 3.8.1 such agreement applies to *employees of employers* that are not members of the signatory *Trade Unions*, subject to the requirements of *the Act*;
- 3.8.2 any *dispute* arising from the interpretation and implementation of such agreement may be referred to the *Council* to be resolved in terms of the *Dispute Resolution Procedures*;
- and this clause 3.8 is therefore deemed to form part of such Collective Agreement.

#### **4. Finalisation of matters of consultation: National and Provincial**

- 4.1 All proposals must be submitted in writing and read by the proposing *party*, upon direction of the Chairperson, as a prerequisite to any debate or finalisation thereof.
- 4.2 Finalisation in respect of matters of *consultation* may be by way of a record in the minutes of the meeting of the *Council* or the *Provincial Chamber* in a verbal or written record of understanding, as the case may be.
- 4.3 The finalisation of the matter of *consultation* shall be by way of a meaningful joint consensus seeking process between the *employer* on the one side and any or all of the *Trade Unions* on the other side.
- 4.4 If the *parties* are unable to deal with all the proposals referred to the *Council* or Chamber by the expiry of 30 days after the matter was first included on the agenda of the *consultation* meeting, which period may be extended by agreement between the *parties* to the *dispute*, any *party* may declare a *dispute*. Where the *parties* to the *dispute* have agreed to extend the negotiation period, any *party* may declare a *dispute* at any time during such extended period or thereafter.
- 4.5 Subject to clause 1.7 if any one of the *parties* declares a *dispute*, the *General Secretary* must take the steps as set out in clause 3.1 in this constitution: Part C: Dispute Resolution Procedures (Basic Education and TVET) and the applicable provisions of the *Dispute Resolution Procedures*.

**5. Negotiation and consultation procedures on matters of mutual interest: Provincial:**

- 5.1 Any party to a *Provincial Chamber* may submit proposals for the conclusion of *consultations* or a Collective Agreement in a *Provincial Chamber*.
- 5.2 Within five *days* of the submission of the proposals, the *Provincial Secretary* must *serve* copies of the proposals on the *parties* to the *Provincial Chamber*.
- 5.3 At the first negotiating or *consultation* meeting of the *Provincial Chamber* after the submission of the proposals, the *parties* must try to agree on a negotiating or *consultation* process and timetable.
- 5.4 In the event of the *parties* not agreeing to a negotiating or *consultation* procedure, the *parties* must, within seven *days*, commence negotiations or *consultation* in the *Provincial Chamber*.
- 5.5 If the *parties* do not conclude a Collective Agreement or finalise *consultation* by the expiry of 30 *days* after the matter was first included on the agenda of the *Provincial Chamber*, which period may be extended by agreement between the *parties* to the *dispute*, any party may declare a *dispute*.
- 5.6 The provisions of clause 1.10 apply with the changes required by the context.

## **PART 2: NEGOTIATION AND CONSULTATION PROCEDURES ON MATTERS OF MUTUAL INTEREST (TVET)**

### **6. Scope of TVET Bargaining Unit**

- 6.1 The registered scope of the *TVET Bargaining Unit* extends to employers and those employees in respect of which the *Further Education and Training Colleges Amendment Act, Number 3 of 2012, "FETC A Act"*, applies.
- 6.2 The *TVET Bargaining Unit* shall function as the bargaining and dispute resolution forum for the TVET sector at a national level only.
- 6.3 The *TVET Bargaining Unit* shall be constituted as a committee of the *Council* dealing with matters exclusive to that sector.

### **7. Admission of Parties to the FETC Bargaining Unit**

- 7.1. The trade unions admitted to the Council shall be the trade unions admitted to the Bargaining Unit.
- 7.2 The State in its capacity as the Employer as represented by the Department of Higher Education and Training (DHET) and employer/s in the Technical Vocational Education and Training (TVET) sector as envisaged in the "*FETC A Act*" duly registered by the Registrar of Labour Relations, shall be the *Employer* admitted to this *Council*, in respect of this sector.
- 7.3 Such employer (referred to in clause 5 above) shall be the employer participant in the Bargaining Unit

### **8 Negotiation and *consultation* procedures on matters of *mutual interest*:**

- 8.2 The *Council* shall prior to each year agree on a schedule of meetings for the purposes of negotiation and *consultation*.
- 8.3 Any *party* may:
  - 8.3.1 submit proposals for *consultation* or for the conclusion of a Collective Agreement in the *TVET Bargaining Unit* and
  - 8.3.2 request, in writing, a Special *consultation* or negotiating meeting of the *TVET Bargaining Unit* to deal with such matter.
- 8.4 Within 5 (five) *days* of the submission of the proposals or request, the *General Secretary* must *serve* copies of the proposals or request on the *parties* to the *TVET Bargaining Unit*.
- 8.5 Within 14 (fourteen) *days* of receiving the proposals or the written request for such a meeting, the *General Secretary* must, after consulting in writing with other parties and receiving an assurance of a quorum, call a Special



- Consultation or Negotiation meeting of the TVET Bargaining Unit;*
- 8.6 Any party to the *TVET Bargaining Unit* may, prior to the holding of the next Consultation or Negotiating meeting of the *TVET Bargaining Unit*, request in writing that an item/matter be placed on the agenda of such meeting. The *Consultation or Negotiating meeting* will decide whether these issues must be included on the agenda, or whether to refer them to the relevant forum.
- 8.7 If a majority party, on either side, does not agree with the decision of the meeting with regard to the exclusion, or inclusion, of an item on the agenda of the *TVET Bargaining Unit*, that party may refer the matter to the *General Secretary* for resolution in terms of the provisions of the *Dispute Resolution Procedures*.
- 8.8 At the first or Special negotiating or *consultation* meeting of the *TVET Bargaining Unit*, the parties must try to agree on a negotiation or *consultation* process which may include the following issues:
- 8.8.1 the submission of counter proposals;
- 8.8.2 the establishment of a negotiation committee or task team;
- 8.8.3 the appointment of a *panellist*, if necessary, to facilitate the negotiations or *consultations* and chair the meetings; and
- 8.8.4 the timetable for negotiations or *consultations*.
- 8.9 In the event of the parties not agreeing on a negotiating or *consultation* procedure, the parties must, within 7 (seven) days, commence negotiations or *consultations* in the *TVET Bargaining Unit*.
- 8.10 If the parties do not conclude a Collective Agreement dealing with all the proposals referred to the *TVET Bargaining Unit* after the expiry of 30 (thirty) days after the matter was first included on the agenda of the negotiating meeting, which period may be extended by agreement between the parties to the *dispute*, any party may declare a *dispute*. Where the parties to the *dispute* have agreed to extend the negotiation period, any party may declare a *dispute* at any time during such extended period only if, in its view, negotiations have failed and the party holding such view has informed all the other parties, in writing, of its view.
- 8.11 Subject to clause 1.7 if any one of the parties declares a *dispute*, the *General Secretary* must take the steps as set out in the applicable provisions of the *Dispute Resolution Procedures*.
- 8.12 Notwithstanding any provision to the contrary in these procedures, an employee party to a *dispute* regarding an alleged unilateral change to terms and conditions of employment may immediately refer such *dispute* to the *General Secretary* in terms the *Dispute Resolution Procedures*.

## 9 Negotiating task teams

- 9.2 The negotiating meeting of the *TVET Bargaining Unit* may from time to time, for the purposes of negotiations and *consultation*, establish task teams and

may, subject to such conditions as it may determine, refer any matter of *mutual interest* for investigation, fact finding or research and for such task team to consider such matter of mutual interest for recommendation to the *TVET Bargaining Unit*. A task team so established is referred to below as 'a task team'.

- 9.3 A task team shall consist of at least one representative per *party* admitted to the *TVET Bargaining Unit*, subject to the *Trade Union party* meeting the threshold set in clause 9.3 of the ELRC Constitution: General Provisions, as certified by the Registrar of Labour Relations.
- 9.4 A task team must submit regular written reports to the *TVET Bargaining Unit*.
- 9.5 A task team may co-opt experts to render assistance: Provided that where such co-option has financial implications prior *consultation* with the *General Secretary* must occur to appropriate funds from the relevant Budget vote.

## 10 **Collective Agreements of the TVET Bargaining Unit**

- 10.2 Unless otherwise agreed to, all proposals must be submitted in writing and read by the proposing *party* or the Chairperson as a prerequisite to any debate or resolution thereof.
- 10.3 Any proposal of substance shall be referred to as a "Draft Collective Agreement of the *TVET Bargaining Unit*". The *General Secretary* shall allocate a provisional number to each Draft Collective Agreement, which shall apply until the requirements of clause 3.7.3 are complied with, as follows: "Draft Collective Agreement No x of y", where y is the year in which the proposal is first submitted to the *TVET Bargaining Unit*, and x is a *capital letter of the alphabet* allocated sequentially in one year relative to the date of the first submission to the *TVET Bargaining Unit*.
- 10.4 Decisions in respect of matters of negotiation shall be by way of Collective Agreements of the *TVET Bargaining Unit*.
- 10.5 A Draft Collective Agreement shall be put to the vote, and it shall be considered approved only when a majority vote of the *employers* on the one side and a majority vote of the *Trade Unions* on the other side are cast in favour of its adoption.
- 10.6 A Collective Agreement of the *TVET Bargaining Unit* must comply with the provisions of *the Act*.
- 10.7 The *General Secretary* shall ensure that a Draft Collective Agreement adopted by the *TVET Bargaining Unit* in terms of clause 3.4.
- 10.7.1 is reduced to writing;
- 10.7.2 is presented within 30 (thirty) *days* of the *TVET Bargaining Unit* adopting the Draft Collective Agreement for signature to at least the *Chief Executive Officer* (or his or her delegate) of each of the *parties* that voted for the Draft Collective Agreement during the relevant *TVET Bargaining Unit* meeting;

- 10.7.3 if signed within such period by sufficient *parties* to comply with clause 3.4, is circulated to all *parties* within 5 (five) *days* of signing of the agreement by the last *party* to ensure compliance with that clause;
- 10.7.4 if not signed within such time period by sufficient *parties* to comply with clause 3.4, table the Draft Collective Agreement at the next negotiating meeting of the *TVET Bargaining Unit* to confirm the *parties'* position regularly; Provided that, if there is no majority support at that *TVET Bargaining Unit* meeting for the Draft Collective Agreement:
- 10.7.4.1 it falls away;
- 10.7.4.2 or by agreement of the *TVET Bargaining Unit* it can be reopened for discussion or negotiation.
- 10.7.5 if there is majority support for the Draft Collective Agreement at a *TVET Bargaining Unit* meeting referred to in clause 3.6.4, take the steps provided for in clauses 3.6.1 to 3.6.4.
- 10.8 The following requirements and procedure shall apply regarding a Collective Agreement of the *TVET Bargaining Unit*:
- 10.8.1 It must be reduced to writing and it will take effect only on the date on which sufficient *parties* to the *TVET Bargaining Unit* have signed the Draft Collective Agreement to comply with the requirements for the adoption of a Collective Agreement in clause 3.1;
- 10.8.2 Each *party* signing a Draft Collective Agreement of the *TVET Bargaining Unit* shall note the date on which it signs the Draft Collective Agreement and place where it is signed in the vicinity of its signature, although failure to do so shall not invalidate the Collective Agreement;
- 10.8.3 The date of the Collective Agreement of the *TVET Bargaining Unit* shall be the first date on which the Draft Collective Agreement has been signed by sufficient *parties* to comply with the majority votes as provided for in clause 3.4. The *General Secretary* shall insert such date as the date of the Collective Agreement at the end of the Agreement; and
- 10.8.4 The *General Secretary* shall allocate a number to each Collective Agreement of the *TVET Bargaining Unit* of the *Council* that is signed as provided in clause 3.7.3 as follows: the Agreement shall be numbered "Collective Agreement No x of y", where y is the year in which clause 3.7.3 is complied with, and x is a *number* allocated sequentially in one year relative to the date on which clause 3.7.3 is complied with.
- 10.9 Unless the Collective Agreement provides to the contrary:
- 10.9.1 such Collective Agreement applies to employers and *employees* of

- employers* that are not members of the signatory *employers* and *Trade Unions*, subject to the requirements of *the Act*;
- 10.9.2 any *dispute* arising from the interpretation and implementation of such Collective Agreement may be referred to the *Council* to be resolved in terms of the *Dispute Resolution Procedures*; and
- 10.9.3 provision must be made for exemptions from collective agreements;
- 10.9.4 and this clause 3.8 is therefore deemed to form part of such Collective Agreement.

## 11 Finalisation of matters of *consultation*

- 11.2 All proposals must be submitted in writing and read by the proposing *party*, upon direction of the Chairperson, as a prerequisite to any debate or finalisation thereof.
- 11.3 Finalisation in respect of matters of *consultation* may be by way of a record in the minutes of the meeting of the *TVET Bargaining Unit* in a verbal or written record of understanding, as the case may be.
- 11.4 The finalisation of the matter of *consultation* shall be by way of a meaningful joint consensus seeking process between the *employer* on the one side and any or all of the *Trade Unions* on the other side.
- 11.5 If the *parties* are unable to deal with all the proposals referred to the *TVET Bargaining Unit* by the expiry of 30 (thirty) *days* after the matter was first included on the agenda of the *consultation* meeting, which period may be extended by agreement between the *parties* to the *dispute*, any *party* may declare a *dispute*. Where the *parties* to the *dispute* have agreed to extend the negotiation period, any *party* may declare a *dispute* at any time during such extended period or thereafter.
- 11.6 Subject to clause 1.7 if any one of the *parties* declares a *dispute*, the *General Secretary* must take the steps as set out in clause **Error! Reference source not found.** of these procedures and the applicable provisions of the *Dispute Resolution Procedures*.

## 12 General provisions in respect of negotiation & *consultation* meetings

- 12.2 Notice of Meeting
- 12.2.1 At least 14 (fourteen) days notice shall be given of any negotiation or consultation meeting;
- 12.2.2 Should any party wish to call a meeting without having to give 14 (fourteen) days notice, such meeting can only be called if in the opinion of the *General Secretary*, it is convenient to hold such a meeting. The *General Secretary's* decision in this regard is final;

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- 12.2.3 It shall be deemed that due notice had been given to a *party*, if notice was given by:
- 12.2.3.1 the *General Secretary* serving notice on any representative of the *party* concerned;
  - 12.2.3.2 the posting of a registered letter containing the notice to the *party*, at the registered address; or
  - 12.2.3.3 tele-faxing the notice to the office, provided that the tele-fax receipt shows that the notice had been transmitted to and received by the addressee.

### 12.3 Quorum of a Meeting

- 12.3.1 A quorum of a negotiating meeting of the *TVET Bargaining Unit* shall be those *Trade Unions* representing 50% + 1 and the *employer* representing 50% + 1: Provided that:
- 12.3.1.1 proper notice in terms of clause 12.2 has been given to all of the *parties*; and
  - 12.3.1.2 if, within 30 (thirty) minutes of the time fixed for any meeting, only one *party* on either side is present, the meeting shall not commence until the 30 minutes have elapsed.
- 12.3.2 If, within a further 30 minutes after the 30 minutes referred to in clause 12.3.1.2 of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to the same *day* in the week following, or in the event of such date being a public holiday, to the next working *day*, at the same time and place, and at such adjourned meeting, the *parties* present shall form a quorum: Provided that notice of the adjourned meeting in the manner prescribed in clause 12.2, shall again be given to all *parties* to the *TVET Bargaining Unit*.

### 12.4 Voting

- 12.4.1 The *employer* has a collective vote of 50% that shall be exercised by its representatives, and the admitted *Trade Unions* the other 50 % collectively.
- 12.4.2 The *employer* and the *Trade Union* representatives shall vote on the basis of their vote weights as determined by the *General Secretary*.
- 12.4.3 The voting shall be by show of hands, unless a *party* requests a ballot, in which event the voting shall be by way of secret ballot.
- 12.4.4 The *General Secretary* shall act as electoral officer as the case may be.

### 12.5 Vote weight

- 11.4.1 The admitted employer/s shall have 50% of the vote weight in the *TVET Bargaining Unit* and its committees and the admitted *Trade Union/s* the other 50 % divided according to their membership.
- 11.4.2 Collectively the employer/s and trade union/s cannot exceed 50% representation each.
- 11.4.3 The vote weight of the admitted trade union shall be as per Clause 18 of the *ELRC Constitution: General Provisions*. The vote weight of trade unions shall be calculated on the same principles of the calculation of provincial chambers of the *Council*, i.e the vote weights of the Trade Unions shall be calculated in respect of the membership of the TVET Sector.

Vote weight of employer parties in the *TVET Bargaining Unit*

- 11.4.4 The admitted employer/s in the *TVET Bargaining Unit* may, during February of each year, reach consensus on the vote weights in respect of the *TVET Bargaining Unit* based on the monthly remittances for the end of December of the previous year and as referred to in *the Act*.
- 11.4.5 In the event of there being no consensus among admitted employer/s in the *TVET Bargaining Unit* on the vote weight, the *General Secretary* must calculate the vote weight, as at 31 December of the previous year, by no later than 15 March of each year and make recommendations to the *TVET Bargaining Unit* using:
  - 11.4.5.1 the monthly remittances referred to in clause 0 as at the end of 31<sup>st</sup> December of the previous year; and
  - 11.4.5.2 the recommendations of the official consultant auditors of the *Council*.
- 11.4.6 The vote weight of an employer that the *General Secretary* must calculate must be determined by dividing the number of applicable employees of such an employer by the total number of all applicable employees, which are *members* of this *TVET Bargaining Unit*. This ratio must be expressed as a percentage. If two or more *employers* are acting jointly they will be treated as a single entity for purposes of calculating their vote weight.
- 11.4.7 If an employer/s is in *dispute* regarding the vote weight determined by the *General Secretary*, such *dispute* shall be dealt with in terms of the *Dispute Resolution Procedures*: Provided that such *dispute* shall be registered within 5 (five) *days* of the said determination. In the event of a *dispute* being declared, the vote weights of the previous year shall only apply until the *dispute* is resolved, and only if there is no Collective Agreement on the vote weights.
- 11.4.8 Notwithstanding the provisions of clauses 11.4.1 to 11.4.5 above, in the event of any changes occurring in the membership of any of the admitted parties to the *Council* during the course of the year and/or

in the event of any new employer being admitted to the Council in terms of clause 9.3.4 of the *ELRC Constitution: General Provisions*, the vote weights of all the parties shall be accordingly amended to give effect to such changes and/or new admissions.

Vote weight of trade union parties in the FET Bargaining Unit

11.4.9 The principle used to calculate the vote weight in the Provincial Chambers shall be the principle used to determine the vote weight in the *TVET Bargaining Unit*, i.e. the vote weights of the Trade Unions shall be calculated in respect of the membership of the TVET Sector.

11.5 Meeting procedure

11.5.5 Unless they have been circulated beforehand, the minutes of the meeting held immediately prior to the relevant meeting, shall be read at the meeting and shall be signed and dated by the Chairperson immediately after adoption thereof.

11.5.6 Unless otherwise agreed, the Chairperson shall require that a proposal dealing with a matter for information, *consultation* or negotiation be submitted in writing as a prerequisite to any debate or decision in respect thereof.

11.5.7 The Chairperson shall rule on any procedural matters, which are not regulated in *these procedures*.

11.5.8 Representatives are entitled to attend any negotiating meeting of the *TVET Bargaining Unit* as the case may be.

11.5.9 A person who is not a representative may be allowed to address the *TVET Bargaining Unit* at the request of a *party* and with the concurrence of the meeting.

11.5.10 Every negotiating meeting of the *TVET Bargaining Unit* shall be conducted in private unless the *TVET Bargaining Unit* decides otherwise.

11.5.11 The *General Secretary* shall keep minutes of the proceedings for *TVET Bargaining Unit* and shall forward such to all *parties* within 14 (fourteen) *days* after such meeting.

11.6 The Chairperson of the *TVET Bargaining Unit* meetings shall:

11.6.1 Be elected annually at the first meeting of the *TVET Bargaining Unit* to *preside over all its meetings*.

11.6.2 Be non-partisan and shall have no vote.

11.6.3 Any party may propose a candidate for position of chairperson provided the proposal is supported by the other side (in this case one party or the other party refers to the employee party or employer party as the context requires).

11.7 Appointment of representatives



- 11.7.1 The *employer* shall be represented in the *TVET Bargaining Unit* by such persons as the *employer* may from time to time appoint. The number of employer representatives shall not exceed the number of *Trade Union* representatives in the *TVET Bargaining Unit*.
- 11.7.2 The *Trade Unions* admitted to the *TVET Bargaining Unit* shall have 10 representatives allocated on the basis of proportionality according to the vote weights: Provided that an admitted *Trade Union* shall have at least 1 (one) representative.
- 11.7.3 Parties to the *TVET Bargaining Unit* shall make the names of their representative/s available to the *General Secretary* at least 30 days prior to the Annual General Meeting of the *Council*. *Trade Union* representatives shall be *members* registered in terms of their constitutions, or full-time officials. *Employer* representatives shall consist of those persons representing such employers in an employers organisation/s.
- 11.7.4 A party may at any time withdraw any of its representatives in the *TVET Bargaining unit* by giving written notice to the *General Secretary*.
- 11.7.5 Should a vacancy arise in the *TVET Bargaining unit* as a result of the withdrawal, resignation or death of a representative, the party who previously appointed the relevant representative, by giving written notice to the *General Secretary*, shall fill the vacancy.
- 11.7.6 Should a party's *membership* of the *TVET Bargaining unit* be terminated, its representatives shall vacate their seats.
- 11.7.7 Parties to the *TVET Bargaining unit* may co-opt persons to give expert advice, assistance or evidence to the *TVET Bargaining unit* on matters being discussed in the *TVET Bargaining unit*: Provided that:
- 11.7.7.1 where reasonably possible, the *General Secretary* be given reasonable notice of such co-option, together with an indication of the matter on the agenda for which the co-option is intended;
- 11.7.7.2 *Trade Unions* or the *employer* shall not be allowed to co-opt more than one person at a time to address, advise or assist the *TVET Bargaining unit* on a specific matter; and
- 11.7.7.3 the person co-opted will only be allowed to attend the proceedings when the specific matter for which he or she is being co-opted, is being discussed.