PUBLIC SERVANTS ASSOCIATION OF SOUTH AFRICA (PSA)

PSA
The Union Of Choice

MEMORANDUM OF INCORPORATION (MOI)

With amendments as approved on 1 AUGUST 2016
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INTRODUCTION

Name

1. The name of the organisation shall be the PUBLIC SERVANTS ASSOCIATION OF SOUTH AFRICA (PSA) and acts under that name in its capacity as a legal persona.

Legal persona

2. The PSA is a legal persona with all powers associated thereto and is registered as a trade union under the Labour Relations Act, 1995. This trade union shall be a body corporate with perpetual succession capable of entering into contractual and other relations and of suing and being sued in its own name. The organisation is also registered as a non-profit company and incorporated under the Companies Act No 71 of 2008.

Definition

3. In this Statute, unless the context indicates otherwise:

“Act” means the Labour Relations Act, No 66 of 1995;

“Annual General Meeting” means a meeting of members as constituted according to section 51(2);

“associate member” means a person who has been admitted as a member under section 14 read with section 6;

“Board”, means the members of the Board of Directors elected under section 51(1)(f) read with sections 60, 61 and 62;

“branch” means a branch constituted under section 27;

“branch meeting” means one of the three meetings of the management of a branch referred to in section 31;

“business day” means the day between the happening of one event and another the exclusion of any public holiday, Saturday or Sunday and when the number of days must be calculated, it will be done by excluding the day on which the first such event occurs and including the day on or by which the second event is to occur;
“committee” means a committee of the Board or of any branch constituted under section 27;

“Companies Act” means the Companies Act, No 71 of 2008;

“Congress” is the annual meeting constituted according to section 50, read with section 51(2);

“director of the Board” means a director referred to in section 60;

“employee” means a person who has been appointed to an approved post on the Administration of the PSA;

“Financial year” means the period from 1 April to 31 March;

“General Manager” means the person who is appointed in terms of section 68 and acts as the secretary of the PSA;

“Head Office” means the head office of the PSA in Pretoria;

“Inter-sectoral members meeting” means a mass meeting provided for in section 31 (5) of all the members within the jurisdiction area of a Provincial Office of the PSA;

“Management member” means a member who is a trade union representative who has been elected to the management of a branch or one of its committees but who is not an office bearer;

“member” means a person who has been admitted as a member under section 6 read with section14;

“member structure” means a structure as defined in section 26;

“office bearer” means a member who holds one of the following offices in the PSA: President, Vice-President, Chairperson, Vice-Chairperson or a director of the Board and includes a Chairperson, Vice-Chairperson, Secretary or Treasurer of a branch or one of its committees;

“organ of state” means any department of state or administration in the national, provincial or local sphere of government, parastatal and State Agencies, or any other state functionary or institution as defined in section 239 of the Constitution of the Republic of South Africa;

“Provincial Manager” means an employee in charge of a Provincial Office of the PSA;

“PSA” is the Public Servants Association of South Africa;

“trade union representative” means a member of the PSA who is elected to represent members in a workplace and full-time shop stewards appointed in terms of the relevant council, and;

“Statute” means this Statute which is also the constitution of the PSA and the Memorandum of Incorporation as provided for in the Companies Act. All words and expressions used in the singular in this Statute also include the plural or a vice versa unless the contrary is expressly stated.
OBJECTIVES

4. The objectives of the PSA are:-

(1) to promote and to protect the rights and interests of its members by;
   (a) representing its members in all negotiations with their employers;
   (b) providing legal assistance to its members in connection with their employment;
   (c) striving to secure a well-paid, efficient and contented workforce;

(2) to take such steps as are deemed necessary to secure and maintain cordial relations and the fullest measure of co-operation with employers and the general public in matters affecting any organ of state with a view to efficiency and economy combined with the well-being of those employed: Provided that the PSA shall not endeavour to secure advantages to members by the exercise of political or other undue influence;

(3) to suggest, promote, support, oppose legislation or other measures affecting the interests of its members;

(4) to use every legitimate means to induce/attract those persons who are eligible in terms of section 6 and 14, to become members;

(5) to advise the Government of the Republic of South Africa, or any organ of state upon all matters it refers to the PSA;

(6) to issue literature for the information and enlightenment of its members and the public;

(7) to affiliate, act jointly or merge with any association or union having the same or similar objectives of those of the PSA;

(8) to affiliate with and participate in the affairs of any international workers' organisation or the International Labour Organisation;

(9) to invest, borrow, lend, subscribe or donate money, for the purposes of the PSA; and to purchase, exchange, acquire by any other means and own, take or let or lease or hire, sell, donate or otherwise dispose of and mortgage, pledge, hypothecate or otherwise encumber movable and immovable property or any rights therein or thereto for the furtherance of the objectives of the PSA;

(10) to conduct any lawful business in furtherance of the objectives of the PSA, and to secure for members special advantages in any mutual benefit, co-operative or other concerns; and

(11) to do all such lawful acts and things as may appear to be in the interest of the PSA and its members and which are not inconsistent with the objectives or any matter specifically provided for in this Statute, the Act and the Companies Act.

APPLICATION OF STATUTE

5. This Statute binds every member and associate member and all the structures referred to in section 26. This Statute is made available to all members.
MEMBERSHIP

Purview

6. Membership of the PSA is available to all persons employed by the State and any organ of state, other employee groups as may be designated by the Board or any organisation associated and/or related to any organ of state or public service and to those persons as described in section 14. This Statute may not restrict or regulate or provide for any restriction or regulation of membership that results to unfair discrimination as provided in section 9 of the Constitution.

Application

7. Application for membership is considered on receipt by the Head Office of a completed application form prescribed by the General Manager.

8. An application for membership comes into effect as soon as it has been accepted by the General Manager where after membership fees are payable in terms of section 15.

9. The General Manager has the power to reject an application for membership provided that the General Manager informs the person of the decision in writing and gives reasons and informs him/her that he/she may appeal to the Board against the decision of the General Manager, in writing within three months. The decision of the Board in this regard is final and binding on the PSA and the person.

Resignation

10. A member may cancel his/her membership by giving three months notice to the General Manager and employer in writing thereof. No cancellation shall take effect unless all moneys due to the PSA by the member concerned have been paid.

Termination

11. The General Manager may on the contravention of any provision of the Statute or the code of conduct by a member on good cause shown, consider the termination of membership of any member on the motivation and recommendation of the affected Branch.

The General Manager must:

(a) give prior written notice to the member and provide a reason for such envisaged termination; and

(b) offer the member the opportunity to react in writing within 21 days of the date of such communication.

12. The Board must consider any appeal based on the documentation upon which the decision to terminate was taken. The decision of the Board is final.

13. A member may terminate membership by giving his/her employer written notice of such termination in terms of section 13 of the Labour Relations Act. Subject to section 18 the membership of a member who has terminated his/her membership will expire from the first day of the month following the end of the notice period.
Associate membership

14. (1) When a member’s employment terminates as a result of his/her retirement on pension, retrenchment or voluntary severance of employment such member ceases to be an office bearer with immediate effect and may still be is entitled to continued membership, provided such member informs the General Manager in writing of his/her pensioning, retrenchment or voluntary severance and pays the prescribed membership fees in terms of section 15(1)(ii).

(2) The Associate member’s membership lapses as soon as he/she is three months in arrears with his/her membership fees, in which case section 13 applies mutatis mutandis.

(3) Associate membership does not provide to such a person the rights of an employee as defined in the Act, but he/she will still be entitled to all the benefits of membership of the PSA.

MEMBERSHIP FEES

Amounts

15. (1) (i) Membership fees may be prescribed by the Board from time to time based on the operational requirements and in accordance with the objectives of the PSA, in an amount not exceeding R120,00 per month.

(ii) An Associate member must pay a membership fee not exceeding R75,00 per month.

(2) Subject to section 18 each member must pay the prescribed membership fee.

(3) Membership fees come into effect from such date determined by the Board. Notice thereof be given to all branches. Membership fees (as referred to in section 15(1)) increase must comply with provisions of section 93 of the Statute.

Payment

16. (1) Membership fees are paid by means of a stop order, debit order or in cash. All stop orders or debit orders must remain valid when the membership fees are adjusted.

(2) All stop orders or debit orders are made payable to the PSA and cash payments are made in the name of the PSA.

(3) The onus rests on each member to ensure that his/her membership fees are paid over to the PSA and ceases when his/her membership ends.

17. Any claim for membership fees refunds incorrectly paid over to the PSA prescribe after three years.

18. A member who is suspended by his/her employer without salary or who is dismissed and where further PSA action is or may be necessary or whose payment of membership fees is terminated through no fault of his/her own and does not pay his/her membership fees can with the written request of such member, be exempted from the payment of membership fees for a period as determined by the General Manager during which period membership does not lapse.
VOTING RIGHTS AND BALLOTING BY BRANCHES AND COMMITTEES

19. A member who has the right to be at a duly constituted branch or committee meeting has one vote and is entitled to vote during a ballot at a meeting of a branch under which he/she falls. In the case of those national departmental branches, where members are nominated by their constituencies, voting will take place during any normal duly constituted branch meeting.

20. (1) Balloting for purposes of complying with the requirements of the Act or to decide on matters for which a ballot of members is required or requested will take place as follows: The General Manager shall, upon recommendation of the relevant member structure, determine whether a particular matter shall be subject to a ballot of members and the procedure to be followed shall be determined by the General Manager.

(2) In addition to those cases in respect of which the taking of a ballot of members of the whole trade union is compulsory in terms of this Statute, a ballot on any question shall be taken if the Board so decides, and shall also be taken -

(a) if demanded in writing by not less than ten percent of the members of the union as stipulated in terms of the Companies Act.

(b) on any proposal to declare or take part in any strike.

(3) Ballots shall be conducted in the following manner:

(a) Notice of a ballot shall be given to each member/structure in writing by the General Manager, at least three days before the ballot is to be taken: Provided that a ballot may be taken without notice at any Congress on the decision of a majority of the delegates present.

(b) Two scrutineers shall be appointed by the Board or the Congress to supervise any ballot and to ascertain the result thereof.

(c) Except in the case of postal ballots and ballots taken at Congress on the decision of a majority of the members/structures present, ballots shall be conducted at the offices of the PSA or at such other places as may be specified in the notice referred to in paragraph (a) of this sub clause on the date and during the hours specified in the said notice.

(d) Ballot papers shall be supplied by the General Manager. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify the voter.

(e) Ballot boxes shall be inspected by the scrutineers and sealed by the General Manager in their presence prior to the issuing of ballot papers.

(f) One ballot paper only shall be issued on demand at the place and during the hours fixed for the taking of the ballot to each member who is entitled to vote.
(g) Each voter shall, in the presence of the scrutineers, be issued with one ballot paper which he/she shall thereupon complete, fold and deposit in a ballot box provided for the purpose.

(h) Ballot papers shall not be signed or marked in any way apart from the mark required to be made by a member in recording his/her vote. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.

(i) On completion of a ballot or as soon as possible thereafter, the result thereof shall be ascertained by the scrutineers appointed in the presence of the General Manager and made known to the Board.

(j) Ballot papers, including spoilt papers, shall be placed in a container which shall be sealed after they have been counted and retained by General Manager for not less than three years.

(4) The Board may decide that a postal ballot of members shall be taken, in which event the ballot shall be conducted in the following manner:

(a) The General Manager shall send by registered post to each member/structure of the PSA a ballot paper and a stamped and addressed envelope marked “Ballot”. The ballot paper shall on completion be inserted in the envelope provided for the purpose which shall be sealed and posted so as to reach the General Manager within twenty business days from the date of despatch from head office to such member/structure. On receipt of such envelopes, the General Manager shall immediately place such envelopes in a sealed ballot box.

(b) Two scrutineers shall be appointed by the Board to ascertain the result of the ballot. The ballot box shall be opened and the ballot papers counted by the scrutineers in the presence of the General Manager, who shall immediately advise the Board of the result of the ballot. The General Manager must within 10 business days after obtaining the results of the ballot deliver a statement describing the results of the vote to every member.

(c) The same procedure shall mutatis mutandis apply to a postal ballot confined to the Board and structures of the Board.

(5) In any ballot conducted in connection with any election of candidates, the candidates up to the required number, receiving the highest number of votes shall be declared elected.

(6) The Congress or the Board shall be bound to take action according to the decision of a majority of members/structures voting in a ballot.

(7) Any business that is required by the Statute to be conducted at an Annual General Meeting be conducted by members other than at an Annual General Meeting.
STRIKES

21. The General Manager shall, before calling a strike, conduct a ballot of those of its members in respect of whom it intends to call the strike. Notwithstanding anything to the contrary contained in this Statute, members of the PSA shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike if

(a) no ballot was held about the strike; or
(b) a ballot was held, but a majority of the members who voted did not vote in favour of the strike.

CHANGE OF ADDRESS

22. A member must give written notice to the General Manager of any change of address within 30 days of any such change.

MEETINGS AND RIGHT OF ADMISSION

23. A member has the right to attend branch meetings provided he/she informs the secretary of the branch seven days in advance about his/her intended presence at the branch meetings and present reasonably satisfactory identification.

24. A member who is not a delegate can, at the written request of his/her branch and with approval of the General Manager, at his/her own expense - unless the Board decides differently in exceptional cases - attend the Congress and the Annual General Meeting as an observer.

25. A member who attends a meeting of a branch or who attends the Congress and the Annual General Meeting as an observer does not have a vote.

FUNCTIONAL STRUCTURES AND WORKING METHODS

26. The structures within which the members and their elected representatives function, are:

(a) branches with committees;
(b) committees of the Board as determined by the Board from time to time;
(c) the Congress which is constituted from branch delegates; and
(d) the Board which is elected by the Congress from members.
BRANCHES AND COMMITTEES

Establishment

27. The Board may on good cause shown approve the following branches and committees of the PSA in which the members and Associate members are represented:

(1) One branch per national department or functional component as applies in the National Public Service as defined in Schedule 1 of the Public Service Act, 1994 as amended;

(2) Sectoral branches for each provincial government;

(3) One branch for each organ of state not mentioned in sub-section (1) or (2) above;

(4) A Group branch and committees for Associate members;

(5) Committees of a branch at the request of that branch; and

(6) Committees of the Board as determined by the Board.

Domestic rules

28. The Board approves model domestic rules that are compatible with the provisions of this Statute which will be applicable to that branch. A branch can, with the approval of the Board, amend these rules to adapt to its specific needs.

Activities

29. (1) No branch or any of its committees shall act autonomously against the employer;

(2) A member can at any given time only be a representative of one constituent branch;

(3) A branch must:
   (a) Identify matters of mutual interest for negotiating purposes in the relevant bargaining forums; and
   (b) provide the necessary mandates on such matters.

(4) The office bearers, management members and trade union representatives shall:
   (a) Give effect to decisions of the Congress, the Board and their branch management;
   (b) Give effect to any decision or direction of the General Manager, given in compliance with the PSA Statute.
   (c) Recruit members or Associate members;
   (d) Promote and at all times act in the best interest of the PSA and its individual members;
   (e) Where required, represent members in rights matters before the Commission for Conciliation,
Mediation and Arbitration and accredited bargaining councils and the employer with grievances; and

(f) Promote the interests of members in the relevant social dialogue structures.

Management

30. (1) The management of the affairs of a branch or a committee is vested in the management of the branch or committee consisting of the office bearers and management members.

(2) Trade union representatives shall be elected by the members in the relevant constituencies.

(3) Management members shall hold office for a term of four years and are eligible for re-election on termination of their period of office.

(4) Full-time shop stewards term of office is determined by collective agreement. Full time PSA shop stewards should be nominated and elected by their branch and confirmed by the General Manager.

(5) Vacancies occurring on the management of a branch or committee shall be filled by an election by the relevant constituencies and shall be announced at the first ensuing branch or committee management meeting. A member so elected to fill a vacancy shall hold office for the unexpired portion of the period of office of his/her predecessor. If an office bearer position of a branch or committee becomes vacant a branch management may elect a member from its ranks by means of a ballot where the chairperson shall have an ordinary and a casting vote.

(6) The secretary is responsible for all secretarial and administrative duties of a branch or committee and shall be the channel of communication between the branch management and, the relevant PSA Provincial Office and in the case of a committee, the channel of communication is through the branch.

Frequency and notice of meetings

31. (1) A branch or committee management must meet at least three times during a financial year at times and venues determined by its management in consultation with the Provincial Manager.

(2) Seven days written notice shall be given before the meeting commences by the secretary.

(3) Subject to section 32(1) and (2) the PSA will only bear the costs of three branch or committee management meetings during a financial year. Branch and committee management meetings are not held in public nor are they open to any member who has not been elected to such branch or committee.

(4) The chairperson may, at his/her discretion allow any person or member to attend as visitor, observer or advisor provided that the meeting raises no objections.

(4) In addition to the three branch or committee management meetings one inter-sectoral members’ meeting may be held with members during a financial year which can be rotated in the main centres and which should be arranged by the relevant Provincial Managers. The costs to hold such an inter-sectoral members’ meeting will be borne by the PSA.
Special meetings

32. (1) A special branch management meeting shall be convened by the chairperson or at the written request of at least two of the members of the management for a date within thirty days of such decision or receipt of such request by the secretary, in consultation with the chairperson.

(2) The General Manager may pay the costs of such a meeting on good cause shown.

Minutes

33. Minutes shall be kept of all meetings and the secretary shall send a copy thereof via the Provincial Manager to the General Manager within thirty days after the meeting. The secretary shall specially draw the attention of the General Manager in writing to any matter in the minutes that requires specific attention.

Quorum

34. Ten members shall form a quorum at any inter-sectoral members’ meeting. A majority (fifty percent plus one) of management members at branch or committee management meetings form a quorum.

Dissolution

35. The Board may dissolve branches and committees on good cause shown and report this to the Congress. All monies in possession of a dissolved branch or committee shall be paid over to the PSA.

Funds

36. The Board may annually approve the payment of an allowance to each branch from the funds of the PSA for such branch and committee purposes as may be determined by the Board. Such allowance should be allocated equitably with due consideration of the size of the branches.

Extraordinary expenses

37. No extraordinary expenses may be incurred except with the approval of the General Manager.

NATIONAL CHAIRPERSONS’ FORUM

38. The national chairpersons’ forum is a member structure formed for the primary purposes of giving direction, guidance and mandates to the Board and the Administration regarding short and medium term matters of transverse interest and for serving as a sounding board for testing domestic matters and consists of chairpersons of branches.
Constitution

39. The national chairpersons' forum is constituted by the following representation (delegates):

(1) The chairperson from each branch. In his/her absence the vice-chairperson attends in his/her place or any other nominated member of the relevant management.

(2) The members of the Board.

Activities and duties

40. The national chairpersons' forum undertakes the following activities:

(1) The discussion of transverse matters of mutual interest of departmental or provincial nature, as well as matters in any organ of state, that affect the broad membership of the PSA in the short and medium term.

(2) Providing the Board and the Administration with the necessary direction and guidance in the short and medium term in respect of motions concerning the interests and rights of members arising from the service context placed on the agenda by the Board or the General Manager in consultation with the Board.

Delegates

41. Particulars of delegates of branches are requested by the General Manager at least twenty one days before every meeting of the national chairpersons' forum. If a branch fails to nominate a delegate before the appointed time and furnishes his/her particulars, the Board is entitled to appoint a member of the branch concerned for the relevant meeting.

Chairperson

42. The chairperson of the Board acts as the presiding officer during meetings of the national chairpersons' forum. In his/her absence the vice-chairperson of the Board acts in his/her place. Should both persons not be available for a meeting, the Board will appoint a person referred to under section 76 to act as the presiding officer for that particular meeting only.

Frequency of meetings

43. The national chairpersons' forum meets as and when circumstances dictate but should meet at least once annually, on a date and time and at a venue as determined by the Board.

Notices

44. The notice and agenda of the national chairpersons' forum is sent out by the General Manager to the delegates, branches at least fourteen days before the meeting commences.
Minutes

45. Minutes of the national chairpersons’ forum must be kept by the General Manager of which copies must be sent to branches within thirty days after conclusion of the meeting.

Quorum

46. Fifty per cent plus one of the delegates constitutes a quorum. If within half an hour after the time appointed for any meeting a quorum is not present, the meeting must be adjourned to a date to be determined by the chairperson, which date must not be earlier than seven days and not later than twenty one days after the date of the meeting and the members present at such meeting constitute a quorum. Notice must be given of the new date for this meeting.

Voting and balloting

47. A decision taken by the showing of hands or by ballot will be deemed to be a majority decision. In addition to his/her ordinary vote the chairperson or other presiding member shall also have a casting vote.

Special meetings

48. In compliance with a decision by the Board or at the request of branches that represent at least thirty percent of the members, the General Manager, in consultation with the Board, gives within 30 days of receipt of such decisions of the Board or requests of the branches, at least seven days notice of a special meeting of the national chairpersons’ forum, stating the purpose thereof. Only the business for which the meeting was called is dealt with by the meeting.

CONTROL

CONGRESS

49. The Congress when in session is the highest authority of the PSA and formulates policy and is responsible for the monitoring of such policy subject to the provisions of sections 50 and 51.

Constitution

50. The Congress is constituted by the following representation:

(1) One representative appointed by each branch.

(2) The members of the Board.
Activities

51. (1) The Congress shall deal with the following matters:

(a) Must consider and accept (or reject) the Directors Report and the Audit Committee Report;

(b) Must consider and approve (or disapprove) the audited financial statements for the immediately preceding financial year;

(c) The appointment of auditors for the ensuing financial year on the recommendation of the Board in terms of section 68(2);

(d) Consideration of any recommendations made by the Board in terms of section 68(4);

(e) The discussion of motions concerning the interests and rights of members arising from the service context, placed on the agenda by the Board or a branch at least ninety days before Congress;

(f) The election of the president, vice-president, chairperson and vice-chairperson and other members of the Board in terms of sections 61 and 64, elect four members of the Congress, who are not Board members, to the Remuneration Committee; and

(g) The consideration and approval of the amendment of this Statute in terms of section 91.

(h) The consideration of Appeals in terms of section 88 (3)(b) and (c).

(2) The Congress will be constituted as an Annual General Meeting for the purposes of the consideration of the matters as stipulated in section 51(1) (a), (b), (c), (f), (g) and (h).

Delegates

52. Particulars of delegates of branches are requested by the General Manager before every meeting of the Congress.

Frequency of meetings

53. The Congress is held every second year and Congress sitting as Annual General Meeting is held annually both within six months after the end of the financial year, at a date, venue and time determined by the Board.

Extraordinary meetings

54. (1) An extra-ordinary meeting of Congress may be called:

(a) On the request of the Board; or

(b) at the request of branches that represent at least ten percent of the members of the PSA and based on resolutions passed at a properly constituted meeting thereof.
(2) The General Manager, in consultation with the Board gives, within thirty days of receipt of all such resolutions of the branches, at least fifteen business days notice of an extraordinary meeting of the Congress, stating the purpose thereof. Only the business for which the meeting was called is dealt with by the meeting.

Notices

55. The notice and agenda of the Congress is sent out by the General Manager to the delegates of branches at least fifteen business days before the meeting commences.

Minutes

56. Minutes of the Congress must be kept by the General Manager of which copies must be sent to branches within three months after the Congress.

Binding power of resolutions

57. Resolutions of the Congress and also in session as Annual General Meeting are binding on the PSA and its members insofar as they do not infringe upon the rights of members arising from any law or the rights in terms of this Statute.

Quorum

58. (a) A quorum consists of fifty per cent plus one of the representatives of all branches and committees. The meeting must remain quorate for the full duration of the procedures.

(b) If within half an hour after the time appointed for any meeting a quorum is not present, the meeting must be adjourned to a date to be determined by the chairperson, which date must not be earlier than seven days and not later than twenty one days after the date of the meeting and the members present at such meeting constitute a quorum. Notice must be given of the new date for this meeting.

Voting

59. A majority decision taken by ballot is a resolution of the Congress. In addition to his/her ordinary vote the president or other presiding member shall also have a casting vote.

(1) Each branch structure of the PSA qualifies for a minimum of one vote.

(2) Each branch structure qualifies for an additional one vote should they have one thousand members or more.

(3) Each branch structure qualifies for a further additional one vote should they represent more than fifty percent of the potential members in their constituency.
MANAGEMENT

BOARD OF DIRECTORS

Constitution

60. The Board consists of the specific offices of president, vice-president, chairperson, vice-chairperson plus the six additional Directors of the Board who are elected in terms of the provisions of sections 61 and 64.

61. (1) The members of the Board are elected by the Congress in the specific offices in terms of section 60, read with sections 51(1) and (2) and section 53. Branches submit written nominations for these offices to the General Manager at least sixty days before the Congress in session as annual general meeting during September of each year. A delegate is bound by the decision of his/her branch management as indicated in the minutes of the branch’s meeting during which such a decision was taken.

(2) In order to be duly nominated as a candidate for a specific office, president, vice-president, chairperson or vice-chairperson in terms of section 60 a member or Board member must be nominated by a branch and seconded by at least four other PSA branches.

62. (1) The majority votes for an office determines the election and in the event of an equal number of votes a ballot in terms of section 62(2) is conducted.

(2) Subject to the provisions of section 51 in the case of the election of members to the Board as stipulated in section 61 where there is an equal number of votes for a specific office, the matter will be resolved by means of a postal vote.

63. The term of office of members of the Board of Directors is three years. An election of at least one third of those elected Directors must take place each year. Members of the Board step down from the Board at the Congress which takes place in the third year of their term, but may make themselves available for re-election.

64. If any of the offices as defined in section 60 become vacant the vacancy stands over until the next Congress: On the understanding that, if a specific office became vacant, the Board may elect a member from its ranks by means of a ballot where the chairperson or presiding Board member shall have an ordinary and casting vote.

65. Members already serving on the Board are eligible to be nominated to any specific office of the Board.

66. A member of the Board who is not re-elected to the Board or who is not re-elected in a specific office of the Board holds his/her position/office until the end of the proceedings of the relevant Congress.

Powers and duties

67. In the absence of the Congress in session, the Board acts in its stead, with powers and authority to carry out the following, but it is not restricted to this provided the actions are not irreconcilable with the stipulations of this Statute:

(1) To realise the objectives as contained in section 4 and policy concerning the affairs of the PSA and to lay down the policy for this, for which purpose it may take all steps that are necessary or which will advance or assist in the achievement of such objectives; and
(2) To carry out all such duties specifically entrusted to the Board in terms of this Statute and to carry out the resolutions of the Congress which includes the implementation and enforcement as approved by the Congress of a code of good conduct applicable to all structures referred to in section 26.

68. As extension and representative of the Congress the Board must -

(1) arrange the administration of the PSA and appoint its General Manager;

(2) submit to the Annual General Meeting of the PSA the audited financial statements of the PSA, showing the financial results for the financial year and the financial position at the end thereof, and recommend the appointment of the auditors for the PSA as referred to in section 51(2);

(3) submit to the meeting of the Congress a written report on the control, management and administration of the affairs of the PSA during the term preceding the meeting as referred to in section 51(1)(a);

(5) make recommendations to the Congress in respect of matters requiring a decision of Congress;

(6) compile, amend or repeal codes for the exercising of its powers and the execution of its duties;

(6) decide on the recommendations and execution of the recommendations of branches; and

(7) act as principal, where necessary, on the execution of decisions concerning the interests and rights of the PSA and members.

69. The Board is empowered:

(1) to compile a code of good conduct applicable to members of the Board and management members of branches and committees;

(2) to make recommendations to the Congress on any matter;

(3) to appoint committees to investigate any matter and make recommendations to the Board as the Board may deem necessary and to dissolve such committees;

(4) to decide, in negotiations in any bargaining council, whether a dispute and, if necessary a deadlock, must be declared and to place in arbitration any matter arising from this or, in the case of members in non-essential services, on the lock-out of members by the employer, the exercising of the right to strike by members, to call a vote and, depending on the result of this, act according to the expressed will of the majority of the members;

(5) to take part in the discussion at any meeting held in the name of the PSA and, insofar as this Statute allows it, exercise the right to vote;

(6) to borrow or lend money for the purposes of the PSA to bridge a temporary cash shortfall or complete an investment;

(7) to invest money that is available and not immediately required for current expenses, or to use such money as security and in such a way as the Board may decide and to realise such securities, adjust them and reinvest the returns thereof or deal with it in any other way as the Board may decide;
(8) to purchase and sell fixed and movable assets for the PSA;

(9) to institute, settle or defend legal proceedings in the interest of the PSA;

(10) to institute, settle or defend legal proceedings to protect the rights and interests of members;

(11) to serve, jointly or separately, as members of the Board and with the approval of the Board, as trustees or directors of the PSA or on any board of trustees of a trust fund or company or any other fund in which the PSA has an interest;

(12) to delegate any of its powers under this section and this Statute to the General Manager, giving him/her the right to delegate it further, subject to such conditions as the Board lays down;

(13) to give effect to the payment of the remuneration payable to the members of the Board of Directors as recommended by the Remuneration Committee to the Board and approved by the members at the Annual General Meeting within the previous two years;

(14) to determine the honorarium of other office bearers on the recommendation of the Remuneration Committee and report to Congress.

(15) to make contributions and donations to charity;

(16) to award study bursaries; and

(17) to meet at such intervals, venues and times and with such notice as it determines.

**Quorum**

70. Fifty percent plus one members of the Board at any meeting of the Board shall form a quorum. If within half an hour after the time appointed for any meeting a quorum is not present, the meeting must be adjourned to a date to be determined by the chairperson, which date must not be earlier than seven days and not later than twenty one days after the date of the meeting and the members present at such meeting constitute a quorum. Notice must be given of the new date for this meeting.

**Special meetings of the Board**

71. Should five or more Directors of the Board make a written request stating the purpose, the General Manager, on the instruction of the chairperson must call a special meeting of the Board within seven days to deal with the stated matter only.

**Voting**

72. If consensus on any subject cannot be reached it shall be decided by the majority vote and the chairperson shall have the casting vote.
Function of President and Vice-president

73. The president acts as presiding officer at the Congress and arranges, in consultation with the General Manager, the way in which the agenda is compiled. In his/her absence the vice-president takes his/her place. Branches wishing to submit an item(s) for discussion at the Congress must give written notice of this to the General Manager on a date as annually determined by the Board.

Function of the Chairperson and Vice-chairperson

74. The chairperson of the Board acts as presiding officer at meetings of the Board and the Congress sitting as Annual General Meeting. In his/her absence, the vice-chairperson takes his/her place.

Chairpersons of committees of the Board

75. The Board appoints the chairperson of any committee established by the Board.

Absence of presiding Board members

76. When the Board members who are appointed as presiding officers in terms of section 73 and 74 are absent, the other members of the Board, in order of the office which they hold and seniority of those present, act as chairperson. In the absence of these members of the Board, the relevant meeting elects its own presiding officer to act for the duration of such absence.

ADMINISTRATION

GENERAL MANAGER AND PERSONNEL

Appointment

77. The Board appoints a General Manager and regulates his/her terms and conditions of service.

Duties

78. The General Manager is accountable and has administrative responsibility for the efficient administration of the affairs of the PSA and he/she is directly responsible to the Board. He/she -

(1) acts as Secretary of the Board and is accountable to the Board;

(2) must ensure that minutes, books, registers and records are kept as are necessary for the proper functioning of the PSA, and regarding accounts in such a way that it facilitates the drawing up of audited financial statements;

(3) must ensure that all money received is paid into a bank account or accounts at a registered commercial bank or banks on which the Board decides;
(4) can issue media and other statements on behalf of the PSA and generally takes the lead when outside action is taken on matters of policy;

(5) shall perform all other duties as required by the Act and the Companies Act; and

(6) shall be responsible for the appointment and dismissal of officials in terms of the applicable codes and policies.

FINANCIAL MATTERS

Financial year and funds

79. The financial and official year of the PSA is from 1 April in the one year to 31 March in the following year. The funds of the PSA shall be applied to the payment of expenses and for any lawful purpose towards the attainment of the objectives specified in section 4 as may be decided upon by the Congress or the Board.

Power of attorney

80. All documents concerning the purchase, selling, mortgaging, leasing, rent investment, withdrawal or any other action of any nature whatsoever concerning the assets of the PSA, are regarded as duly executed when signed by one or more persons appointed for this purpose according to a decision of the Board.

Auditing

81. The financial statements of the PSA are audited and certified by a firm of accountants registered in terms of the Public Accountants and Auditors Act 1991, the Public Accountants and Auditors Amendment Act 1994 and the Companies Act. If, for any reason whatsoever, the services of such a firm are terminated before the date of the annual general meeting, the Board appoints a firm for the unexpired period until the next annual general meeting.

Indemnity

82. The PSA must indemnify each member of the Board and every employee of the PSA against all law suits, costs and expenses that arise from any claim concerning the PSA: Provided the claim is not the result of the member's dishonesty, wilful misconduct, and wilful breach of trust or fraud.

Fidelity guarantee

83. The General Manager must, as instructed by the Board, arrange fidelity guarantee insurance for members of the Board and identified employees for such amounts as the Board may decide. The premiums thereof shall be paid from PSA funds.
Remuneration

84. Remuneration is paid to members of the Board of Directors in terms of section 69(13) and to office bearers, as approved by the Board of Directors.

GENERAL MATTERS

Affiliation, acting jointly and merging

85. The Board may authorise the affiliation, acting jointly or merging with other unions in the interest of the PSA.

Confederation or federation

86. The Board may authorise that the PSA affiliate with:

(1) any duly constituted federation; and
(2) any duly constituted confederation, provided such federation or confederation shares the PSA ethos of being politically non-aligned.

Interpretation

87. (1) Should any dispute arise about the interpretation of this Statute the Board shall follow a process to bring the matter to finality.

(2) In the case of any difference between the texts, in any of the official languages, the meaning of the English text shall apply.

Vacating or termination of office

88. (1) The term of office of any elected office bearer or trade union representative terminates may be terminated:

(a) when his/her membership of the PSA terminates;
(b) if he/she infringes any of the provisions of this Statute;
(c) if he/she acts in an improper, disgraceful or unacceptable manner which is detrimental to the interests of the PSA;
(d) when in the case of the Board of Directors, his/her estate is sequestrated or he/she enters into a compromise with his/her creditors;
(e) when he/she has been absent from more than two consecutive Board or branch or committee management meetings without informing the chairperson;

(f) when a motion of no-confidence in the office bearer has been accepted at a meeting of the Congress with a two-thirds majority;

(g) when he/she is declared as a mentally disordered person; and

(h) when he/she has been convicted of a criminal offence and in respect thereof sentenced to imprisonment without the option of a fine.

(i) When a member is dismissed from duty by his/her employer and as a result thereof does not have a constituency that he/she represents.

(j) when his/her employment terminates as a result of retirement on pension, retrenchment or voluntary severance such member may however still be entitled to continued membership provided for in section 14.

(2) No office bearer, may be removed from office unless he/she has been afforded an opportunity to state his/her case either personally or in writing to the applicable authority which is in the case of –

(a) a management member, the branch or committee management;

(b) a branch or committee management, the Board;

(c) a member of the Board, the Board.

(3) An office bearer, whose case has been considered by the applicable authority and who is dissatisfied with the decision of the body concerned shall have the right to appeal as follows in the case of:

(a) a management member, to the Board of which notice of appeal shall be given to the branch or committee secretary, in writing within twenty-one days of the date on which the decision of the branch or committee management was communicated to the member concerned. The Board may reverse the decision of the branch or committee management and its decision shall be final;

(b) a branch or committee management, to the Congress of which notice of appeal shall be given to the General Manager in writing, within twenty-one days of the date on which the decision of the Board was communicated to the members concerned. The Congress may reverse the decision of the Board and its decision shall be final;

(c) a member of the Board, to the Congress of which notice of appeal shall be given to the General Manager in writing, within twenty-one days of the date on which the decision of the Board was communicated to the member concerned. The appeal shall be noted in the agenda of the Congress which may reverse the decision of the Board and its decision shall be final.

Disputes

89. Any dispute between a member or office bearer, including the functional structures of the PSA if they cannot be solved mutually, will be settled by arbitration. The finding of the arbiter is final and binding on the parties. Such disputes and arbitration are arranged according to the following measures:
(1) The parties each submit, separately, particulars of the dispute to the General Manager within fourteen days after the dispute arose.

(2) The General Manager determines the terms of reference for the arbiter if the parties cannot agree on this within ten days.

(3) The General Manager submits two names of arbiters to the parties and, if the parties cannot agree on an arbiter within 10 days, the General Manager appoints the arbiter by drawing a name of one of the two arbiters in the presence of two impartial members.

(4) The parties make written submissions of their standpoint to the arbiter within fourteen days of the date of his/her appointment and make any such further comment to the arbiter in any way on which they may decide.

(5) In the case of disputes between the functional organs of the PSA, the various secretaries thereof submit particulars of the dispute to the General Manager who then submits it to the Board and the finding of the Board is final and binding on both parties.

Matters for which no provision has been made

90. Any matter for which no particular or inadequate provision is made in the Statute will be finalised by the Board and reported to Congress. The PSA is bound by this.

Amendment of Statute

91. This Statute can only be amended by the Congress, provided that a two-thirds majority of the votes of the attending delegates who are entitled to vote at such meeting, vote in favour of such amendment. Any amendment to this Statute in terms of this section and section 92 must be announced in a circular letter of the PSA to members.

92. Branches wishing to propose an amendment to this Statute, must give written notice of this to the General Manager before 31 May each year. The Board may also propose amendments to this Statute. Each such proposed amendment must be included in the agenda of the Congress of that year and, after acceptance, particulars of the amendment must be published in a newsletter of the PSA to members.

93. Any amendment to this Statute takes effect from the date of both the Registrars of Labour Relations and Companies certification.

Winding-up

94. (1) The PSA shall be wound up if at a ballot conducted in the manner prescribed in the Statute, not less than three-fourths of the total number of members of the PSA vote in favour of a resolution, namely that the organisation be wound up.

(2) If a resolution for the winding-up of the PSA has been passed or if for any reason the PSA is unable to continue to function, the following provisions shall apply:
(a) The last-appointed president of the PSA, or if he/she is not available, the available members of the last-appointed Board of the PSA, shall forthwith transmit to the Labour Court a statement signed by him/her (or them) setting forth the resolution adopted or the reasons for the PSA's inability to continue to function, as the case may be, and request the Labour Court to grant an order in terms of section 103 of the Act;

(b) (i) The liquidator appointed by the Labour Court shall call upon the last-appointed office bearers of the PSA to deliver to him/her the PSA's books of accounts showing the assets and liabilities together with the register of members showing, for the twelve months prior to the date on which the resolution for winding-up was passed or to the date as from which the PSA was unable to continue to function, as the case may be, (hereinafter referred to as the date of dissolution), the membership fees paid by each member and his/her address as at the said date.

(ii) The liquidator shall call upon the said office bearers to hand over to him/her all unexpended funds of the PSA and to deliver to him/her the PSA's assets and the documents necessary to liquidate the assets.

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

(d) Notwithstanding any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the PSA-

(i) no past or present member or director, is entitled to any part of the net assets, after its obligations and liabilities have been met; and

(ii) the entire net value must be distributed to one or more non-profit companies, external non-profit companies, voluntary associations or non-profit trusts, having objects similar to the PSA and carrying on activities within the Republic; and

as determined-

- in terms of the company's Statute; or
- by its members, if any, or its directors, at or immediately before the time of its dissolution; or
- by the Labour Court, if the Statute, or the members or directors fail to make such a determination.

(e) After the payment of all the liabilities, any assets that cannot be disposed of in accordance with the provisions of this clause shall be realised by the liquidator and the proceeds paid to the Commission for Conciliation, Mediation and Arbitration (in accordance with section 103(5) of the Act).

(f) The liability of members upon winding-up shall be limited to the amount of membership fees due by them to the PSA in terms of this Statute as at the date of dissolution.
(1) The Board will consist of at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the PSA for income tax purposes;

(2) No single person will directly or indirectly control the decision-making powers relating to the PSA;

(3) The PSA will not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its objectives;

(4) The PSA will utilise substantially the whole of its funds for the sole or principal object for which it has been established;

(5) No member will directly or indirectly have any personal or private interest in the PSA;

(6) Substantially the whole of the activities of the PSA must be directed to the furtherance of its sole or principal object and not for the specific benefit of an individual member or minority group;

(7) The PSA will not have a share or other interest in any business, profession or occupation which is carried on by its members;

(8) The PSA will not pay to any employee, office bearer, member or other person any remuneration, as defined in the Fourth Schedule to the Income Tax Act, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered;

(9) Substantially the whole of the PSA’s funding will be derived from its annual or other long-term members or from an appropriation by the government of the Republic in the national, provincial or local sphere;

(10) The PSA will as part of its winding-up procedure in terms of Section 94 transfer its assets to—

   (a) Another entity approved by the Commissioner for SARS in terms of section 30B of the Income Tax Act;

   (b) A public benefit organisation approved in terms of section 30 of the Income Tax Act;

   (c) An institution, board or body which is exempt from tax under section 10(1)(cA)(i) of the Income Tax Act; or

   (d) The government of the Republic of South Africa in the national, provincial or local sphere;

(11) The persons contemplated in clause 95(1) will submit any amendment of the Memorandum of Incorporation and PSA Statute to the Commissioner for SARS within 30 days of its amendment;

(12) The PSA will comply with such reporting requirements as may be determined by the Commissioner for SARS from time to time; and

(13) The PSA will not knowingly become a party to, and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III of the Income Tax Act, or a transaction, operation or scheme contemplated in section 103 (5) of the Income Tax Act.