

**THE CONSTITUTION OF
THE KENYA NATIONAL UNION OF NURSES**



KENYA NATIONAL UNION OF NURSES
For Unity, Protection and Empowerment

ARRANGEMENT OF ARTICLES

	Page
Vision, Mission, Motto, and	4
Preamble	5
Article I Definitions and interpretation of terms.....	5
Article II: Name and Domicile.....	7
Article III: Legal Status.....	7
Article IV: Objectives.....	8
Article V: Protection of The Name & Seal of the Union...	9
Article VI: Membership.....	10
Article VII: Structure of the Union.....	14
Article VIII: Designation of NEB Members.....	22
Article IX: Conduct of Meetings.....	30
Article X: Employees of the Union.....	31
Article XI: Funds	31
Finance Committee.....	31
Article XII: Investments.....	36
Article XIII: Accounts.....	36
Article XIV: Auditors.....	37
Article XV: Branch Organisation.....	37
Article XVI: Designation of Branch Officials.....	40
Article XVII: Elections.....	44
Article XVIII: Decisions of The Union.....	51
Article XIX: Strike Action.....	51
Article XX: Discipline.....	52
Article XXI: Cessation to Hold Office.....	57

The Constitution of The Kenya National Union of Nurses

Article XXII: Misuse of Funds or Property of The Union.....59
Article XXIII: Amendments.....60
Article XXIV: Dissolution..... 60
Article XXV: Transition 62

VISION

To be a union of choice in Kenya for all nurses who embrace world class standards of nursing care.

MISSION

To Provide Democratic and legal platform to unite nurses for mutual protection, Economic, Political and Social Empowerment through progressive programs.

MOTTO

We Dare to Care.

PREAMBLE

WE, THE NURSES OF KENYA,

Exercising our inalienable rights to associate and to form, participate in the formulation of and joining a trade union;

Determined to unite and constitute ourselves into a powerful union in the pursuit of common good;

Committed to building an effective union based on democratic values and principles with a strong, independent and powerful leadership;

Resolving to collectively fight for better terms and conditions of employment and welfare of all the nurses;

Do hereby enact and adopt this constitution through our democratically elected leaders to be the only constitution of the Kenya National Union of Nurses.

And in furthering of our constitutional rights as espoused in the Constitution of Kenya Article 41.

ARTICLE I: DEFINITIONS AND INTERPRETATION OF TERMS

IN THIS CONSTITUTION:

AFFILIATION

Means the union becoming a member of a higher body at the national, regional or international level.

ELIGIBLE

Means having the right to apply to be a member and to participate in the union elections.

HE

Means either gender, which is male or female.

EMPLOYEE

Means a person employed in or appointed into any of the Secretariats in line with the Human

OFFICIAL

Means a person elected or co-opted into any organ of the union other than the Secretariats.

AUTHORISED REPRESENTATIVE MEANS:

The General Secretary or any person appointed in writing by the General Secretary as espoused in the Labour Relations Act 2007 section 2.

PAID UP MEMBER

Means a member who is not in arrears of his or her subscriptions for a period of Thirteen (13) weeks.

PRESCRIBED

Means provided by this Constitution or by rules made under it.

RATIFICATION

Means:

- (a) formal acceptance of an international agreement by a state (for example, Kenya), or
- (b) a formal acceptance by one body in the union of a decision made by a lower body.

AUTHORITY OVER INTERPRETATION

- (a) Any question concerning the meaning of words, phrases or sentences in any paragraph of this Constitution shall be referred to the National Executive Board (also referred to as the NEB) for interpretation.
- (b) On interpreting words, or sentences in any paragraph the General Secretary shall be at liberty to seek legal opinion where necessary and such opinion may be presented to NEB for consideration and adoption, modification or rejection.
- (c) If the NEB rejects or modifies a legal advice the decision of NEB shall be final.

ARTICLE II:

NAME AND DOMICILE.

- 2.1. The union constituted by this Constitution, is a trade union, and shall be known as “The Kenya National Union of Nurses”.
- 2.2. The Physical Address of the Union shall be at Nairobi, Uchumi House 9th Floor, Along Aga Khan Walk, P.O. BOX 56900-00200, Nairobi, Kenya East Africa, or any other place as may be determined by the National Executive Board.

ARTICLE III:

LEGAL STATUS

- 3.1. The Union shall be a corporate entity with a full legal personality.
- 3.2. The Union shall have and enjoy all the rights and obligations of a corporate entity.

ARTICLE IV:

OBJECTIVES OF THE UNION

- 4.1. At all times, the objects of the Union shall be:
 - 4.1.1. To champion for and attain good employment and labour relations between Nurses and their employers by articulating the interest of the nurses in all spheres of their professional practice.
 - 4.1.2. To support and champion for just and proper terms and conditions of service of employment, between Nurses and employers.
 - 4.1.3. To protect the interests of nurses in legal disputes, and where practical, offer legal advice and support.
 - 4.1.4. To negotiate Collective Bargaining Agreements for and on behalf of members.
 - 4.1.5. To apply to any government or authorities, public bodies, corporations, companies or persons for or to accept grants or gifts of money and any movable or immovable property, donations, gifts, subscription or otherwise, with a view of promoting the objectives of the union.
 - 4.1.6. To work and liaise with other Professional Associations/ Societies or other organizations and/or unions on matters of common interest with a view to common action, when desirable.

- 4.1.7. To collect and circulate among members of the Union such statistical and other information concerning all matters affecting the Union or members and to print, publish and issue such papers, periodicals, books, circulars or electronic media and other literature as may seem important to any of these objectives.
- 4.1.8. To provide and seek facilities for members to acquire or enhance knowledge and skills in employment and Labour relations; and general professional development, through work place trainings, conferences, workshops, seminars, and any other form of knowledge and skills transmission including online programs.
- 4.1.9. To organize member economic empowerment activities and programs including but not limited to co-operative societies, investments opportunities, including companies limited by trustee who are officials or members of the union.
- 4.1.10. To acquire either by purchase, lease or otherwise any movable or immovable property, or other assets and to sell/dispose, mortgage or charge, or otherwise deal with, dispose of movable or immovable property belonging to the Union.

ARTICLE V:

PROTECTION OF THE NAME AND SEAL OF THE UNION

- 5.1. Any person not authorized by the National Executive Board through the General Secretary shall not use the instruments of the union for any business including soliciting for funds and in

the event that any money is collected without such authority, such money shall immediately be handed over to the Union Chief Trustee for depositing in the authorized Union account.

- 5.2.** No member, or employee of the union or any other unauthorized Person shall use instruments of the Union including the registered name, seal, certificate, logo or letter head, to transact any business.
- 5.3.** Any use of the name, certificate, seal or any instrument of the union shall be authorized in writing by the General Secretary and upon recommendation by the National Executive Board, including but not limited to:
- (a)** Social electronic sites as twitter, face book, blogs etc.
 - (b)** Advertisements in print or electronic media.
 - (c)** Personal letters, memorandum, appeals or any other form of publication.

ARTICLE VI: MEMBERSHIP

- 6.1.0.** Membership of the Union shall be open to employed Nurses, Midwives or any other employees regulated by the Nursing Council of Kenya.
- 6.1.1** Every member shall be required to pay subscription Fee of Kenya Shillings one thousand (KES 1000 or 1.5% of basic salary, whichever is higher), which shall be payable to Kenya National Union of Nurses and Kenya Shillings One Hundred and Fifty

(KES 150) payable to the Central Organization of Trade Unions-Kenya (COTU-K) through check off system or any other workers Centre as may be decided by the NEC.

- 6.1.2** No person shall deposit any amount of money to the authorized union account without approval of the General Secretary.
- 6.1.3** No person shall claim membership to the union by clandestinely paying any amount of money to the union accounts with a view of interfering with union activities and programs including but not limited to filing suits against the union.
- 6.1.4** In any case such deposits as stated in sub article in 6.1.3 are noticed the concerned nurse(s) shall receive acknowledgement of having gifted the union and reminded that he is still not a member of the union until he joins officially using Form S, and informed that he cannot participate in activities and programs of the union or seek any favours thereto. The union shall not extend any of her privileges to a such person.
- 6.1.5** Membership of the union shall only be by filling of **Form S** duly issued by the General Secretary and submitting the duly filled Form S to the office of the General Secretary or by a person dully authorized by him for presentation to the employer for effecting the union dues deductions as provided for in the Labour Relations Act 2007 Section 48 and all other enabling provisions of the law.

- 6.1.6** Union dues may be revised from time to time as provided for in Article VII Clause 7.11.3 (I).
- 6.1.7** Upon admission to membership the union the member shall be bound by this constitution and the by-laws or regulations of the union.
- 6.1.8** Any member desiring to resign or withdraw from membership of the union may do so provided that he shall pay up all his dues and levies up to the end of his notice of resigning or withdrawal.
- 6.1.9** A member who has ceased to be a member of the Union may be reinstated to membership as follows:
- (a)** If the application for re-admission is made within three (3) months of his resignation or withdrawal, the member shall be required to pay all arrears and levies from the date of his resignation or withdrawal and shall thereupon be reinstated to his previous standing membership.
 - (b)** After three months of resignation or withdrawal, the member shall be admitted as a new Member and shall not be eligible to contest any position in the union until thirty-six months of membership.
 - (c)** Such re-joining of the union shall be by filling Form S afresh. And such form shall be sent to the General Secretary for further action and transmission to the employer.

- 6.2.0** Honorary membership may be conferred on any person who in the opinion of the National Executive Board has rendered outstanding service to the cause of the Union or nurses. Any member or official may propose in writing to the General Secretary the name of not more than one person for consideration for honorary membership of the Union provided that an honorary member shall not be eligible to propose any name for such consideration.
- 6.2.1** An honorary membership shall neither carry any right to vote on any matter, nor hold any office in the Union.
- 6.2.2** A member who resigns from the union and is enjoying terms of service negotiated by the union shall automatically be charged agency fee of KSHs. One thousand one hundred and fifty (1150) or 1.5% of basic salary whichever is higher plus KSHs. 150 as provided for in the Labour Relations Act 2007, section 49, Laws of Kenya or any other provisions of the law in place for the time being.
- 6.2.3** **A member who has been in employment where the union exists and refused to join it from the onset for a period of more than one year or withdraws from the union for any reason for a period of more than one year shall not be eligible to contest for any seat until lapse of five years in union membership.**

ARTICLE VII:

STRUCTURE OF THE UNION

7.1 The Union shall have the following leadership structures:

- (a) National Quinquennial Conference (NQC).
- (b) Special National Delegate Conference (SNDC).
- (c) National Advisory Council (NAC).
- (d) National Executive Board (NEB).
- (e) The Secretariat.
- (f) Branches.
- (g) Chapter and Workers (Works) Committees.

7.2 The National Quinquennial Conference:

7.3 The National Quinquennial Conference shall be the Supreme Authority of the Union and shall be held quinquennially at such time and place as shall be decided by the General Secretary in Consultation with the National Executive Board.

7.4 The National Quinquennial Conference shall be convened quinquennially by the General Secretary and in consultation with the National Executive Board, by giving not less than twenty-one (21) days' Notice.

7.5 The Quinquennial Conference shall be composed of:

- (a) National Executive Board Members.
- (b) Delegates allocated as in sub-article 7.6.

7.6 Delegates shall be allocated at the rate of one (1) delegate for every one hundred and fifty (150) members. However, the Branch Secretary or chapter Secretary shall be automatic delegates. In addition, the National Chairperson and Secretary of the National

Youth leadership shall be delegates. Priority will be Branch Chair and Branch Treasury for those getting more than one delegate.

7.7 The National Quinquennial Conference shall be responsible for:

- (a)** Approving Amendments to the Constitution
- (b)** Electing the National Officials.
- (c)** Giving direction for adoption or otherwise on any broad policy or position on any matter of national importance brought before it by the General Secretary.
- (d)** Any other function contemplated and conferred to it by this constitution.

7.8 The General Secretary shall prepare the agenda of the National Quinquennial Conference.

7.9 In addition to the Quinquennial Conference there may be a Special National Delegate Conferences as shall be decided by the NEB on the advice of the General Secretary to address an extremely matter of national importance.

7.10.0 The Special National Delegate Conference may be convened by the General Secretary if:

- (a)** Requested in written by not less than 30% of the fully paid-up members of the Union in 30 branches.
- (b)** The upon payment to an authorized Union Head Office account by the requesting members the sum equivalent of the cost of the last NDC/SNDC, (non-refundable) for the purpose of defraying the cost of convening the meeting, by the requesting member(s).

- (c) If it is the decision of the General Secretary that there is a decision that should be made and requires a SNDC to make. Funds for a such a meeting shall be provided Finance Committee.

7.10.1 Special National Delegate Conference shall have all powers of the National Quinquennial Conference and shall be governed by the same regulation of this constitution in relation to the convention of the National Quinquennial Conference. It shall be convened by the General Secretary by giving a fourteen days' notice.

7.10.2 The quorum for a Special National Delegate Conference shall be two thirds (2/3) of the eligible members of the National Quinquennial Conference, who attended the preceding Conference (NDC/SNDC).

7.10.3 If within one hour from the time appointed for the Special National Delegate Conference and there is no quorum the meeting shall stand dissolved. Another Special National Delegate Conference may be requisitioned after eighteen (18) months of dissolution, and before twelve (12) months of the next National Quinquennial Conference, subject to the provision of Article VII 7.9.1.

7.10.4 National Advisory Council:

7.10.5 The National Advisory Council shall consist of:

- (a) National Executive Board.
- (b) Office of the Branch Secretary, Chair and Treasurer (one official from each office).
- (c) One official representing a chapter.
- (d) The National Youth Leaders (Chairperson and Secretary).

7.10.6 The National Advisory Council shall:

- a) Advise and recommend the commencement of a nation-wide strike or any other industrial action.
- b) Advise and or recommend suspension, or calling off a nation-wide strike or any other industrial action.
- c) Hear appeals emanating from the decisions of the National Executive Board or a Peer Review Committee.
- d) Approve amendments of union dues.
- e) Advise on any other matter as may be requested by the National Executive Board or the General Secretary.

7.10.7 The National Executive Board and National Advisory Council may hold virtual meetings through teleconference or video conference as shall be dictated by the prevailing circumstances and the decisions made at the virtual meeting shall be recorded in the minutes by the office of the General Secretary and shall be binding to the union members and officials.

7.10.8 The quorum for the National Advisory Council shall be Two thirds (2/3) of the members entitled to attend and vote thereat.

7.10.9 A member of NAC on any form of discipline is not eligible to attend a NAC meeting, but may be called to respond to a disciplinary proceeding. Such person shall not have voting rights.

7.11.0 The National Executive Board:

7.11.1. The National Executive Board shall consist of:

- i.** General Secretary,
- ii.** Deputy General Secretary,
- iii.** Assistant General Secretary
- iv.** National Treasurer,
- v.** Deputy National Treasurer,
- vi.** The Chief Trustee,
- vii.** Deputy Chief Trustee,
- viii.** Assistant Chief Trustee,
- ix.** National Chair,
- x.** Deputy National Chair.
- xi.** Assistant National Chair

7.11.2 The National Executive Board shall sit at the Union Headquarters or any such place as the General Secretary may decide in consultation with the National Chairperson, Chief Trustee and the National Treasurer.

7.11.3 The National Executive Board shall be convened at least twice in a year and or as may be decided by the General Secretary, in consultation with the National Chairperson, Chief Trustee and the National treasurer.

7.11.4 The National Executive Board shall be responsible for:

- (a)** Making decisions/approval in regard to acquisition either by purchase, lease or otherwise any movable or immovable property, or other assets.

- (b)** Approving the selling/disposing, mortgaging or charging, or otherwise dealing with or disposing off movable or immovable property belonging to the Union.
- (c)** Discipline,
- (d)** Receiving, considering and making decisions on complaints and or grievances from the individual members against employers or union officials, when forwarded to it by the General Secretary.
- (e)** Fundraising, including applying for loans and advances,
- (f)** Setting up of committees, sub-committees, directorates or any other office as the case may be for execution of the objectives of the union, every committee shall not have less than three members or more than five.
- (g)** Approval of rules and by-laws, vision, mission, philosophy, moto, insignia, regalia, and core values.
- (h)** Interpreting and clarifying any questions concerning the meaning of words, phrases or sentences in any of the articles and clauses of this Constitution, where there is ambiguity in its application. A clarification or an interpretation adopted by the NEB shall be final and a person aggrieved by such adoption may appeal to the NAC.
- (i)** Approval policies and or recommend to present the same to any other organ of the union.
- (j)** Establishing branches, other administrative organs, and reorganize them where it deems fit for efficient performance of the union in meeting her objectives.
- (k)** Hear disciplinary (Notices of Motions) cases against any member or official, and voting to expel errant and or inflict any other punishment on officials and or members from the union

leadership and or membership, and shall be the initial trial body of the union. However, the General Secretary may appoint an ADHOC Peer Review Committee to act as an initial trial body of the union in any matter when he deems appropriate and convenient. A decision of an ADHOC Peer Review Committee shall be executed as if it were made by the NEB.

- (1) Decisions made by the NEB or PRC shall be implemented in accordance with the provisions of this constitution and the Labour Relation Act 2007 or any other law in place for the time being. A person aggrieved by the decision of NEB and PRC shall appeal to the National Advisory Council within twenty-one days of the decision being made. An aggrieved person may apply to NAC for a review of the decisions of the NEB or PRC.

7.11.5 The Secretariat:

7.11.6 The Secretariat shall consist of all employees and full-time union officials; who shall be paid salary and allowances as approved by the Finance Committee and authorized by the General Secretary.

7.11.7 The General Secretary shall be the head of the Secretariat and the Chief Executive Officer of the union, who shall be a full-time officer and paid salary and allowances as shall be approved by the Finance Committee.

7.11.8 The Secretariat shall be charged with the responsibility of implementing the objectives of the union and the decisions of all organs of the union, and conduct day to day activities of the union.

7.11.9 The General Secretary as the Chief Executive Officer of the union shall be deemed to have entered into a contract of service once confirmed in office by elections or by any other lawfully and or procedurally approved method by this constitution.

7.12.0 Chapter:

- (a)** National, county or a private employer that qualifies to negotiate terms and conditions of service with the union directly and which employs less than the threshold set in this constitution for establishment of a branch may be awarded a chapter status by the General Secretary.
- (b)** The General Secretary shall accredit chapter officials.
- (c)** A Chapter may have officials (union representative) as may be decided by the General Secretary.
- (d)** A chapter shall have one representative to the National Advisory Council.
- (e)** Any registered branch that falls below the threshold of one thousand members shall be considered as a chapter and shall have one representative to NAC if it has less than five hundred members and two if it has more than five hundred members but less than one-thousand members.

7.12.1. Workers Committee:

A branch or a chapter may establish Workers (works) Committees (WC) comprising a chair, shop steward, and an organizing secretary. Such union representatives shall be accredited by the General Secretary.

ARTICLE VIII:

DESIGNATION OF NATIONAL EXECUTIVE BOARD MEMBERS

8.0.0 General Secretary:

- 8.1.0** Shall issue notices of all meetings and elections of the National Executive Board, the National Advisory Council, the National Quinquennial Conference, and the Special National Delegate Conference.
- 8.2.0** The General Secretary shall send invitation letters to all delegates to attend the meetings and conferences. Such delegates shall be men and women with good standing in the union rank and file.
- 8.3.0** The General Secretary shall not invite any member or person who has been found to have brought the image of the union to disrepute, or sidestepped the internal dispute resolution mechanism or has attempted to clandestinely take over the union leadership to attend any of the union meetings and conferences, and to partake in any of the union activities including decisions, voting in election or vying for any seat in the union, unless such offences have been purged at least six months before the expected meetings, activities, elections or conferences.
- 8.4.0** Shall declare the quorum, at the start of any meeting and declare the end of all conferences and meetings.
- 8.5.0** Shall prepare the agenda for the National Executive Board, the National Advisory Council and the National Quinquennial Conference.

- 8.6.0** Shall ensure the recording of all the minutes and subsequent storage of the same.
- 8.7.0** Shall be responsible for ensuring members and union officials observe due compliance of the Union constitution, the Constitution of the Republic of Kenya, Statutory Enactment of parliament, the senate of Kenya on labour and International Labour Conventions, treaties and all regulations made thereunder.
- 8.8.0** Shall be the Chief Advisor of the Union and may consult from time to time with the National Executive Board or any other organ of the union or persons versed with union management, on matters of high policy concerning tripartite system.
- 8.9.0** Shall not be an employee of any organization employing nurses.
- 8.10.0** Shall be the Spokesperson of the Union on all matters and he shall appoint persons to represent the Union on National, Regional, International bodies and committees including internal union committees.
- 8.11.0** Shall be the Chief Executive Officer of the Union.
- 8.12.0** Shall ensure implementation of all decisions of union organs, perform the functions ascribed to the Chief Executive Office or delegate in writing to his deputies or any other person, official, member or employee of the union.

- 8.13.0** Shall be the authorized representative of the union in all administrative matters including making of all official communication, signing of legal tenders, (memorandum agreements, Collective Bargaining Agreements, approve of all union expenditure, court documents, institute and respond to court matters, letters and any other document) for and on behalf of the union as provided for in law and in this constitution.
- 8.14.0** Shall perform all legal duties ascribed by law to the office of the authorized representative of the union.
- 8.15.0** Shall have the residual powers to perform or delegate all other functions not specifically designated to any office.
- 8.16.0** He shall not be engaged as an employee neither in private nor public sector, for the last six months preceding the National Quinquennial Conference or Special National Delegate Conference. This provision shall apply to state officer except ordinary Members of Parliament.
- 8.17.0** **Deputy / Assistant General Secretary:**
- 8.18.0** There shall be a Deputy an Assistant General Secretary who shall perform functions of the General Secretary as shall be designated to them, in writing by the General Secretary as espoused in Section 2 of the Labour Relations Act No. 14 of 2007 and or any other law in place for the time being or when the

General Secretary is indisposed/ceases to hold office for any reasons espoused in Article XX1.

8.19.0 National Treasurer:

8.20.0 A National official shall render accounts in accordance with the labour Relations Act no. 14 of 2007 section 42 or any other law in place for the time being.

8.21.0 In clause 8.20.0 “official” in this constitution means; the National Treasurer or any other official responsible for accounts of the union in collecting, disbursing, keeping in custody, or controlling the funds of the union in any manner including but not limited to bank signatories.

8.22.0 The accounts department shall keep and maintain all necessary books of accounts.

8.23.0 The National Treasure shall prepare the budget in consultation and occurrence of the General Secretary and he shall present it to the Finance Committee for deliberation, amendments, adoption and or approval.

8.24.0 The General Secretary as an authorised officer of the union shall approve and authorise the implementation of the budget statement by appending his signature on the budget.

- 8.25.0** The National Treasurer shall prepare reports and statements relating to accounts.
- 8.26.0** A National Official Shall ensure that all payments made from Union funds are in accordance with the provisions of the Union's instruments, financial policy and or Budget Statement, and in specific appropriate approvals done.
- 8.27.0** A National Treasurer or an official appointed by the General Secretary, as in Clause 8.21.0 shall check the receipts and payments of the National office with the branch returns and vouchers as he shall be directed by the Finance Committee or the General Secretary.
- 8.28.0** The National Treasurer shall ensure that the accounts department keeps cash accounts showing the state of the funds and submit them to the General Secretary periodically for concurrence and approval.
- 8.29.0** The National Treasurer, Legal and the Accounts Departments shall promptly inform the General Secretary of any irregularities noted and or failure to remit union dues by employers in accordance with the existing legal notice and steps taken to normalize such irregularities to ensure smooth running of the union.
- 8.30.0** If the National Treasurer is indisposed, he shall inform the General Secretary in writing and the National Deputy Treasurer shall take over his duties. Failure for the National Treasurer to

inform the General Secretary of his indisposition within seven (7) day. The General Secretary shall suspend the National Treasurer shall suspend the National treasurer who fails to notify him of his indisposition within seven days and the deputy shall become the Acting National Treasurer.

8.31.0 The National Chairperson shall be the Chair of the Finance Committee, while the National Treasure shall be the secretary to the committee. If both of them are absent and there are three members present, members present shall appoint one among themselves to chair or be the secretary of the meeting. The head of Accounts Department shall be the head of FC secretariat during FC meeting.

8.32.0 The National Treasurer and the Accountant shall prepare the agenda of the Finance Committee and transmit it to the General Secretary to prepare and convene the Finance Committee. However, the General Secretary may convene the Finance Committee to discuss any urgent financial matter.

8.33.0 Deputy National Treasurer:

Shall perform the functions of the National Treasurer when he is indisposed.

8.34.0 Trustees:

Members who wish to serve as trustees may apply to the General Secretary for consideration within the Notice of the Quinquennial Conference.

8.35.0 The General Secretary in consultation with the national officials elected shall appoint the trustees and present their names to the Registrar of Trade Unions for Registration. There shall be three trustees at any given time. However, the General Secretary might appoint an alternative trustee to take over any vacancy that might arise.

8.36.0 All property, whether movable or immovable, of the union shall vest in the trustees for the use and benefit of the union members.

8.37.0 Any official or member of the union may be a trustee as provided for in the Labour Relations Act (2007) Section 36 (2) or any other law applicable for the time being.

8.38.0 A person convicted of a crime involving fraud or dishonesty, or a person convicted by any civil court or Employment and Labour Relations Court of having defrauded or supported a person who has defrauded the union or any other organization shall not be a trustee or an official of this union under any capacity.

8.39.0 A person appointed as a trustee under this section shall comply with the duties and responsibilities of a trustee specified in the

Trustees (Perpetual Succession) Act (Cap. 164), the Labour Relations Act (2007), and this constitution.

8.40.0 National Chair:

8.41.0 Shall be in control of meetings or functions by giving members permission to speak or make contribution.

8.42.0 Shall maintain order in the meetings, and

8.43.0 May perform any other function as shall be delegated to him by the General Secretary as provided for in the Labour Relations Act, 2007 section 2 (e).

8.44.0 In his absence the Deputy Chair shall chair the meeting and in the absence of the Deputy Chair the Assistant chair shall chair the meeting and in absence of all of them, members present shall appoint a chair from among themselves.

8.45.0 Deputy/ Assistant National Chair:

He shall perform the functions of the National chair in the absence of the chair.

8.46.0 Youth leadership:

The General Secretary may cause the election of youth leaders where all elected national officials are above the age of thirty-five (35). The National Youth Secretary and Chairperson shall be

among the Quinquennial Conference, Special National Delegates Conference, and National Advisory Council.

ARTICLE IX:

CONDUCT OF MEETINGS.

- 9.1. No meeting shall proceed without attaining the quorum as provided for in this constitution. For avoidance of doubt, all meetings shall stand dissolved if a quorum is not attained within one hour, apart from the Quinquennial Conference convened for the purpose of electing National official, since one cannot be forced to partake in an election process. However, Special National Delegate Conference shall meet the 2/3 rule on quorum, in attendance to transact any business of the union.
- 9.2. The Chairperson and the Secretary of the Finance Committee shall be the National Chair and National Treasurer respectively.
- 9.3. The Chair and the Secretary of the Investment Committee shall be the Chairperson and the Chief Trustee respectively.
- 9.4. The quorum for NEB shall be two thirds (2/3) of eligible members.
- 9.5. A person who is under any form of disciplinary proceedings is not eligible to attend any meeting or conference of the union, unless the attendance is for the purpose of defending himself if invited by the General Secretary.

ARTICLE X:

EMPLOYEES OF THE UNION

- 10.1.** The Union shall engage employees in line with the Human Resource Policy and Procedures and or the employment laws in place for the time being.
- 10.2.** The National Executive Board shall approve and or review Employment and Human Resource Policies and Procedure, where necessary and shall ensure conformity to the Constitution of Kenya, Employment laws as well as International Labour Conventions in relation to employment and labour relations rights and obligations of the union and the employees.
- 10.3.** The union may employ a Corporate Secretary or a person with equivalent qualification and experience. The General Secretary may assign him duties including but not limited to Personal Assistant and advisor of the General Secretary.
- 10.4.** Notwithstanding the above provisions in clause 10.3 the General Secretary may hire and fire any other officers who will directly assist him in discharging his daily duties. Such as personal assistant, drivers, communication officer's personal security officers etc.

ARTICLE XI:

FUNDS

11.0. The Finance Committee (FC):

- (a) Shall be composed of the General Secretary, the National Treasurer, the National Chairperson, Chief Trustee and

any other one national official as may be incorporated where necessary.

- (b) The Chairperson and the Secretary of the Finance Committee shall be the National Chairperson and National Treasurer respectively.
- (c) The FC shall discuss, amend and or approve the Budget Statement presented to it by the National Treasurer.
- (d) The FC shall look into proper disposal of the funds of the union.
- (e) Shall lay down the plans of the union for the next Financial Year and align them with the budget statement.
- (f) It shall lay down the plans of fundraising campaigns.
- (g) In clause 11.0.(f) does not impede any official, member, partner, or employee of the union from developing project proposals and fundraising for same.
- (h) The FC shall be supported by the secretariat headed by the Head of Accounts Department, in performing his duties.
- (i) Members of the secretariat (employees) shall be registered as Ex-Officials, with no right to vote.
- (j) In-cases a budget is not approved by the Finance Committee, the budget for the preceding Financial Year shall continue to apply until the time a new budget statement is approved.

11.1. The General Secretary, National Chair, National Treasurer and the Chief Trustee shall cause bank accounts to be opened and maintained in the name of the Union and shall ensure that all

the money belonging to the Union is paid into the said bank accounts immediately upon the receipt of such money.

- 11.2.** All cheques for withdrawals or any transactions of money shall be signed by the General Secretary (mandatory); and any other two authorized Signatories that may include the National Treasurer, Chief Trustee, the Chairperson and or as may be directed by the Finance Committee or the National Executive Board.
- 11.3.** The General Secretary shall make an introductory letter to the bank authorizing opening of a Branch Account by introducing the proposed signatories to the Bank Account specifying terms and conditions of operating the account and may do so in consultation with the National Treasurer, National Chair and Chief Trustee, where necessary.
- 11.4.** Any money that may be collected by any branch shall be the property of the union and shall be deposited in the Union's gazetted or authorized accounts as when it is collected.
- 11.5.** Under no circumstance shall the union dues from check-off system be paid or deposited in a branch account.
- 11.6.** All Union dues from check-off system shall be paid into the National Designated, Gazetted or Authorized Bank Account.
- 11.7.** Ordinary branch expenditure shall be paid from the funds allocated to it by the Finance Committee.

- 11.8.** Allowances of the branch officials may be paid directly to branch officials in compliance with Section 39(a) of the Labour Relations Act No. 14 of 2007, Laws of Kenya or through a branch account as may be approved by the General Secretary in consultation with the Finance Committee.
- 11.9.** Branch accounts shall be operated in accordance with the union constitution and any regulations applicable.
- 11.10.** The funds of the Union may be used only for the following objectives: -
- (a)** The payment of salaries for Union employees and full-time officials in line with the Union's Financial Policy and or Budget Statement.
 - (b)** The payment of allowances and expenses of employees and officials of the Union.
 - (c)** The payment of expenses for administration of the Union including audit of accounts of the funds of the Union, payment of rent etc.
 - (d)** The prosecution or defence of any legal proceedings to which the union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any interest of the union or member, as such or any rights arising from the relations with his employer.
 - (e)** Notwithstanding the provisions of clause 11.10.(d) the union may not pay any legal fees emanating from criminal acts of a member, for example stealing by servant. However, the Union shall analyze case by case and decide whether to pay such legal fee or not.

- (f)** The conduct of Trade Disputes on behalf of the Union members.
- (g)** Granting any form of grants to any of the union officials, employees and or members for the performance of a particular assignment or appreciation for exemplary performance, as the National Executive Board may decide from time to time.
- (h)** Such allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment as the National Executive Board shall decide.
- (i)** Payment of any fine or penalty imposed upon the Union under the provisions of the Labour Relations Act and/or any other related statute.
- (j)** Payment of subscription and fees to any Federation of Trade Unions to which the Union may be affiliated,
- (k)** In furthering and or fulfillment of any or all of the objectives of the union.
- (l)** The financial year of the Union shall end on 31st December of every year.
- (m)** The Finance Committee shall determine the allowances and or salaries paid to the union officials (part time and full time), and employees.
- (n)** Ensuring the optimal facilitation of any manner deemed fit of the General Secretary, employees and officials of the union in attending to members issues and disputes swiftly, promptly, professionally, respectfully and logically to promote and preserve the dignity and honor of the nursing profession and members.
- (o)** There shall be a special vote for the office of the General Secretary to enable him carryout his duties smoothly, efficiently and successfully.

**ARTICLE XII:
INVESTMENTS.**

- 12.1.** Funds of the Union which are not required for recurrent expenses shall on the direction of the National Executive Board be invested or used to acquire assets in the name of the Union.
- 12.2.** Funds pending investment shall be deposited in the Union's Savings Account.

**ARTICLE XIII:
ACCOUNTS**

- 13.1.** The Head of Accounts Department shall be responsible for such sums of money as may from time to time be handed over to him by any of the authorized signatories, for the day to day running of the Union.
- 13.2.** The General Secretary (as an authorized mandatory signatory) and any other two signatories authorized by this constitution shall sign cheques, standing orders, and money transfers.
- 13.3.** Notwithstanding the provisions in clause 13.2 the General Secretary shall approve ordinary daily cash expenditure from the cash kitty before such money is expended.
- 13.4.** Branches or officials of the branches may be rebated and or paid allowances in accordance with the union Financial Policy, budget, by-laws or rules on strictly adherence to Labour laws applicable for the time being.

ARTICLE XIV:

AUDITORS

- 14.1. The union shall appoint qualified auditors as soon as possible after the end of each financial year, to audit the union books of accounts as provided for in law.
- 14.2. A copy of the Auditor's report shall be available for scrutiny by members at the Registered Office of the Union, upon request.
- 14.3. A fully paid-up member may request the General Secretary by giving a 30 days' notice to inspect audited books of accounts and names of members.

ARTICLE XV:

BRANCH ORGANIZATION

- 15.1. The National Executive Board shall decide the place where a Branch shall be established and may from time to time reorganize branches by disbanding, merging, and or splitting others for efficient running of the union.
- 15.2. A branch shall have a minimum of one thousand (1000) members. A branch whose membership goes below one thousand (1000) for a period of six (6) months shall stand be relegated to a chapter, upon the General Secretary informing the concerned officials and the National Executive Board.

- 15.3. Branches and the Works Committee leadership shall conduct the business of the branch in line with the general objectives and policies of the union constitution and the law.
- 15.4. The Branch Secretary and Shop steward shall convene meetings of Branch and Shop level/workplace respectively.
- 15.5. The quorum for a Branch Meeting shall be two third (2/3), eligible members of the Branch Management Committee.
- 15.6. A special Branch Management Committee Meeting may be convened by the Branch Secretary upon a request of simple majority of BMC members.
- 15.7. A Special Branch Members Meeting may be called by a majority decision of the Branch Management Committee or ten percent of fully paid-up members of the branch.
- 15.8. A Branch Deputy Secretary may convene the meeting in clause 15.7 if the Branch Secretary is the subject of the meeting or if he fails to convene the meeting.
- 15.9. If the Branch Secretary and his deputy refuses and or fails to convene the meetings as provided for in clause 15.7 and 15.8 the General Secretary shall convene such meetings, upon request by members or officials.
- 15.10. Resolution made in the meeting of the branch shall be transmitted to the office of the General Secretary, by a person duly authorized by him, within five days.
- 15.11. Issues that may constitute such a meeting can be any or all of the following: sanctioning or stopping branch industrial action,

electing of new officials upon removal of those holding the branch offices, reconciliation of members, and or officials and setting the agenda of the branch in line with the union constitution. The General Secretary is the only one who can sanction a meeting to replaced expelled branch officials.

- 15.12.** The Branch Secretary shall give a notice of not less than seven (7) days of the general branch members meeting to shop stewards and or Branch Management Committee and members informing them the date, time and place of the meeting.
- 15.13.** The Branch Management Committee (BMC) shall be responsible for the Administration of each Branch within the provisions of this constitution and laws governing trade unions and shall be under the control of the General Secretary.
- 15.14.** Branch Management Committee shall be composed of Branch Secretaries, Deputy Branch Secretaries, Branch Treasurers, Deputy Branch Treasurers, Branch Trustees, Branch Chairs, and Deputy Branch Chairs. However, where regional branches are created the General Secretary may allow incorporation of more than one Deputy Branch Secretary to ensure that every administrative unity is represented in the Branch Leadership.
- 15.15.** All Branch, and Union Representatives shall be elected by members every five years. Works committee shall be under the direct authority of the branch or chapter and shall be constituted immediately after branch election. Works committees in an independent institution shall be under the control and guidance of the General Secretary.

ARTICLE XVI:

DESIGNATION OF BRANCH OFFICIALS.

16.0. Branch Secretary:

16.1 Shall issue notices of all branch meetings and shall preside over such meetings and ensure minutes are recorded.

16.2. Shall be responsible to the General Secretary and shall transmit decision of the union as passed over to him by the General Secretary and shall be the spokesperson of the branch on all matters pertaining members. He shall be responsible for all communication from the branch, to the General Secretary and or an employer within the branch's jurisdiction.

16.3. Shall issue press statements upon authorization by the General Secretary to inform members and the public on any important decisions of the union affecting his branch and members of the public.

16.4 He shall consult the General Secretary on union matters from time to time.

16.5 Deputy Branch Secretary:

16.6. The deputy branch secretaries shall perform such duties and functions of the branch secretary, when the branch secretary is indisposed, when he ceases to hold office, when delegated by the branch secretary or branch management committee.

16.7. Branch Treasurer:

16.8. Shall be a person capable of maintaining clear records of all funds of the Branch.

16.9. Shall be responsible for the funds of the Branch and shall maintain all necessary books of accounts and records.

16.10. Branch official shall ensure that no payment is made from Branch funds under his control unless a payment voucher has been prepared and authorized in accordance with the provisions of the Labour Relations Act and the Union Financial Policy. The word official in this section shall mean a branch official responsible for receiving, spending, keeping branch funds or being a signatory to a branch account.

16.11. Shall submit the budget for the following financial year on or before 30th April of every year.

16.12. Shall render an accurate account of all monies received or paid by him to the National Treasurer by the 30th April of every year.

16.13. Deputy Branch Treasurer:

16.14 The Deputy Branch Treasurer shall perform functions of the Branch Treasurer as shall be delegated by the Branch Treasurer or any other duty as may be decided by the Branch Management Committee or branch secretary or the General Secretary.

16.15 Branch Trustees:

- (a) He shall be responsible for the assets held by the branch for use and benefit of members of the branch and shall be under the direction of the National Trustees. He shall prepare the annual report and present to the National Chief Trustee.
- (b) Elected Branch Officials shall nominate one (1) branch trustee within seven (7) days of their election, removal or death and forward to the General Secretary for appointment and onward transmission to the Registrar of Trade Unions for Registration.

16.16 Branch Chairperson:

- (a) Shall be in control of meetings or functions by giving members permission to speak or make contribution,
- (b) Shall maintain order in the meetings, and
- (c) May perform any other function as shall be delegated to him by the Branch Management Committee or Branch Secretary.

16.17. Deputy Branch Chair:

- 16.18.** He shall perform the functions of the chairperson in the absence the Branch Chairperson and in their absence members present shall appoint a chair from amongst themselves.

16.19. Chapter Organization:

16.20. The Chapter shall assume the structure and operations as those of the Branch.

16.21. Works Committee:

16.22. Shall have structure and operations as shall be determined by the Branch Management Committee, such representative called shop-stewards shall be accredited by the General Secretary. Such committees shall report to branch leadership through the Branch Secretary. Independent works committee shall report to the General Secretary, the General Secretary shall decide the composition of an independent Workers (Works) Committee.

16.23. No person shall purport to act as a Works Committee or a union representative, unless that person is fully accredited by the General Secretary.

16.24. Governance Practice:

16.25. Each Official, or Shop steward or any union representative should:

- (a) Exercise the highest degree of care, skills, and diligence in discharging their duties.
- (b) Act in the best interest of the union and her members not for any other purpose.

- (c) Act honestly at all times and should not place themselves in a situation where their personal interests' conflicts with those of the union.
- (d) Exercises independent judgement at all times.
- (e) Understands and accept the principle of collective responsibility.
- (f) Devote sufficient time to carry out their responsibilities.
- (g) Promote teamwork within the union organization and leadership.
- (h) Promote and protect the corporate image of the union at all times.
- (i) Owe the duty to the union to hold in confidence all the information available to them by virtue of their position as union officials.
- (j) Regularly update their skills and knowledge periodically.
- (k) Ensure effective communication with stakeholders.

ARTICLE XVII: ELECTIONS

- 17.1. For the purposes of quinquennial elections there shall be an Independent National Electoral Commission (INEC), which shall be composed of a chairperson and four other commissioners.
- 17.2. The National Executive Board shall appoint persons who shall serve on the INEC.

- 17.3. The chairperson of the Independent National Electoral Commission (INEC) shall possess at least an undergraduate degree preferably in law from a recognized university or a person with equivalent qualification In Employment and Labour Relations Matters, union elections, or labour officers, with versed experience, in this field.
- 17.4. The members of the Independent National Electoral Commission shall be drawn from senior members of the Public Service, the clergy, lawyers, labour officers (both retired and serving) or any other person whose reputation is beyond reproach (Including international community).
- 17.5. The INEC shall stand dissolved upon registration of elected national officials.
- 17.6. Except or as otherwise herein expressly provided, a National official (the General Secretary and his deputies; the National Treasurer and his deputy; and the National Chairperson and his deputies shall be referred to as National Officials), for the purpose of elections, which shall be done at the end of every one term of five years, by the Quinquennial Conference.
- 17.7. All aspirants shall pick application/Nomination forms from the union headquarter upon the General Secretary issuing Election Notice and shall return them within the stipulated timeframe in the notice. The INEC shall vet the applicants within the shortest time and set the time table for elections in various branches.
- 17.8. Eligible persons to contest in branch elections shall meet the requirements envisaged under Section 31 of the Labour

Relations Act, this constitution, the Constitution of Kenya Chapter Six, Industrial Charter, ILO Conventions and any other enabling provisions of the law.

- 17.9.** No individual, official or a committee member of a professional societies, associations, or serving in any administrative positions shall put himself forward as a candidate for the election as an official of the Union, unless he has resigned from the position at least six (6) months to the Quinquennial Conference Meeting or Special National Delegate Conference.
- 17.10** The union may allow any or all of her officials to vie for any position in a society or an association, where in the opinion of the National Executive Board the organization is hostile to the union.
- 17.11** A fully filled application/nomination forms to contest in an election shall be submitted to the Chairperson INEC, within Fourteen (14) days upon the issuance of a notice to convene the National Quinquennial Conference and in accordance with the provisions of this constitution and regulations or elections rules as formulated by the National Executive Board.
- 17.12.**Branch Elections shall be held at least twenty-eight (28) days before the convening of the Quinquennial Conference.
- 17.13.**An Application to contest in Branch Elections shall be submitted to the Chairperson of the INEC within fourteen (14) days upon issuance of a notice to hold branch elections. A person who wishes to contest the position of the Branch Secretary shall demonstrate active involvement in the union leadership for a period of not less

than five (5) years and shall be conversant with the Union's Constitution, Employment and Labour Relations Laws.

17.14. All members, other than the General Secretary, aspiring to contest for national offices shall be serving branch officials, for a period of not less than two terms.

17.15. A person intending to vie for the position of the General Secretary shall show prove of having actively participated in union leadership or employment and labour relations management for a period of not less than fifteen years.

17.16. All members intending to contest for a branch or institutional office shall show proof of having worked in main stream health care system for a period of not less than five years and has participated in union activities for a period of not less than five years or when the union started recruitment at his place of employment.

17.17. A person who has retired shall not be eligible to vie for any branch leadership position. Further, a branch official who retires or leaves employment in any manner shall cease to be an official of the branch. In special circumstances the General Secretary may allow retired members who leave employment for any reason to continue serving as a branch official. Such communication shall be done by the General Secretary, a upon request being made by the concerned Branch Management Committee.

17.18. A member shall not contest or hold two elective union positions in the same elections. For clarity a member who contests a branch election seat shall not be eligible to contest a national seat.

17.19. In the event of death or resignation of an official of the Union during the five-year term of office, the deputizing official shall

take over until the end of the remaining term and may fill any other vacant position in a manner they deem fit, but only from the membership. However, the organ concerned on replacement may opt to fill a such vacant in a branch through a by election, if directed by the General Secretary.

- 17.20. In an event where a National official is removed from office on disciplinary grounds, the National Executive Board shall fill the vacant position from the membership of the National Advisory Council, National Executive Board or from the General membership of the Union, the General Secretary shall present the name of the new official under those provisions to the next NAC for ratification. The official will perform duties of his office until ratification is done.
- 17.21. In the event where a branch official; or works committee representative is removed from office on disciplinary grounds, the respective administrative bodies shall fill the vacant position from its leadership or general membership. Such decision shall be forwarded to the General Secretary by the branch secretary or (chief)shop steward for appropriate action as per the law and the Union constitution, within five (5) days.
- 17.22. An Application to contest any elective post in the union shall be sent to the Union Headquarters within the prescribed timeframe. The application shall be accompanied by a fee of KSHs. 20,000.00 for Branch officials, KSHs.30,000.00 for National Officials and KSH 50,000.00 for General Secretary, which shall not be refundable. National Executive Board may reduce a branch fee for marginalized branches through the Declaration of Affirmative Degree by the NEB action.
- 17.23. A person not being a member of the union and wishes to contest for the position of the General Secretary shall obtain approval of

thirty percent of duly registered union members in at least thirty branches. This provision shall not apply to a nurse who during his gainful employment refused to join the union rank and file, such nurse shall not be eligible to vie for any position in the union.

17.24. All members vying for the union positions shall meet the requirements of this constitution and bylaws/rules established under this constitution, statutory laws governing trade unions, the Constitution of Kenya and specifically Chapter Six, Industrial Charter and ILO Conventions. Such persons shall have versed knowledge and experience in administration of trade unions or federations for a period of not less than Fifteen years for the position of the General Secretary.

17.25. No person who is on a disciplinary process of any kind including unresolved notice of motion, suspension, probation or has been expelled from the union leadership or membership shall be eligible to contest any position in the union, unless that decision has been lifted six months prior to election.

17.26. Where in a branch there are no members vying for any position or those who applied have not met the criterion set in this constitution such a branch shall be relegated to a chapter and the General secretary shall appoint union representative to lead members.

17.27. Where the administration of the Health Sector in Kenya changes to the extent that there is a centralized management of health services all branches established under this constitution shall stand dissolved automatically and the General Secretary shall convene a Special National Executive Board Meeting to develop a new administrative structure of the union at all lower levels.

- 17.28. The contemplated meeting in article 17.28. shall be convened within a period of three months, after the General Secretary informing all the branches on the automatic dissolution of their branches.
- 17.29. Prior to the Quinquennial Conference (QC) the General Secretary shall dissolve all the branches at least sixty (60) days before the date of the QC.
- 17.30. An elected official shall assume his duties upon notification of his registration by the General Secretary as provided for in the Labour Relations Act, 2007, No. 14, sections 2, 5, 35 and 56 Laws of Kenya.
- 17.31. Any member disputing any election conducted under section 34 of the Labour Relations Act, 2007, shall raise the dispute to the Chairperson, Independent National Electoral Commission through the General Secretary within seven days, detailing all the allegations and evidence to be relied on.
- 17.32. The INEC shall handle and determine the dispute as appropriate, in compliance with the rule of Natural Justice. The INEC may uphold the complaint and cancel the election or dismiss the dispute. Where the INEC cancels the election, it shall conduct a fresh election within twenty-one days.
- 17.33. Elections of the union officials shall be conducted by secret ballot.

ARTICLE XVIII:

DECISIONS OF THE UNION:

- 18.1. A decision in respect of officials, amendment of articles, strikes, dissolution and any other matter affecting members of the

Union shall be made by secret ballot or acclamation as shall be resolved in the meeting and as provided for in the existing Labour Laws of Kenya and in this constitution.

18.2. A member shall not be eligible to vote on a matter if his monthly subscription is more than Thirteen weeks in arrears.

**ARTICLE XIX:
STRIKE ACTION**

19.1. The National Advisory Council shall by a resolution advise the General Secretary to issue a Nationwide Strike Notice.

19.2. The General Secretary, upon a request in writing from a Branch or chapter or Works Committee Secretary or a shop steward and based on the resolution of the General Members Meeting, shall issue a strike notice in respect to a Branch Strike.

19.3. Workers Committee may request the General Secretary for a strike notice through the shop steward on account of the decision made by majority of members of the institution in a General Members Meeting.

19.4. Strike regulations shall be effective from the date they are signed by the General Secretary as an authorised officer of the union. Absence of the regulations shall not impede or illegalise any industrial action taken that conforms to the law.

19.5. A national wide strike incorporating other trade unions (joint) and or other organization on a common interest shall strictly be issued and managed in accordance with the law.

**ARTICLE XX:
DISCIPLINE**

20.0. A member or an official of the union may be expelled, suspended, put on probation, removed from union membership, or denied any right, by the National Executive Board (NEB) or a Peer Review Committee (PRC), appointed by the General Secretary, which shall be the initial trial bodies of the union in all disciplinary matters if:

- (a)** He fails within fourteen days of demand in writing by the General Secretary to pay subscriptions which are more than thirteen weeks in arrears.
- (b)** Has infringed any of the terms and conditions of this constitution.
- (c)** Acts in a manner which is detrimental to the interests of the Union.
- (d)** Puts to use instruments of authority of the Union e.g. Union Letter Head, Logo or name for advancement of a private interest.
- (e)** Addresses the media, electronic or print without express authority or permission from the General Secretary.
- (f)** Engages in any activity which may amount to gross misconduct.
- (g)** Colludes with employer or any other parties or persons considered as hostile to the union to frustrate and impede the operations of the union in any manner without following due process laid down in this constitution.
- (h)** Any other ground that may be classified as gross misconduct and not necessarily stated in this constitution.
- (i)** All disciplinary proceedings institute under the repealed constitution shall be construed and dealt with as if they were filed under this constitution.

20.1. Disciplinary procedure and consequences:

- 20.2.** A member or an official of the Union shall not be discussed in any meeting, unless a substantive Motion has been registered before the General Secretary and grounds for such discussion have been furnished to the said Member or Official at-least Seven days' prior.
- 20.3.** In case the Official in question is the General Secretary, such Motion shall be tabled before the Quinquennial Conference or Special National Delegate Conference and grounds for such Motion shall be furnished to the General Secretary Three Months prior to the QC or SNDC.
- 20.4.** A member or an official of the union shall not be expelled from the union membership or leadership unless he has been given an opportunity to be heard or unless he elects to allow the proceedings by written response only or refuses to respond and indicates in any form including social media that he will not attend. An expelled official or member shall not be eligible to contest for any union leadership positions unless such punishment is purged six months to the elections in-questions.
- 20.5.** An accused official or member of the union shall have the right to bring a witness in the proceedings before any organ of the union if he requests for the same in his response. No witness shall be entertained if he has not put in a witness statement. Further if a member wish to be heard in person he shall state so in his reply, if that is not done the union organ responsible for hearing the case may proceed and determine the case using the response and or witness statement where applicable.

- 20.6.** A disciplinary meeting may proceed by teleconference as circumstances may dictate. Decision made through such a meeting shall be binding to the accused person and the union. The General Secretary shall transmit the decision of the disciplinary findings as provided for in this constitution and the law.
- 20.7.** Upon expulsion of a member or an official, all monies due to the Union by such member or an official shall become payable. If payment is not made within fourteen days the union may take such steps as it considers necessary to secure a settlement.
- 20.8.** A member or an official of the union may be suspended by the General-Secretary if it is believed that his continued membership or service to the union shall adversely affect the operations and or image of the union.
- 20.9.** A suspended official shall not purport to act for the union in any capacity at all, until the determination of the issues for such suspension has been made.
- 20.10.** An official under suspension shall not be entitled to allowances and or rebates. However, a full time official shall be entitled to half salary, full medical cover, house allowance, any other approved allowance during the suspension period.
- 20.11.** The National Executive Board shall hear and determine the disciplinary case within six (6) months, but may extend the period on an exemplary case as it may decide from time to time.
- 20.12.** The NEB shall have unfettered discretion to determine whether or not to pay the half (½) withheld salary, and allowances upon

the conclusion of the case. This will be determined on a case-to-case basis, for full time union officials.

- 20.13.** No allowance shall be paid on a part time suspended official during the suspension period. It shall be the discretion of the NEB decide whether to pay or not to pay and how much to pay upon conclusion of a disciplinary case of a suspended official.
- 20.14.** Notwithstanding the provisions of this Constitution and for avoidance of any doubt, the General Secretary may only be removed from office by the Quinquennial Conference or Special National Delegate Conference.
- 20.15.** Upon the removal or resignation of a full time official in the aforementioned terms or any other manner contemplated in this Constitution or at the expiry of his term, he shall be entitled to gratuity calculated at 31% of the annual Basic Salary yearly for the period in service.
- 20.16.** The union shall make provisions for the gratuity in the budget and shall submit on monthly to a pension scheme that manages gratuity.
- 20.17.** Any member or official aggrieved by the decision of the National Executive Board or the Peer Review Committee shall make an Appeal before the National Advisory Council within fourteen days of the decision being made.
- 20.18.** The decision of NAC is final and shall not be reviewed by any other organ of the union.

- 20.19.** If a member or an official served with a Notice of Motion responds before lapsing of the time required by this constitution, such remaining time shall stand spent and the union shall take the next disciplinary step, for prompt disposal of the case.
- 20.20.** An official who moves to court to sue any official of the union or the union shall be deemed to have suspended himself from the union leadership and the General Secretary shall proceed to prepare and forward the suspension letter to the Registrar of Trade Unions, for registration of the suspension. This provision shall not apply on an official who moves the court after completion of internal disputes resolution mechanism or those who move the court under the Labour Relations Act, No. 14 of 2007, Section 30 or 34. As long as he does not seek to impede the operations of the union.
- 20.21.** If the suit is dismissed such official shall be deemed to have resigned from the union leadership. The General Secretary shall prepare form Q and present to the Registrar of Trade Unions for registration of the changes. This provision shall not apply on an official who moves the court after the completion of internal disputes resolution mechanism or those who move the court under the Labour Relations Act, No. 14 of 2007, Section 30 or 34. As long as he does not seek to impede the operations of the union.
- 20.22.** Nothing in clause 20.20 and 20.21 shall impede the union from instituting a normal disciplinary procedure and or the General Secretary invoking his powers to suspend an errant official or member.

- 20.23.** Notwithstanding any disciplinary procedure established elsewhere in this constitution all members and officials of the union shall be a subject of the provisions of this article.
- 20.24.** A Notice of Motion can be instituted by an official, a member or a group of members.

ARTICLE XXI:

CEASATION TO HOLD OFFICE

- 21.1.** An official of the union shall cease to hold office if he:
- (a) Dies.
 - (b) Resigns in writing, conduct himself in public in a manner suggesting that he has resigned or he has no interest in union leadership.
 - (c) Absents himself from three consecutive meetings/duties/assignments of the union (CBA negotiation, NEB, NAC, conciliation meetings, court attendance or any other form of union activities) without having first obtained the General Secretary's, Branch Secretary's, or Shop Steward's approval for the absence as the case may be.
 - (d) Is convicted of a criminal offense not instigated by any employer related to discharging his lawful trade Union activities.
 - (e) Is of unsound mind,
 - (f) Is undischarged bankrupt.
 - (g) Is appointed to serve in a position of administration that makes him responsible for disciplinary control over nurses.

- (h) Is found, in accordance with any law, to have misused or abused a public office in Kenya or elsewhere.
- (i) The General Secretary shall inform the concerned official within seven days of knowledge of an official who ceases to hold office. He shall at the same time forward Form Q to the Registrar of Trade unions for registration of the changes.
- (j) An official who leaves office in any of the contemplated reasons, herein, shall be replaced by his deputy and where no deputy the arm of the union responsible shall nominate one of them or a member to hold office for the remainder of the period.
- (k) However, notwithstanding the provisions in article 20.1(j) the union may appoint a member or official other than the deputy to hold a vacant office, if deemed fit. The General Secretary Shall approve such requests if requested by the branch after carrying out investigations to ascertain the unsuitability of the deputy. If he is not satisfied, he shall decline the proposal and register the deputy.

21.2.An official who ceases to hold office in the manner contemplated in this article shall not be eligible to be taken through a disciplinary process. The General Secretary shall inform the official the intention to remove him on this account. If no satisfactory response is given within seven days, the General Secretary shall forward to the Registrar of Trade unions form Q for the deregistration of the official or may refer to NEB or PRC for deliberation and decision.

21.3. Any official aggrieved by the decision to deregister him, shall present his case to the National Executive Board for review within seven days of the deregistration.

ARTICLE XXII:

MISUSE OF FUNDS OR PROPERTY OF THE UNION

22.1. A complaint from five or more members in respect to misuse of funds or property of the Union shall be heard and determined by the National Executive Board on a Notice of Motion being presented to the General Secretary as provided for under the ordinary disciplinary procedure in this constitution.

22.2. A party dissatisfied with the decision of the National Executive Board shall have a right to appeal before the National Advisory Council within fourteen (14) days.

ARTICLE XXIII:

AMENDMENTS

23.1. A member desirous of initiating amendments to this Constitution shall present a memorandum to the General Secretary for consideration by the National Executive Board.

23.2. Proposals for amendments to this Constitution shall be made by presentation of the proposed amendments to the Quinquennial Conference, by the General Secretary.

- 23.3.** An amendment shall form part of this Constitution upon approval by a unanimous vote or Two thirds (2/3) majority decision of the Quinquennial Conference or Special National Delegate Conference.
- 23.4.** The amendments shall become effective from the date they are presented to the Registrar of Trade Unions by the General Secretary in line with Article 41(4) of the Constitution of Kenya.

**ARTICLE XXIV:
DISSOLUTION**

- 24.1.** The Union shall be dissolved if all the branches constituting 75% of duly paid-up members vote through a secret ballot to dissolve it.
- 24.2.** A branch may be dissolved if 75% of fully paid-up members vote to dissolve it.
- 24.3.** Such vote shall only be valid if it is sanctioned by the General Secretary upon a request of not less than 30% of fully paid-up members of the union or a branch through a Notice of Motion, which should state the reasons for the request to dissolve the branch or the union.
- 24.4.** Such request for dissolution of the union or a branch shall automatically collapse if an equal or higher percentage of members sign a Counter Notice of Motion opposing the proposed vote for dissolution. A member who votes for and

against the dissolution of the union or branch, such a vote shall be counted as spoilt. If an official develops a motion to disband the union or a branch and fails a such official shall stand expelled from union leadership for a period of seven years.


- 24.5.** Members proposing such a vote under this Article shall meet the cost.
- 24.6.** Upon dissolution of the Union and after liabilities have been settled the surplus assets shall be given to a worker's federation, that the union was affiliated to at the time of dissolution.
- 24.7.** The General Secretary shall suspend a branch or officials who diverts and or defrauds the union of her union dues or disparage the union leadership and or her members. The suspension of a branch shall remain in force pending the hearing and the determination by the National Executive Board to dissolve the branch or expel all the officials involved. The Suspension letter shall be accompanied by a Notice of Motion stating the reasons for suspension and giving the officials not less than seven (7) days to respond to the allegation and may appear before the NEB to defend such allegations.
- 24.8.** The National Executive Board shall determine the case within six months and may extend once for three more months.
- 24.9.** Notwithstanding the provisions in this article a branch may be dissolved by the National Executive Board on account of

violation of the provisions of this constitution, the law or regulations established by the union. A notice of motion shall be served on the branch secretary and the branch may respond within a specified period of time, which shall not be less than seven (7) days.

ARTICLE XXV:

TRANSITION

- 25.1.** The holders of the offices abolished by this Constitution shall continue to draw their rebates subject to them being re-assigned other duties until the end of the term.
- 25.2.** The General Secretary might on special consideration allow an official under this section to hold two positions until the end of the transitional period.
- 25.3.** National and Branch officials who are not affected by these changes shall constitute the National Executive Board and Branch Management Committee, and they may fill any vacant positions as it deems fit.
- 25.4.** All disciplinary matters instated within the old constitution shall be construed and handled as if they were instituted under the current amended constitution.



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