



THE CONSTITUTION OF THE
ACADEMIC STAFF ASSOCIATION OF WITS UNIVERSITY,
(ASAWU)

PREAMBLE

Whereas we believe that our Universities can only flourish in a free, non racial, non discriminatory and democratic society, we shall strive to implement and practice these principles in our society, especially in the area of tertiary education, by constituting the Academic Staff Association of Wits University (ASAWU), hereinafter called the Association, with the aims, structures and functions as laid out in the constitution.

1. NAME

The name of the Association is Academic Staff Association of Wits University.

2. DEFINITIONS

Any expression used in this Constitution and which is defined in the Labour Relations Act, 1995 (Act No. 66 of 1995), shall have the same meaning as in the Act.

3. PURPOSE, POWERS AND ACTIVITIES

3.1 The purpose of the Association shall primarily be to facilitate participation of those members of staff involved in the process of teaching, learning and research at the University of Witwatersrand, Johannesburg, who subscribe to the aims listed in paragraph four (4) below, and also to facilitate joint activities with staff, staff associations and unions of all Universities who share the aims of the Association.

3.2 The Association shall act in the furtherance of the aims listed in paragraph four (4), subject to the provisions of this Constitution and resolutions thereunder.

3.3 The Association shall have perpetual succession, and shall be entitled to sue and be sued in its own name.

4. AIMS

The objects of ASAWU shall be to –

4.1 Defend and promote the interests of those it represents

4.2 Defend academic freedom and autonomy

4.3 Promote critical research and education

4.4 Examine the role of the University in a changing society in order to promote the equitable and fullest possible utilisation of the University's resources by all

4.5 Strive for the elimination of discrimination on the basis of race, gender, disability, sexual orientation, religion, marital status, culture, class, creed or national origin in our Universities and society

4.6 Enhance communication and interaction within this and other University staff associations and unions who have similar aims

4.7 Raise funds and operate banking accounts and to use any funds and assets of the Association for any or all the above purposes

4.8 Do such things as may from time to time be considered by the Association as desirable

- 4.9 Use every legitimate means to induce academic employees to become members
- 4.10 Provide legal assistance to members in connection with their employment where possible
- 4.11 Encourage the settlement of disputes between members and employer organisations by conciliation, mediation and arbitration
- 4.12 To do such things as may appear to be in the interest of the Association and its members which are not inconsistent with the objectives or any matter specifically provided for in this Constitution.

5. STATUS OF THE ASSOCIATION

ASAWU 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 and is independent from any direct or indirect influence by employer(s) and shall be an organisation not for gain.

6. MEMBERSHIP

- 6.1 ASAWU shall represent staff at the University of the Witwatersrand, Johannesburg, who are involved in the process of teaching, learning and research who are either full time or part time members of staff.
- 6.2 To retain rights of representation under this Constitution, every member of the Association shall abide by this Constitution and such by-laws as may be made under it.
- 6.3 Rights to representation under this Constitution shall be terminated if the member resigns from ASAWU by letter addressed to the secretary/ coordinator of the Executive, or fails to pay the monthly/ annual subscription.
- 6.4 The Executive committee shall consider every application for membership within two (2) weeks of receipt thereof by the secretary/ coordinator.
- 6.5 An applicant to whom admission to membership is refused shall be provided with reasons for such refusal and shall be entitled to a re- fund of the membership fee paid by him/her on application.
- 6.6 If admission to membership is refused by the Executive committee the applicant concerned shall have a right to appeal to the next General Meeting, which shall have the power to confirm or reverse the decision of the Executive committee. Such an appeal shall be in writing and shall be submitted to the secretary/coordinator at least fourteen (14) days before the General meeting. The General meeting's decision shall be final.
- 6.7 Every member shall notify the secretary/coordinator, in writing, of his/her postal address and any change thereof.

- 6.8 An employee who has resigned or been expelled from the Association may be readmitted to membership on such conditions as the Executive committee may determine.

7. DISCIPLINE

- 7.1 A member may be suspended, fined or expelled as may be determined by the Executive committee -
- 7.1.1 If he/she fails within fourteen (14) days of demand, in writing, by the secretary/coordinator to pay membership fees, fines or levies which are more than three (3) months in arrears;
- 7.1.2 If he/she infringes any of the terms of this Constitution or acts in a manner which is detrimental to the interests of the Trade union;
- 7.1.3 Provided that there shall be a right of appeal against suspension, the imposition of a fine or expulsion to the first ensuing General meeting. Notice of any such appeal shall be given to the secretary/coordinator in writing within twenty-one (21) days of the date on which the decision of the Executive committee was communicated to the person concerned.
- 7.2 No member may be suspended, fined or expelled unless he/she has been afforded an opportunity to state his/her case personally at a meeting of the Executive committee, of which he/she has received not less than twenty-one (21) days' notice in writing from the secretary/coordinator. The matter with which the member is charged shall be set out in such notice.
- 7.3 A member who has appeared before the Executive committee in accordance with sub-clause (2) shall, if he/she is dissatisfied with the decision of the committee and has lodged an appeal in the manner herein provided, have the right to restate his/her case personally to the General meeting which shall consider the matter.
- 7.4 A member shall be entitled to call witnesses in support of his/her case when attending a meeting of the Executive committee or a General meeting.
- 7.5 Any decision taken by the Executive committee in terms of this clause shall, when an appeal has been lodged, be subject to ratification or otherwise by a General meeting.
- 7.6 A member shall cease to be entitled to any of the benefits of membership, including the right to vote:
- 7.6.1 if the membership fees or other charges due by him/her to the Association are more than three (3) months in arrears;
- 7.6.2 during any period while he/she is under suspension in terms of this Constitution.

8. TERMINATION OF MEMBERSHIP

- 8.1 A member may resign by giving one (1) months' notice in writing to the secretary/coordinator.
- 8.2 A member whose membership fees are more than three (3) months in arrears shall automatically cease to be a member of the Association.

9. MEMBERSHIP FEES

- 9.1 A monthly membership fee shall be payable by each member of the Association:

- 9.1.1 80 rands for staff

- 9.1.2 50 rands for postdoctoral fellows

The annual fee for staff and postdoctoral fellows may be paid annually in advance to the secretary/coordinator.

- 9.2 All members shall pay the monthly/annual subscription to ASAWU as determined by a General meeting of ASAWU and shall be required to pay any other payment as determined by the Executive committee. No alteration of the subscription shall be made unless the Executive committee shall have given at least seven (7) days notice of such alteration.

10. **MEETINGS**

Executive Committee Meetings

- 10.1 The Executive committee shall ordinarily meet at least three (3) times in each semester to conduct the affairs of the Association and at the meetings of the Executive, not less than half shall form a quorum. All decisions shall be agreed upon by a simple majority. The President shall have an ordinary and a casting vote.
- 10.2 Members of the Executive committee shall be notified in writing of the time and place of meeting by the secretary/coordinator at least seven (7) days before the dates of such meetings: Provided that shorter notice, being not less than 24 hours, may at the discretion of the President be given in respect of Special meetings. To every notice of meetings, an agenda shall be attached. Unless otherwise provided herein all matters for consideration by the Executive committee shall be decided on motion duly seconded and voted upon a show of hands.
- 10.3 The quorum for meetings of the Executive committee shall be four (4) members. If within 30 minutes of the time fixed for any meeting a quorum is not present, the meeting shall be postponed for not less than four (4) nor more than ten (10) days and at least two (2) day's notice of such a postponed meeting shall be given to all members of the Executive. At such a postponed meeting, the members present shall form a quorum.
- 10.4 If between meetings of the Executive committee any question arises which is of extreme urgency and can be answered by a plain "yes" or "no", the President may authorise a vote of the members of the committee to be taken by post or by email.
- 10.5 No motion shall be considered unless seconded. All matters forming the subject of motions shall be voted upon by a show of hands (unless otherwise provided) and shall be decided by the votes of majority of those present.
- 10.6 An Annual General Meeting of the Association shall be held on a date fixed by the Executive committee.
- 10.7 The notices and agenda for the Annual General Meeting shall be posted by the secretary/coordinator at least fourteen (14) days before the date of the meeting.

General Meetings

- 10.8 Special General Meetings shall be called by the President on the advice of the Executive or when requested in writing by not less than ten (10) members (in good standing) of the Association. Notice of such Special General meetings shall either be posted to all members of the Association at least seven (7) days before the date of such meetings, or shall in cases of urgency, where the seven (7) days notice would defeat the purpose of calling the meeting, be given by any convenient means which have been approved by the Executive.

- 10.9 At any General Meeting of the Association, decisions other than those amending the Constitution shall be made by majority vote of those members.
- 10.10 At any General Meeting of the Association, either 25% of the members in good standing shall constitute a quorum, or 30 members in good standing, whichever is less. Failing a quorum, the meeting shall be postponed for not less than six (6) days nor more than twenty-one (21) days and notices of such postponed meetings shall be posted to all members at least seven (7) days before the date of such meetings. At such adjourned meetings, those present shall constitute a quorum. Once a quorum is present at a meeting that meeting shall be properly constituted and its proceedings shall be valid until it is adjourned, even if the quorum is not maintained.

10.11 Minutes

The secretary/coordinator of the Association or a person appointed by him/her shall keep minutes of all meetings of the Executive Committee. The secretary/coordinator of the Association or a person appointed by him/her shall keep minutes of all meetings of the Executive committee.

11. EXECUTIVE COMMITTEE

- 11.1 The management of the affairs of the Association shall be vested in an Executive committee who shall hold office for two (2) years and they shall be eligible for re-election on termination of their period of office.
- 11.2 The Executive committee shall consist of twelve (12) members elected by and from members of the Association at the Annual General Meeting.
- 11.3 Nominations for membership of the Executive Council shall be called for before or at the Annual General Meeting.
- 11.4 A member of the Executive committee shall vacate his/her seat in any one of the following circumstances:
- 11.4.1 on resignation, suspension or expulsion from membership of the Association;
- 11.4.2 on resigning as a member of the Executive committee by giving one (1) months' written notice to the secretary/coordinator;
- 11.4.3 if he/she ceases to be employed.
- 11.5 **The Executive committee within the Constitution, has power –**
- 11.5.1 to recommend the Association's participation in the establishment of a bargaining or statutory council and, subject to the constitution of any bargaining or statutory council, to determine the Association's representation thereon;

- 11.5.2 to engage and dismiss, except where otherwise provided in this Constitution, any employees of the Association, including the secretary/coordinator, to fix their remuneration and to define their duties;
- 12.5.3 to appoint, from time to time, such committees as it may deem fit for the purpose of investigating and reporting on any matter;
- 12.5.4 to institute legal proceedings on behalf of or to defend proceedings against the Association if possible;
- 12.5.5 to acquire, either by purchase, lease or otherwise, any movable or immovable property on behalf of the Association, and sell, let, mortgage, or otherwise deal with or dispose of any movable or immovable property belonging to the Association;
- 11.5.6 to institute legal proceedings on behalf of or to provide legal assistance to members on matters affecting their employment and to institute legal proceedings against individual members;
- 11.5.7 to open and operate a Banking account in the name of the Trade Union;
- 11.5.8 to decide all matters of procedure on which this Constitution is silent;
- 11.5.9 to do such other lawful things as, in the opinion of the Executive committee, appear to be in the interests of the Association or its members.

12. OFFICE BEARERS, OFFICIALS AND ASSOCIATIONS REPRESENTATIVES

The duties of the office-bearers, officials and Trade union representatives shall be:

- 12.1 Office-Bearers
- 12.2 President: The President shall preside at all meetings at which he/she is present, enforce observance of the Constitution of the Association, sign minutes of the meetings and confirmation, endorse all accounts for payment after approval by the Executive committee, sign all cheques on the banking account of the Association, generally exercise supervision over the affairs of the Association and perform such other duties as by usage and custom pertaining to the office.
- 12.3 Vice President: The Vice President shall exercise the powers and perform the duties of the President in the absence of the latter.
- 12.4 Acting President: In the event of both the President and the Vice President being unable, either temporarily or permanently, to perform their duties, the Executive committee shall appoint a member of the Association to act as President, who shall hold office until the President or Vice president is able to assume his/her duties or in the event of the President and Vice President being permanently unable to perform their duties, until a new President or Vice Chairperson has been elected.

12.5 Secretary/Coordinator:

12.5.1 The Secretary/Coordinator shall receive requisitions for meetings of the Executive committee, issue notices of meetings, conduct all correspondence of the Association, keep originals of all letters received and copies of those dispatched, and at each meeting of the Executive committee lay on the table correspondence which has taken place since the previous meeting, attend all Executive committee meetings and record minutes of the proceedings, issue official receipts for all moneys received; submit reports in regard to the financial position of the Association to the Executive committee not less than once every three (3) months, and perform such other duties as are imposed by the Constitution or as the Executive committee may direct. He/she shall attend all meetings of the Executive council but shall have no voting power at such meetings.

12.5.2 In addition to the duties laid down in the paragraph above the secretary shall perform the duties imposed on him/her by Sections 98, 99 and 100 of the Labour Relations Act, 1995 relating to the keeping of the records and the furnishing of information to the Registrar.

12.5.3 The secretary/coordinator may resign on giving one (1) months' notice in writing to the Executive committee and his/her services may be terminated on a similar period of notice being given to him/her by the committee. The contract of service of the secretary/coordinator shall be in writing.

12.6 Organisers: The Executive committee may appoint an organiser or organisers. The main duties of the organisers(s) will be to enrol members, to investigate complaints from members regarding their employment as such, to represent the Association and to perform such other duties as the Executive committee may direct.

12.8 Treasurer:

The treasurer shall:

12.8.1 Administer the funds of the Association in accordance with the direction of the Executive committee.

12.8.2 Keep all account of the Association and shall sign cheques on behalf of the Association. Two (2) signatories are required to withdraw monies from the Association accounts.

12.8.3 Be responsible for distributing all monies as instructed by the Executive committee.

12.8.4 Prepare and present an audited statement and balance sheet at the Annual General Meeting.

13. REMOVAL OF OFFICE BEARERS, OFFICIALS AND ASSOCIATION REPRESENTATIVES

- 13.1 An office bearer, official or Association representative may be removed from office:
- 13.1.1 if he/she infringes any of the provisions of this Constitution; and
 - 13.1.2 if he/she acts in a manner which is detrimental to the interests of the Association.
- 13.2 No office bearer, official of Association representative may be removed from office unless he/she has been afforded the opportunity to state his/her case personally at –
- 13.2.1 the Association committee in the case where an Association representative is concerned;
 - 13.2.2 a meeting of the Executive committee where an Executive committee office bearer/official is concerned.
- 13.3 An office bearer, official or Association representative who has appeared before the applicable body and who is dissatisfied with the decision of the body concerned shall have the right to appeal as follows:
- 13.3.1 in the case of an Association representative, to the General Meeting. Notice of appeal shall be given to the secretary, in writing, within fourteen (14) days of the date on which the decision of the Association representative committee was communicated to the person concerned. The General Meeting may reverse the decision of the Association representative committee and the decision of the General Meeting shall be final.

14. BALLOTS

- 14.1 In addition to those cases in respect of which the taking of a ballot of members of the Association is compulsory in terms of this Constitution, a ballot on any question shall be taken if the Executive committee so decides
- 14.2 Ballots shall be conducted in the following manner:
- 14.2.1 notice of a ballot shall be given to each member in writing by the secretary/coordinator, at least three (3) days before the ballot is to be taken. A ballot may be taken without notice at any General Meeting on the decision of a majority of the members present.
 - 14.2.2 two (2) scrutineers shall be appointed by the Executive committee to supervise any ballot and to ascertain the result thereof.
 - 14.2.3 except in the case of postal ballots, ballots by email and ballots taken at General Meetings on the decision of a majority of the members present, ballots shall be conducted at the offices of the Association or at such other places as may be specified in the notice referred to in

paragraph one (1) of this the sub-clause on the date and during the hours specified in the said notice.

- 14.2.4 ballot papers shall be supplied to the secretary/coordinator. 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.
- 14.2.5 ballot boxes shall be inspected by the scrutineers and sealed by the secretary/coordinator in their presence prior to the issuing of ballot papers.
- 14.2.6 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.
- 14.2.7 each voter shall, in the presence of the scrutineers, be issued with one (1) ballot paper, which he/she shall thereupon complete, fold and deposit in a ballot box provided for the purpose.
- 14.2.8 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.
- 14.2.9 on completion of a ballot or as soon as possible thereafter, the result thereof shall be ascertained by scrutineers appointed for such in the presence of the secretary/coordinator and made known to the Executive committee, which shall as soon as possible advise the members.
- 14.2.10 ballot papers, including the spoilt papers, shall be placed in a container, which shall be sealed after they have been counted and retained by the secretary/coordinator for not less than three (3) years.
- 14.2.11 the Executive committee may decide that a postal ballot or ballot by email of members shall be taken, in which event the ballot shall be conducted in the following manner:
 - a) for a postal ballot: the secretary/coordinator shall send by post to each member of the Association 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 secretary/ coordinator within ten (10) days from the date of dispatch from head office to such member. On receipt of such envelopes, the secretary/coordinator shall immediately place envelopes in a sealed ballot box.

- b) for a ballot by email: the issue on which a vote is taken will be sent by email to each member. The vote of the member will be delivered by return of email to reach the secretary/coordinator before the closing date for the vote. This shall not be less than five (5) days from date of transmission of the email to such member.

14.2.12 two scrutineers shall be appointed by the Executive committee to ascertain the result of the ballot. Either the email votes will be counted or the ballot shall be opened and the ballot papers counted by the scrutineers in the presence of the secretary/ coordinator, who shall immediately advise the Executive committee of the result of the ballot.

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

14.4 The Executive committee shall be bound to take action according to the decision of a majority of members voting in a ballot.

14.5 The Association shall, before calling a strike, conduct a ballot of those of its members in respect of whom it intends to call the strike.

14.6 Notwithstanding anything to the contrary in this Constitution, members of the Association shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike if –

14.6.1 no ballot was held about the strike; or

14.6.2 a ballot was held but a majority of the members who voted did not vote in favour of the strike.

15. FINANCE

15.1 The funds of the Association shall be applied to the payment of expenses, to the acquisition of property, and for such other lawful purposes as may be decided upon by the Executive committee or by members voting by ballot for the attainment of the said objects.

15.2 The funds received by the secretary/coordinator on behalf of the Association shall be deposited to its credit within seven (7) days of receipt, at a bank decided upon by the Executive committee.

15.3 Payments shall require the prior approval of the Executive committee and shall be made by cheque signed by the President and the secretary/ coordinator. In the absence of the President or the secretary/coordinator, cheques shall in his/her stead be signed by a member of the Executive committee appointed by it for that purpose.

15.4 General

15.4.1 the Treasurer shall be responsible to the Executive committee and shall administer the funds of the Association in accordance with the

direction of the Executive. All documents authorising withdrawal of funds from any accounts held by the Association or any expenditure by the Executive, shall be signed jointly by any two (2) office bearers. The President and the Treasurer shall prepare annually an audited financial statement and balance sheet. Such accounts, when audited, shall be open to inspection by any member of the Association.

15.4.2 in accordance with the provisions of Section 98(1)(b) of the Labour Relations Act, 1995 the secretary/ coordinator shall prepare a statement of income and expenditure and a balance sheet in respect of each financial year ending on the month of December. Such statements and balance sheets shall be audited and dealt with as required by Section 98(2) of the Act.

15.4.3 the Executive committee shall have the power to invest surplus Association moneys in such a manner that the Association stands to benefit from the investment.

16. REPRESENTATION ON BARGAINING AND STATUTORY COUNCILS

16.1 The Executive committee may at any time recommend that the Association shall become a party to a bargaining or statutory council established in terms of the Labour Relations Act, 1995.

16.2 Representatives and/or alternates shall be appointed by the Executive committee.

16.3 Representatives or their alternates on a bargaining or statutory council may be removed by the Executive committee and may resign on giving one (1) month's notice to the Executive committee or such notice as may be prescribed in the Constitution of the committee concerned.

16.4 In the event of the resignation or death of a representative or an alternate or his/her removal by the Executive committee meeting, the Executive committee shall fill the vacancy.

17. CHANGING OF CONSTITUTION

17.1 Any of the provisions of this Constitution may be repealed, changed or added to in any manner by resolution of the Executive committee of the Association, provided that at least fourteen (14) days notice of any proposed change(s) shall first have been given to the members.

17.2 No changes or additions shall have any force or effect until certified in terms of Section 101 (3) of the Labour Law Act, 1995.

18. WINDING UP

18.1 The Association shall be wound up if at a ballot conducted in the manner prescribed in the Constitution not less than three fourths (3/4) of the total number of the members of the Association vote in favour of a resolution that

the organisation is wound up.

- 18.2 If a resolution for the winding up of the Association has been passed or if for any reason the Association is unable to continue to function the following provisions shall apply:
- 18.2.1 the last appointed President of the Association, or if he/she is not available, the available members of the last appointed Executive committee of the Association, 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 Trade Union'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 Labour Relations Act, 1995.
- 18.2.2 the liquidator appointed by the Labour Court shall call upon the last appointed office bearers of the Trade Union to deliver to him/her the Associations books of accounts showing the assets and liabilities together with the register of the members showing, for the twelve (12) months prior to the date on which the resolution for winding up was passed or to the date as from which the Association 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.
- 18.2.3 the liquidator shall also call upon the said office bearers to hand over to him/her all unexpended funds of the Association and to deliver to him/her the Associations assets and documents necessary to liquidate the assets.
- 18.2.4 the liquidator shall take the necessary steps to liquidate the debts of the Trade Union from its unexpended funds and any other moneys realised from any assets of the Trade Union, and if the said funds and moneys are insufficient to pay all the 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 expenses of winding up shall rank in order as that of and insolvent estate and as though the expenses were the costs of sequestration of an insolvent estate.
- 18.2.5 after payment of all debts in accordance with paragraph (c), the remaining funds, if any, shall be distributed among the remaining members of the Association on the basis of membership fees actually paid during the twelve (12) months prior to the date of dissolution.
- 18.2.6 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 Commissioner for Conciliation, Mediation and Arbitration (CCMA) (in accordance with Section 103 (5) of the Labour Relations Act, 1995).

18.2.7 the liability of members shall for the purpose of this clause be limited to the amount of membership fees due by them to the Association in terms of this Constitution as at the date of dissolution.

Approved by
The Registrar for Labour Relations