

SOUTH AFRICAN MEDICAL ASSOCIATION TRADE UNION



ORGANISATIONAL ADMINISTRATION POLICY

Table Of Content	Page
Preamble	2
1. Introduction	3
2. Purpose	3
3. Background	3
4. Constitutional Empowerment	4
5. Applicability	5
6. Accountability	5
7. Dissolution of the task team	6

PREAMBLE

The South African Medical Association Trade Union (SAMATU) is a voluntary, independent and non-discriminatory employed Medical practitioners' organization.

It is dynamic, proactive, transparent and believes in democracy, excellence and professionalism. It is non-racial and non-sexist, humility, collectivism, solidarity and unity are its core values.

SAMATU was placed under administration in 2019 by the registrar of labour relations in terms of section 103A of the Labour Relations Act no. 66 of 1995.

This first democratically elected leadership of SAMATU is currently serving its first term of office. Due to the dynamic nature of doctor's careers, various vacancies occur within the leadership structures of SAMATU which necessitate that a solution be sought to adequately address this.

The National Office Bearers were mandated to consult the Registrar and seek a solution to address this risk to SAMATU. This policy is born from the collaborative work from the office of the Registrar of Labour relations, for which we are indebted.

1. INTRODUCTION

- 1.1. SAMATU is a democratic organisation that upholds the principles of democracy in its governance structures.
- 1.2. To ensure optimal functioning, SAMATU maintains proper functional units, such as office bearers, at the branch, provincial, and national levels.
- 1.3. SAMATU has a responsibility to lead the voice that advocates the rights of healthcare practitioners while inspiring and empowering them to tirelessly deliver impeccable health services to the nation.
- 1.4. SAMATU aims to recruit eligible members, regulate member-employer relations, and protect members' rights and interests.
- 1.5. SAMATU negotiates the most favourable conditions of service, remuneration and benefits for its members, continuously striving to enhance their working conditions.

2. Purpose of this policy

The purpose of this policy is to:

- 2.1 Maintain proper organisational functioning and member servicing;
- 2.2 To prevent and mitigate against any threat from action, omission or conduct by any structure of SAMATU that may lead to SAMATU being deregistered or placed under administration in terms of section 103A of the Labour Relations Act, 66 of 1995.

3. Background

- 3.1. Section 103A of the labour Relations Act 66 of 1995 grants the Labour Court the powers to appoint an administrator to administer a trade union on such conditions as the court may determine if the-
 - (a) Court is satisfied that it is just and equitable to do so; and
 - (b) trade union or employers' organisation has resolved that an administrator be appointed and has applied to the court for an order to give effect to that resolution; or
 - (c) registrar has applied to the court to appoint an administrator.

The above section of the act would take effect if-

- (a) the trade union or employers' organisation fails materially to perform its functions; or
- (b) there is a serious mismanagement of the finances of the trade union or employers' organisation.

3.3 Trade unions are therefore required to comply with the provisions of the Labour Relations Act, trade union constitution and relevant agreements of Bargaining councils. Failure to comply may invoke the relevant provisions of the labour Relations Act.

3.3 Enforcement of Constitutional Compliance

3.3.1 The Labour Court in the matter of **Ntlokose v National Union of Metal Workers of South Africa (NUMSA) and Others**, Moshwana J confirmed that “any act performed outside the four corners of a trade union’s constitution is invalid and unenforceable in law”.

3.3.2 SAMATU’s constitution requires that a province must have functional structures which include branches. The below constitutional provisions refer:

9.3 Provincial Executive Committee (PEC)

The PEC shall be an executive authority in the Province responsible for its overall administration.

9.3.1 Composition

9.3.1.1 The PEC shall comprise the Provincial Office Bearers, Chairpersons and Secretaries of each Branch plus a representative from each of the interest groups of the organisation.

3.3.3 Since the Union conducted various provincial congresses, some leaders (including Provincial Office Bearers) have vacated their positions in order to pursue career growth in other provinces. The constitution does not make provision on how those vacancies are to be filled or what measures should be in place to maintain proper administration of the organisation where vacancies exist.

3.3.4 This policy aims to establish guiding rules for the National Executive Committee (NEC) to take control of defunct structures and establish interim structures with accountability.

4. Constitutional Empowerment

4.1 Empowered by section 15 of SAMATU constitution which provides that any matter not provided for in the Constitution shall be dealt with by the NEC and in the event of any doubt or dispute as the meaning or interpretation of any phrase, rule, term or expression used in the Constitution, the resolution of the National Congress, the interpretation thereof shall be made by the NEC and its decision shall be final.

4.2 The NEC has the responsibility of ensuring democratic and effective functioning of SAMATU's structures in line with section 10.2 of the constitution which outlines that the management of the affairs of the Organisation shall vest in the NEC.

4.3 In this regard, the NEC is empowered:

- a) To organise, establish and service branches in the Province and supervise the work of the Province;
- b) To suspend/dissolve committees as needed, and appoint interim structures.

5. Applicability

5.1 The NEC must intervene and place any structure under administration and appoint a task team which shall be composed of 5 members, namely (a convenor, organiser, and 3 ordinary members) if the structure commits any of the following constitutional transgressions:

5.1.1 If the structure loses its ability to form quorum due to vacancies.

5.1.2. If the structure repeatedly fails (in at least two separate occasions) to convene prescribed meetings and/or fails to provide reports as proof of meetings.

5.1.3. If the structure fails to account for organisational funds and/or fails to provide adequate financial reports where such reports are required.

5.2 The NEC at its own discretion may consider any other matter not otherwise specified in clauses 5.1.1 - 5.1.3 above in deciding whether to place any structure under administration.

6. Accountability

6.1 Where a task team is established, the task team shall report directly to the NEC through the Office of the General Secretary.

6.2 The National Office Bearers shall maintain oversight of all task teams in between NEC meetings.

6.3 The Convenor of a task team shall have the authority of a chairperson; in the instance of a provincial task team, shall also be a member of the NEC with voting rights.

7. Dissolution of the Task Team

7.1. The NEC may vary or amend any prior resolution placing a structure under administration.

7.2. The NEC, if it is satisfied that the task is no longer required, shall terminate the appointment of the task team.

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