



MHSC

**GUIDELINE FOR THE  
CONSTITUTION OF AN  
OCCUPATIONAL HEALTH  
AND SAFETY REGIONAL  
TRI-PARTITE FORUM**

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# PART A – INTERPRETATION, ESTABLISHMENT, PURPOSE AND FUNCTIONS OF THE FORUM

## 1. INTERPRETATION AND DEFINITIONS

In this Constitution (“the Constitution”)

- 1.1. A reference to a section by number refers to the corresponding section of the Mine Health and Safety Act 29 of 1996, as amended from time to time. ( the “**Act**”);
- 1.2. Words that are defined in the Act bear the same meaning in this Constitution as in the Act;
- 1.3. An expression that denotes:
  - 1.3.1. a natural Person, includes an artificial or juristic person and vice versa;
  - 1.3.2. the singular, includes the plural and vice versa;
- 1.4. The schedules to this Constitution, if any, form an integral part hereof and words and expressions defined in this Constitution should bear, unless the context otherwise requires, the same meaning in such schedules;
- 1.5. When, in this Constitution, a particular number of “**business days**” is provided for between the happening of one event and another, the number of days should be calculated by:
  - 1.5.1. excluding the day on which the first such event occurs;
  - 1.5.2. including the day on or by which the second event is to occur; and
  - 1.5.3. excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 1.5.1 and 1.5.2, respectively;
- 1.6. Any capitalised word or expression that is not otherwise defined in this Constitution is recommended to be construed in accordance with the Act.

- 1.7. Any reference to a notice should be construed as a reference to a written notice, and should include a notice which is transmitted electronically in a manner and form permitted in terms of the Electronic Communication Transaction Act 25 of 2002.
- 1.8. The following expressions or terms should bear the meanings assigned to them and cognate expressions should bear the corresponding meanings:
- 1.8.1. “**Council**” – should mean the Mine Health and Safety Council as established by the Act.
  - 1.8.2. “**Department**” – should mean the Department of Mineral Resources.
  - 1.8.3. “**Employer**” – should mean an Owner of a Mine as defined in section 102 of the Act.
  - 1.8.4. “**Employee**” – should mean a person who performs any duty or responsibility at a Mine whether in the employment of the Employer or not.
  - 1.8.5. “**Forum**” – should mean the Occupational Health and Safety Tripartite Forum which is established and governed by this Constitution.
  - 1.8.6. “**Health and Safety Representative**” – should mean an Employee elected and appointed in terms of Section 29 of the Act.
  - 1.8.7. “**Health and Safety Committee**” – should mean a committee established in terms of Section 34 of the Act.
  - 1.8.8. “**Inspectorate**” – should mean the inspectorate as established by Chapter 5 of the Act.
  - 1.8.9. “**Manager**” – should mean a person appointed in terms of section 3(1)(a) of the Act.
  - 1.8.10. “**Mine**” – should have the meaning as assigned to it in the definition as set out in Section 102 of the Act.
  - 1.8.11. “**Mining Area**” – should have the meaning as assigned to it in the definition as set out in Section 102 of the Act.

- 1.8.12. “**Person**” – should include any natural or juristic person, association, business, close corporation, company, concern, enterprise, firm, partnership, joint venture, trust, undertaking, voluntary association, body corporate, and any similar entity;
- 1.8.13. “**Principal Inspector**” – should mean the person appointed by the Chief Inspector of Mines to be in charge of health and safety in the Region as per Chapter 5 of the Act
- 1.8.14. “**Region**” – should mean the region of *[insert region]* as determined by Section 47(2) of the Act.
- 1.8.15. “**Registered Employers Organisation**” – should mean an organisation as per the Labour Relations Act 66 of 1995 that is entitled to represent an Employer.
- 1.8.16. “**Steercom**” – should mean the steering committee of the Forum, as established by this Constitution in Part C.
- 1.8.17. “**Trade Union**” or “**Organised Labour**” – should mean a registered trade union, as per the Labour Relations Act 66 of 1995, or two or more registered trade unions acting jointly, that have as members the majority of the Employees at a Mine.
- 1.8.18. “**Tripartite Stakeholders**” – means representatives of DMR, Employers and Organised Labour in the region

## 2. ESTABLISHMENT

- 2.1. The Occupational Health and Safety Regional Tripartite Forum is established as a co-operative forum between the signatories of this Constitution and the Council to further promote mine safety and health in the region.

2.2. No function of the Council may be delegated, by the Council to this Forum.

### **3. LEGAL STATUS**

3.1. The Forum has no legal status.

### **4. SCOPE OF APPLICATION.**

4.1. This Constitution should apply to the Region.

### **5. PURPOSE AND OBJECTIVES OF THE FORUM.**

5.1. The main purpose of the Forum is to promote co-operation and consultation on health and safety between the Inspectorate, Employers, Employees and the Council. Without diverting from the generality of the aforementioned statement, the Forum should also have the objectives:

5.1.1. To recommend action plans that are focused on the improvement of health and safety in the Region;

5.1.2. To continuously monitor improvements with regards to health and safety in the region;

5.1.3. To inculcate integrity, transparency and trust which will create an environment that is conducive to supporting the improvement of health and safety in the region;

5.1.4. To share information from the Council with Members and to make recommendations to the Council from Members in the Forum;

5.1.5. To enable Members to collectively advise the Council on any matter or issue relating to health and safety; and

5.1.6. To facilitate implementation of MHSC approved Action Plan.

## **PART B – THE FORUM.**

### **6. MEMBERSHIP**

- 6.1. The membership of the Forum is made of representatives of DMR, employers and employees in the region. The members of the Council may also attend Forum meetings
- 6.2. The Steercom could extend an invitation to any interested or affected party to attend a Forum meeting.

### **7. APPOINTMENT OF THE FORUM CHAIRPERSON**

- 7.1. The stakeholders at a Forum meeting nominate and elect a chairperson.
- 7.2. The Chairperson of the Forum should be a person elected from the Members of the Forum and should comprise of the following people elected and nominated by the Forum amongst the representatives of the Members:
  - 7.2.1. The Forum should have the 2 (two) deputy chairpersons elected from one of each of the other tripartite stakeholders.
- 7.3. The chairperson of the Forum should be any elected member from any tripartite stakeholder over a 24 (twenty four) month period and should serve equally (on rotational basis) in order to embrace the principle of tripartism.

### **8. FORUM MEETINGS**

- 8.1. A Forum meeting should at least take place once every 3 (three) months in a 12 (twelve) month period.



- 8.2. The Chairperson may at any time call a Forum general meeting by giving 30 (thirty) days' notice to the Members. The Forum should endeavour to schedule the Forum meetings in advance for a period of 12 (twelve) months.
- 8.3. In addition to other meetings of the Forum that may be convened from time to time, the Forum should convene an annual general meeting of its Members once in each calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting.
- 8.4. Subject to any other provision in this Constitution, the following should apply in respect of any annual general meeting:
  - 8.4.1. The meeting could consider any amendment or addition to the Constitution
  - 8.4.2. The meeting should select a Steercom.
- 8.5. Each general meeting of the Forum should provide for at least the matters listed below in the standard agenda :
  - 8.5.1. Health and Safety performance in the Region.
  - 8.5.2. Employer initiatives;
    - 8.5.2.1. Feedback on recent achievements and successes of initiatives;
    - 8.5.2.2. Discussion on accidents or incidents so as to share on learning lessons.
    - 8.5.2.3. Raise concerns on areas of health and safety for discussion.
  - 8.5.3. Employee perspectives on health and safety in the Region;
    - 8.5.3.1. Provide feedback on challenges that are being encountered.
    - 8.5.3.2. Provide feedback on recent achievements and successes.
    - 8.5.3.3. Raise concerns on areas for discussion;
  - 8.5.4. Council feedback on research and other initiatives;
  - 8.5.5. Identified issues in the Region relating to health and safety;

External parties may be provided with the opportunity to make presentations on their role in striving to attain a Zero Harm environment.

## **9. LOCATION OF AND NOTICES OF MEETINGS**

- 9.1. The Steercom may determine the location of any meeting,
- 9.2. All meetings should be called on not less than 30 (thirty) days' notice unless the Steercom determines that the matter is urgent and so resolves and communicates that it has so resolved in the notice calling the meeting.
- 9.3. The final agenda and other documentation for a Forum meeting should be delivered at least 7(seven) days prior to the date of the meeting, to the Members and to the Council.

## **10. QUORUM AND ADJOURNMENT**

- 10.1. The Forum should inform the Council of poor attendance by any stakeholder.

## **11. CHAIRPERSON AND CONDUCT OF MEETINGS**

The Chairperson of the Steercom should preferably preside as chairperson at every Forum meeting.

- 11.1. If there is no such Chairperson or Deputy Chairperson, or if at any meeting he is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson,

11.2. In the absence of the Chairperson, one of the two deputy Chairpersons must preside as the Chairperson in the meeting. The two deputy Chairpersons will be members of tripartite stakeholders.

11.3. The Chairperson should:

11.3.1. Provide overall leadership to the Forum without limiting the principle of collective responsibility of participants;

11.3.2. Control the discussion and ensure that all parties state their view in a to-the-point manner;

11.3.3. Actively listen to the debate and hold his/ her statement until the end and then sum up the resolution and decisions for the Forum;

11.3.4. Ensure the meeting is kept within the allocated time frame;

11.3.5. Ensure that good relations are maintained within the Region;

11.3.6. Building and maintaining any stakeholders trust and confidence in the Forum;

11.3.7. Ensure that conflict of interests are managed;

11.4. All and any discussions during a Forum meeting should be:

11.4.1. Rational, non-emotional and dignified at all times;

11.4.2. Aimed at creating a wider and deeper understanding of the matter so that attendees can actively and meaningfully participate in the discussion.

11.5. The Chairperson should ensure that accurate minutes are taken during any Forum meetings. These minutes should be an accurate reflection of the events and discussions during the Forum meeting.

11.5.1. The Chairperson should circulate the minutes of a Forum meeting within 7 (seven) days of such a meeting to all the Members of the Forum to be adopted at the next meeting.

11.5.2. At the next Forum meeting, the minutes of the previous Forum meeting should be adopted or amended to be a true reflection of the events and discussions of that particular meeting.

## **12. TIME OFF TO ATTEND FORUM MEETING**

12.1. Stakeholders should grant its representatives paid time off to attend any Forum meeting.

12.2. Stakeholders should allow its representatives paid time off to reasonably perform any duty or function placed on that Person by the Forum or the Steercom.

## **13. COMMITTEES AND DELEGATION**

13.1. Nothing in this Constitution restricts or limits the power of the Forum to appoint any number of committees or to delegate to any such committee any duty placed on it.

## **14. INTERACTION WITH COUNCIL**

14.1. It is imperative that there is regular and continuous interaction between the Council and the Forum to ensure that the health and safety issues identified by the Region reach the Council for action and likewise that the Council initiatives are communicated to the Region.

14.2. The Council will convene a meeting with the Forum Chairperson at least twice in a 12 (twelve) month period to discuss the functioning of the Forum and areas of concern intended to improve the Forum's performance in the Region.

## **PART C –THE STEERCOM**

### **15. APPOINTMENT OF THE STEERING COMMITTEE**

- 15.1. The stakeholders at a Forum meeting should elect a steering committee (“Steercom”).
- 15.2. The Steercom should comprise a minimum of 6 (six) Members in total with equal representation from Employers and Organised Labour from Tripartite Stakeholders as per section 7.2 and 7.3.
- 15.3. The chairperson of the Steercom should be chairperson of the Forum as per section 7.2 and 7.3
- 15.4. A member of the Steercom should serve for a period of 24 (twenty four) months or alternatively until such time as membership is terminated.
- 15.5. Should any vacancy arise in the Steercom then such a vacancy should remain until such a time that the Forum elects a new member.

### **16. STEERCOM MEETINGS AND FUNCTIONS**

- 16.1. The Steercom should :
  - 16.1.1. Be responsible for the effective and efficient functioning of the Forum;
  - 16.1.2. Assist the Forum to align itself with the objectives of the Council and ensure that a communication channel exists between the Forum and the Council at all times;
  - 16.1.3. Be responsible for the execution of any task given to them by the Forum;
  - 16.1.4. Ensure that the Forum functions ethically and is transparent in its activities;

- 16.1.5. Encourage co-operation between stakeholders in the Forum to promote health and safety in the Region.
- 16.2. Subject to any other provision in this Constitution, the following should apply in respect of any Steercom meeting:
  - 16.2.1. A Steercom meeting should take place at least once every 3 (three) months.
  - 16.2.2. The Chairperson should deliver notices of the Steercom meetings to each representative of a Member on the Steercom at least 30 (thirty) days in advance of the meeting date;
- 16.3. Each meeting of the Steercom should make provision for the consideration of the following matters:
  - 16.3.1. Discussion of matters flowing from the Forum;
  - 16.3.2. Projects or sub-committee feedback;
  - 16.3.3. Feedback from the Council;
  - 16.3.4. Recommendations to the Council;

## **17. LOCATION OF AND NOTICES OF MEETINGS**

- 17.1. The Chairperson may determine the location of any meeting.
- 17.2. All meetings should be called on not less than 30 (thirty) days' notice unless the Chairperson determines that the matter is urgent and so resolves and communicates that it has so resolved in the notice calling the meeting.
- 17.3. The final agenda and other documentation for a Steercom meeting may be delivered at least 7 (seven) days prior to the date of the meeting, to the members of the Steercom.

## **18. QUORUM AND ADJOURNMENT**

- 18.1. A Steercom meeting may only take place while a quorum is present.
- 18.2. The quorum for a Steercom meeting to begin or for a matter to be considered should be at least one representative from each stakeholder.

## **19. CHAIRPERSON AND CONDUCT OF MEETINGS**

- 19.1. The Chairperson should preside as chairperson at every Steercom meeting.
- 19.2. If there is no such Chairperson or a deputy Chairperson, the members present can choose one of their members to be the chairperson.
- 19.3. The Chairperson should decide if the topic and the discussion are related or relevant to any topic or matter on the confirmed agenda. The Chairperson should prescribe to the same principles set out in clause 11.3
- 19.4. All and any discussions during a Steercom meeting should be:
  - 19.4.1. Rational, non-emotional and dignified at all times;
  - 19.4.2. Aimed at creating a wider and deeper understanding of the matter so that the members can actively and meaningfully participate in the discussion.
- 19.5. The Chairperson should ensure that accurate minutes are taken during any Steercom meetings. These minutes should be an accurate reflection of the events and discussions during the meeting.
- 19.6. The Chairperson may circulate the minutes of a Steercom meeting within 7 (seven) days of such a meeting to all the members of the Steercom to be adopted at the next meeting.

19.7. At the next Steercom meeting, the minutes of the previous Steercom meeting should be adopted or amended to be a true reflection of the events and discussions of that particular meeting.

## **20. RESOLUTIONS AND VOTING**

20.1. Every resolution at a Steercom meeting is an ordinary resolution.

20.2. For an ordinary resolution to be approved by Steercom, it may be supported by more than 50% (fifty percent) of the voting of the members on the Steercom.

20.3. At a Steercom meeting every member present and entitled to exercise voting rights should be entitled to 1 (one) vote on a show of hands.

20.4. All resolutions of the Steercom need to be ratified by the Forum.

20.5. All Steercom Members must be mandated by their respective constituencies.

## **21. TIME OFF TO ATTEND STEERCOM MEETING**

21.1. Stakeholders should grant members of the Steercom, time off to attend any Steercom meeting.

21.2. Stakeholders should allow its representatives, who are members of the Steercom, paid time off to reasonably perform any duty or function placed on that person by the Forum or the Steercom.



## **22. COMMITTEES AND DELEGATION**

22.1. Nothing in this Constitution should restrict or limit the power of the Steercom to appoint any number of committees or to delegate to any such committee any duty placed on it by the Forum or this Constitution.

## **PART D – GENERAL PROVISIONS**

### **23. ASSISTANCE**

- 23.1. The Forum through the Steercom may request the Council in writing for the assistance to achieve any objective of the Forum, contained in this Constitution.
- 23.2. The Council may approve the request and any costs relating to such assistance, at its sole discretion, however in writing.

### **24. FINANCIAL MATTERS OF THE STEERCOM**

- 24.1. All costs incurred by stakeholders to participate in the Forum or the Steercom should be for the account of that stakeholder, unless otherwise approved by Council
- 24.2. All costs as requested by the Steercom of the Forum and approved by the Council should be carried by the Council.
- 24.3. The Council should not contribute to any costs relating to travelling and accommodation of stakeholders.