

CHAPTER 4 COMPOSITION OF THETA

Constituency of THETA

1. The constituency of THETA shall be determined as follows:
 - 1.1 THETA shall compile and shall maintain from time to time a schedule of employee and employer organisations whose members carry on their business activities or are employed, as the case may be, in the sector, together with national, provincial and local government departments relevant to the sector.
 - 1.2 As at the date of establishment of THETA, the employee and employer organisations and relevant government departments in the sector are set out in Schedule 1 to this constitution.
 - 1.3 THETA may recognise any employees' or employers' organisation, which applies for recognition, if it is satisfied that such recognition will make THETA or the schedule more representative of the employees or employers in the sector, as the case may be.
 - 1.4 An application for recognition by an employers' or employees' organisation shall be in such form as may be determined by THETA and shall include:
 - 1.4.1 details of the applicants' membership within the sector and, if the applicant is an employers' organisation, the number of employees that its members employ within the sector;
 - 1.4.2 the reasons why the applicant ought to be recognised; and
 - 1.4.3 any other information on which the applicant relies in support of its application.
 - 1.5 The name of any recognised employees' or employers' recognition will be removed from the schedule –
 - 1.5.1 upon the written request of that organisation; or
 - 1.5.2 by THETA if, after giving the organisation a reasonable opportunity to demonstrate otherwise, THETA is satisfied that the organisation in question no longer enjoys sufficient representation in the sector.

Membership

2. THETA shall consist of the following members:
 - 2.1 to represent organised labour;

- eight persons who are appointed by employees' organisations listed in Schedule 2 that are agreed at a meeting of TTAC by the constituent employees' organisations as defined in **Error! Reference source not found.** which are recognised by THETA and are listed in Schedule 1.
 - 2 persons who are appointed by the Minister of Sport and Recreation 1 of whom shall represent the interests of employees in the Sports and Recreation sub sector and the other shall represent the National Sports Commission.
- 2.2 to represent organised business;
- eight persons who are appointed by employers' organisations listed in Schedule 2 that are agreed at a meeting of the TTAC by the constituent employers' organisations as defined in **Error! Reference source not found.** which are recognised by THETA and are listed in Schedule 1.
 - 2 persons who are appointed by the Minister of Sport and Recreation who shall represent business interests.
- 2.3 two persons nominated by the Minister of Environmental Affairs and Tourism, one of whom shall represent hospitality interests and other tourism interests;
- 2.4 a representative of the Department of Education nominated by the Minister of Education representing the secondary education sub-sector;
- 2.5 two persons nominated by the Minister of Education representing the Technikon and higher education sectors, who shall be representative of the interests of tourism, hospitality and sports;
- 2.6 if the Minister, after consultation with the members referred to in 20.1, 20.2, 20.3, 20.4 and 20.5 considers it appropriate for the sector –
- 2.6.1 one person representing any interested professional body; and
- 2.6.2 one person representing any bargaining council with jurisdiction in the sector;
- 20.7 not more than 3 additional members by virtue of their expertise;
- 20.8 to represent private training and related services providers of relevance to the sector, one person nominated by the Education, Training and Development Practices SETA who shall be a non-voting member;
- 2.9 the chief executive (*ex officio*); and
- 2.10 the deputy chief executives (*ex officio*).

3. In selecting members from the nominees of employees' or employers' organisations, TTAC shall ensure a representative coverage of the industries, occupations and enterprises that make up the sector, including small business.

Liability of members

4. No member or office-bearer of THETA shall be liable for any of the obligations and liabilities of THETA solely by virtue of his or her status as a member or office-bearer.
5. No office-bearer or member of THETA shall in any way be personally liable and for any loss or damage suffered by any person as a result of the execution, attempted execution or non-execution in good faith of the office bearer's or member's duties and powers under this constitution while that person was performing functions for or on behalf of THETA, and members will be indemnified by THETA for any such loss or damage.

Terms and conditions of office of members of THETA

6. Each members of THETA (other than the chief executive and deputy chief executives) shall hold office for a period of five years from the date of his or her nomination until:
 - 6.1 his or her term ends;
 - 6.2 he or she ceases to hold a qualification necessary under the Act or this constitution to be appointed, or his or her nomination is revoked by notice in writing to THETA by the organisation that nominated him or her;
 - 6.3 he or she resigns, dies or otherwise becomes incapable of discharging his or her duties; or
 - 6.4 he or she becomes insolvent or commits any act of insolvency;
 - 6.5 he or she is removed from office by THETA, after being afforded an opportunity to be heard as a result of:
 - 6.5.1 serious misconduct;
 - 6.5.2 any violation of the Code of Conduct described in **Error! Reference source not found.** or any provisions of this constitution;
 - 6.5.3 being absent from any meeting of THETA without good cause or the prior permission of the chairperson; or
 - 6.5.4 any conduct that may undermine the integrity of THETA or which may bring THETA or any of its members into disrepute; or
 - 6.5.5 any other good reason.

7. Whenever a vacancy occurs in a Ministerial nominee member position, THETA must inform the Minister concerned of the vacancy in writing within two calendar months. THETA shall provide the Minister concerned with a list of recommended suitable candidates, and in selecting Ministerial nominees, the Minister concerned shall consider any candidates who have been recommended by THETA.
8. Whenever a vacancy occurs in any representative organised labour or employer member position, THETA must within 14 days invite the relevant employees' or employers' organisation listed in the Schedule 2, as the case may be, to appoint a member to fill the vacancy. In inviting employees' or employers' organisations to appoint a member to fill a vacancy, THETA shall attempt to ensure a representative coverage of the industries, occupations and enterprises that make up the sector, including small business. A new member shall be appointed within 2 calendar months of the vacancy occurring.
9. The Executive Committee shall have the power to act on behalf of THETA to appoint new members to fill vacancies in the membership of THETA, its committees or chambers caused by the death, retirement, resignation or removal of any member as provided in 6 except as provided in 25.
10. Any person appointed to fill a vacancy under 26 or 27 shall occupy such position from the time of his or her appointment until the next general meeting of THETA when that appointment will lapse.