



NDC AND NDCA RULES OF PROCEDURE

1. Definitions

Any expression in these rules, that is referred to in the Constitution has the same meaning in these Rules as in the Constitution.

2. Sittings of the NDC

- 2.1 Subject to 11.1 below, the NDC shall hear appeals on pre-determined dates.
- 2.2 Despite sub-rule 2.1 the Chairperson of the NDC may direct that an appeal be heard on any day that does not fall on a pre-determined date of hearing.
- 2.3 Hearings of the NDC shall be held in Johannesburg.
- 2.4 Despite sub rule 2.3 the Chairperson of the NDC may direct that an appeal be heard at a place other than Johannesburg, if it is in the interest of justice to do so.

3. The Secretariat

The Secretary General must in consultation with the NDC appoint a suitably qualified person to act as the head of the Secretariat of the NDC, with authority to carry out the functions of that office in terms of the Constitution and these Rules.

- 3.1 The offices of the Secretariat shall be located at Chief Albert Luthuli House;
- 3.2 The offices of the Secretariat shall be open every Monday to Friday from 8:30am to 5pm;
- 3.3 Without derogating from the generality of the foregoing, the Secretariat shall act as the Registrar of the NDC; and
- 3.4 The Secretariat must attend all proceedings, make recordings and keep notes of proceedings, with a short statement of questions or points decided or orders made.

4. Address of the NDCA and NDC

Any communication to the NDCA shall be addressed to the Secretariat and may be:

- 4.1 Delivered by hand at:
Chief Albert Luthuli House
54 Sauer Street
Johannesburg
- 4.2 Addressed by Post to:
P.O. Box 61884
Marshalltown
2107

- 4.3 Transmitted by Electronic Mail to: ijacobs@anc.org.za (for attention: NDCA Chairperson, Minister Jeff Radebe).
- 4.4 Communication with the NDC can be directed to:
The Chairperson
Minister Derek Hanekom
Tel: 021 469 5028/012 843 6824
Fax: 021 462 0542/012 8436666
Email: dhanekom@telkomsa.net
Postal address: Private Bag X889, Pretoria, 0001
- 4.6 The onus shall be on the Appellant to prove service or transmission.

5. Notice of Appeal

- 5.1 The appellant may file a Notice of Appeal within 21 (twenty one) calendar days from the date on which he or she was informed of the outcome of the disciplinary proceeding.
- 5.2 On good cause shown, the NDC may condone any late notice by an appellant.
- 5.3 When applying for condonation, the appellant must show that he or she was not in wilful default, there is a reasonable explanation for the delay and that he or she has reasonable prospects of success on appeal.
- 5.4 The notice of appeal shall be in writing and addressed to the Secretariat of the NDC. A copy shall be served on the disciplinary committee of first instance and the Chief National Presenter.
- 5.5 The Notice of Appeal:
- 5.5.1 Must identify the decision appealed against;
 - 5.5.2 Must state whether it is an appeal against the conviction or sanction or both;
 - 5.5.3 Must state whether it is an appeal against the whole or only part of the decision of the National or Provincial Disciplinary Committee;
 - 5.5.4 Must state, if only part of the decision is appealed against, which part is the subject of the appeal;
 - 5.5.5 Must set out grounds on which the appeal is founded; and
 - 5.5.6 State the relief sought e.g. dismissal of the conviction, reduction of the sanction etc..

6. Application for review

- 6.1 A member may apply to the NDC to review a decision of the PDC or lower disciplinary committee on the grounds that procedural fairness was not afforded to him or her.
- 6.2 A review application must set out the basis for the review and the principles of natural justice that were breached e.g. did the charged member not get an opportunity to call relevant witnesses or cross examine witnesses called by the ANC etc.
- 6.3 The time limit in 5 above shall apply to review applications.
- 6.4 A review application will not deal with the merits of the case but will be limited to grounds of the procedure that was followed by the disciplinary committee, as the case may be.

7. The Disciplinary Proceeding Record

- 7.1 The Disciplinary Committee of first instance shall within 21 days of receipt of a notice of appeal dispatch a full copy of the record of the disciplinary proceedings to the office of the Secretariat of the NDC and serve a copy on the Chief National Presenter and the Appellant.
- 7.2 The record shall include all the documentary evidence that was considered by the disciplinary committee concerned, all recordings of the proceedings and the written Finding of the disciplinary committee.
- 7.3 Where the record includes electronic recording of the proceedings, the Secretariat shall attend to the transcription thereof and furnish the NDC, the Chief National Presenter and the Appellant with such transcript.

8. Index and pagination

- 8.1 The Secretariat shall index and paginate the record for the NDC and provide the Chief National Presenter and the Appellant with an index to the paginated bundle by no later than 14 days from the date of receipt of the record from the disciplinary committee of first instance.

9. Heads of Argument

- 9.1 If Heads of Argument are requested by the NDC,
 - 9.1.1 The Appellant must file four copies of heads of argument 10 days before the date of the hearing of the appeal.
- 9.2 The Chief National Presenter must file four copies of heads of argument 7 days before the date of the hearing of the appeal.
- 9.3 The Heads of Argument of the Appellant and the Chief National Presenter must each include:
 - 9.3.1 A summary of the main contentions on matters of fact and/or constitutional rule;
 - 9.3.2 A chronology of the material facts; and
 - 9.3.3 Where reference is made to case law or textbooks, full citation of such legal authority should be provided.
- 9.4 The Heads of Argument must refer to the bundle as indexed and paginated by the Secretariat.

10. Representation

- 10.1 An Appellant may be represented by a member in good standing as provided for in the ANC Constitution.

11. Hearing Date

- 11.1 The NDC and NDCA may decide the outcome of an appeal or review on the documents submitted to it by the parties without the necessity of convening a formal hearing.
- 11.2 If a hearing is to take place, the Secretariat shall notify parties to the Appeal of the date, time and place for the hearing.
- 11.3 The Appellant may attend the hearing.

12. Oral evidence

12.1 Except in exceptional circumstances determined by the NDC, no new evidence may be submitted, presented or considered at the hearing of the appeal.

13. Outcome of the appeal

13.1 The NDC may deliver its judgement *ex tempore* (to issue judgement verbally and provide reasons in writing at a later stage) or in writing.

13.2 If the NDC has reserved judgement, it shall ensure that it delivers judgment within a reasonable time.

14. General

14.1 The NDC shall have the discretion to issue directives on procedure which may differ from the procedure provided for in these Rules and to regulate the conduct of hearings provided that the Appellant's right to be heard is not prejudiced.

14.2 The above rules shall be applicable to appeals or cross appeals lodged by the Complainant.

14.3 The above rules shall apply mutatis mutandis to appeals and review proceedings before the NDCA.

