

# **CONSTITUTION**

of the

## **NORTHEASTERN EVANGELICAL LUTHERAN CHURCH IN SOUTH AFRICA**

**{Abbreviated Name: NELCSA}**

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## **BASIC ARTICLE**

The Northeastern Evangelical Lutheran Church in South Africa is based on the Gospel of Jesus Christ, as revealed in the Holy Scriptures of the Old and New Testaments as the sole guide of faith, doctrine and life. Together with other Christian Churches in the world it confesses its faith in the Triune God through the early Christian Creeds. As regards doctrine and life it subscribes to the Evangelical Lutheran Confessions, as set out in all the confessional writings of the Evangelical Lutheran Church, especially the Augsburg Confession of 1530 and the Small Catechism of Dr Martin Luther.

## **CHAPTER 1**

### **GENERAL PROVISIONS**

#### ***Section 1        General***

In this Constitution, unless the context indicates otherwise, singular shall include plural and vice versa and masculine shall include feminine and vice versa.

#### ***Section 2        Structure***

The NELCSA is an association of Evangelical Lutheran Congregations in South Africa.

#### ***Section 3        Commission***

- (1) The NELCSA shall serve the Gospel of Jesus Christ through Word and Sacrament, promote brotherly fellowship in prayer and discipleship of Jesus Christ, fulfil the Great Commission, bear public witness, live a life of charity and promote Christian upbringing and education.
- (2) All individual members of the Church and all Church office bearers are responsible for adhering to true doctrine and for the proper and contemporary fulfilment of the calling of the Church.
- (3) Its particular concern is to secure spiritual care for all persons who, by virtue of their confession and heritage, fall within its sphere of responsibility in so far as such persons are prepared to subscribe to the confession of the Church and abide by its regulations.

#### ***Section 4        Unity***

The NELCSA, its congregations, parishes, circuits, institutions and charitable organisations, as well as its offices and ministries form an integral unity. Within this unity they exercise the self-discipline, independence and freedom necessary for the fulfilment of their special calling, these being both guaranteed and limited by Church regulations.

## **Section 5      *Affiliations***

- (1) The NELCSA commits itself to promote growth towards unity within the one Church of Jesus Christ throughout the world.
- (2) It is a member of the United Evangelical Church in Southern Africa (UELCSA).
- (3) It is a member of the Lutheran Communion in Southern Africa (LUCSA).
- (4) It is a member of the Lutheran World Federation (LWF)
- (5) It is a member of the South African Council of Churches (SACC).
- (6) As a Church of Evangelical Lutheran confession, it declares its oneness with all Evangelical Lutheran Churches and Christians throughout the world.

## **CHAPTER 2**

### **CHURCH MEMBERSHIP**

## **Section 6      *NELCSA Members***

- (1) The members of the NELCSA are those congregations which are united within it.
- (2) Any Evangelical Lutheran congregation in Southern Africa may become a member of the NELCSA, provided it is not already a member of another Church.

## **Section 7      *Acquisition of Membership***

- (1) Application for membership of the NELCSA must be submitted in writing.
- (2) The application shall contain:
  - (a) a request for admission as a member of the NELCSA;
  - (b) a declaration that the applicant accepts the Constitution of the NELCSA;
  - (c) a declaration that the applicant will accept all laws, regulations and resolutions of the NELCSA as binding upon itself and that it will adhere thereto;
  - (d) a copy of the applicant's Congregational Code.
- (3) The application, together with the Congregational Code is to be forwarded to Church Council. Church Council shall examine the application and decide on the admission of the congregation. This decision is subject to ratification by Church Synod.

## **Section 8      *Loss of Membership***

- (1) A congregation loses its membership of the NELCSA by renunciation, by expulsion or by its dissolution.
- (2) A congregation wishing to renounce its membership shall give six months' notice and submit written reasons to Church Council.

- (3) (a) A congregation is expelled when a resolution to this effect is passed by Church Synod with a two-thirds majority of Synod members who are present and voting, provided that a quorum is present.
- (b) The congregation concerned is to be notified in writing of the decision. Reasons for the decision are to be given.
- (c) Prior to the decision being taken, the congregation is to be given the opportunity of responding to the motion.
- (d) The expulsion takes effect when the decision of Synod comes into force.
- (e) Re-admission of an expelled congregation is permissible and shall be dealt with in accordance with the provisions of Section 7.
- (4) If a congregation is dissolved, its membership expires on the day when the resolution to dissolve comes into effect.
- (5) The congregation whose membership is terminated in terms of these provisions shall discharge its obligations towards the NELCSA until the day that its membership ceases. On that day all rights and obligations arising from membership cease. Other legal obligations remain unaffected.

### **CHAPTER 3**

#### **THE OFFICE OF THE CHURCH**

##### **Section 9      *Different Ministries***

The task entrusted to the Church by Jesus Christ is divided into different ministries. The persons called to these ministries work together for the fulfilment of the Church's calling.

##### **Section 10      *Preaching and Administration of Sacraments***

- (1) The authority for public preaching and the administration of the Sacraments is granted by ordination.
- (2) Church co-workers may be appointed to public preaching and administration of the Sacraments by Church Council where they have been specifically called, trained and have committed themselves to the teaching of the Church. Further details are regulated by the Congregational Code.

##### **Section 11      *Church Co-workers***

Other Church co-workers participate in the office of the Church by taking part in divine services, in social welfare and missionary work, in Christian education, in other congregational work and in Church administration.

**Section 12      *Suitability of Church Co-workers***

- (1) Church co-workers are engaged on a full-time, part-time or honorary basis. In regard to their demeanour and aptitude they must be suitable for the tasks assigned to them and they shall be trained and receive continuing in-service training for their duties.
- (2) The nature and extent of their duties is governed by the relevant Church Regulations.

**Section 13      *Co-operation***

The Pastor bears particular responsibility for the unity within congregations and the Church in doctrine and in life and promotes the cohesion and co-operation between Church members and Church ministries.

**Section 14      *Employment as Pastor***

- (1) The Pastor's employment with the NELCSA is based on a relationship of service and trust.
- (2) Anyone who has become eligible in terms of the Church Law on Pastors and has been ordained may be employed as Pastor.
- (3) In the administration of his office the Pastor is bound by his ordination vows. He is subject to supervision in regard to service and teaching.

**Section 15      *Employment of Co-workers***

Regulations which govern the employment of those co-workers, who are required to be blessed or inducted according to the Order of Service, shall include a declaration of commitment to the Evangelical Lutheran confession.

## **CHAPTER 4**

### **THE CONGREGATION**

**Section 16      *Fulfilment of the Church***

- (1) It is in the congregation that the Church of Jesus Christ comes to fulfilment within a given area.
- (2) The congregation is a local community of individual members, who congregate regularly around Word and Sacrament and in which the calling of the Church is practised.
- (3) It is the congregation's task to organise the congregational life in its area. The congregation shall ensure that the Gospel is proclaimed through Word and Sacrament; it shall practice the ministry of Christian love and encourage religious instruction and it shall participate in fulfilling the Great Commission in the world.
- (4) The Pastors are responsible for preaching the Gospel in public and for administering the Sacraments in the congregation.

## **Section 17      *Structures and Offices***

- (1) In order to fulfil its task, the congregation is responsible for establishing and staffing structures and offices, especially the Pastor's post, and it shall ensure that all necessary services are performed. In multi-lingual congregations, due consideration is to be given to the mother tongue of members. It shall provide for the appointment of the clergy and suitable accommodation and remuneration for them in accordance with the relevant Church Regulations.
- (2) It shall provide the necessary church buildings and other facilities.
- (3) The congregation shall use the resources entrusted to it conscientiously and solely for the fulfilment of its task. Bearing in mind its membership of the whole Church it shall also contribute to the best of its ability to the fulfilment of general Church tasks and to relieving the needs in other congregations.

## **Section 18      *Congregation own Affairs***

- (1) Bound by Scripture and Confession and subject to the Constitution of the NELCSA and other Church legislation, the congregation regulates its own affairs and fulfils its task independently.
- (2) The congregation is a legal person in terms of the South African laws governing associations.
- (3) The congregation participates in the life of the Church and through its representation in Church Synod it also participates in the management of the Church and subjects itself to its rules.

## **Section 19      *Congregational Council***

- (1) Each congregation has a Congregational Council through which the Pastor and congregational councillors together lead the congregation.
- (2) The Congregational Council consists of:
  - (a) the Pastor and Pastor-in-training who has been called to minister in the congregation;
  - (b) elected congregational councillors.
- (3) Congregational councillors are elected in accordance with the Rules for the Election of Congregational Council Members.
- (4) The Congregational Council may form working committees for missionary work, social welfare and other tasks. Members of the congregation who are not members of the Congregational Council may be members of these working committees.

## **Section 20      *Financial Management***

- (1) The budget of the congregation and its annual accounts may be examined by Church Council.
- (2) The congregation should not mortgage, purchase or sell immovable property without prior consultation with Church Council.



- (3) In the event of a split in the congregation, its land and buildings remain the property of that part of the congregation which remains a member of the NELCSA, even if this is the smaller part.

## **Section 21      *Formation, Dissolution and Merging of Congregations***

- (1) Decisions on the formation of new congregations, on changes to and dissolution and mergers of existing congregations are taken by Church Council, after considering submissions, made by interested parties. Its decision is subject to ratification by Church Synod.
- (2) In order to improve congregational life Church Council may, after consultation with affected parties, integrate parts of a congregation into neighbouring congregations, form new congregations or dissolve existing congregations. Its decision is subject to ratification by Church Synod.
- (3) If it is impossible to reach an agreement on matters referred to in Sections 21 (1) and (2), then Church Synod will take the decision.

## **Section 22      *Parishes***

- (1) With the prior consent of Church Council congregations within a Circuit may join to form a parish for the execution of joint tasks. For each parish rules are drawn up by Church Council in consultation with the relevant congregations.
- (2) Provisions regarding pastoral care and Church undertakings are made by Church Council.

## **Section 23      *Dissolution of a Congregation***

A congregation may be dissolved in terms of Chapter 11 of the Congregational Code.

## **Section 24      *Pastors' Post***

- (1) The congregation maintains one or more Pastors' posts in fulfilment of its duties.
- (2) Decisions on the establishment, division and dissolution of Pastors' posts are taken by the General Meeting. The decision is subject to confirmation by Church Council.

## **Section 25      *Election of Pastor***

- (1) The congregation has the right to elect its Pastor. In the event that the congregation had elected the outgoing pastor, the Church Council has the overriding right, but not the obligation, to place his successor.
- (2) When a pastor is placed by Church Council in a congregation, the placing must be ratified by a General Meeting within three years after the placing.
- (3) The procedure for filling a Pastor's post is regulated by the relevant provisions of the Congregational Code.

**Section 26      *Congregational Code***

The Congregational Code provides for further regulations relating to congregations. Each congregation may itself adopt additional regulations, but these may not contradict those of the Congregational Rules of the Church.

**CHAPTER 5**

**SPECIAL AREAS AND WORK METHODS**

**Section 27      *Congregation of Jesus Christ***

In fulfilling the Great Commission, the congregation of Jesus Christ also manifests itself in special areas and work methods of the Church, for its ministry of charity and for Christian upbringing and education.

**Section 28      *Offices***

- (1) Certain legally independent or dependent offices, duties and ministries exist within the special areas referred to in Section 27.
- (2) They are under protection and care of the NELCSA and are accountable to Church Council.
- (3) In so far as special legally independent offices, duties and ministries exist or are still to be established, they organise their work in keeping with their special tasks.

**Section 29      *Co-ordination of Offices***

Church offices, duties and ministries, referred to in this Chapter, must co-ordinate their work amongst themselves and with the Church bodies. Special committees may be formed for this purpose.

**CHAPTER 6**

**LEADERSHIP STRUCTURES OF THE NELCSA**

**Section 30      *Leadership Structures***

- (1) The leadership structures of the NELCSA are:
  - (a) Church Synod,
  - (b) the Bishop,
  - (c) Church Council.
- (2) They are responsible for ensuring that the NELCSA fulfils its commission in doctrine and life, in preaching and pastoral care, in maintaining order and in its administration. They guard its unity and freedom. They are assisted by the Ecclesiastical Council.

- (3) In order to fulfill its administrative tasks, the NELCSA maintains an administrative office and an archive where all relevant information is collected and processed. The bishop oversees the day to day running of this office.

### **Section 31      *Church Synod***

Church Synod represents both the unity and the diversity of the congregations, offices and ministries. It is called to collectively develop objectives of the NELCSA. Together with the Bishop and Church Council it has ultimate responsibility for life and the ministry within the NELCSA. Synod members are not bound by orders or instructions.

### **Section 32      *Composition of Church Synod***

- (1) Church Synod is composed of the following:
  - (a) the Bishop and other members of Church Council, ex officio;
  - (b) members of the Ecclesiastical Council, ex officio;
  - (c) lay members of the Circuit Councils, ex officio;
  - (d) 48 elected lay members and 12 elected ordained members;
  - (e) up to six members appointed by Church Council.
- (2) For the purpose of Section(1)(d) the number of representatives per congregation is determined by the Rules for the Election of Synod Members.
- (3) When considering appointments in terms of Section 32(1)(e) it is important for the service of the Church in the world that all major branches of the ministries are represented. If an appointed member relinquishes his position, or assumes the position of a Synod delegate, Church Council may appoint a new member.
- (4) Congregations which have become members of the Church within a particular Synod period have the right to be represented at Church Synod for the duration of that period. The number of lay members referred to in Section32(1)(d) above is increased accordingly for that period only.

### **Section 33      *Election of Synod Members***

- (1) Lay members referred to Section 32(1)(c) are elected by congregations or parishes. The ordained members are elected by the relevant Pastors' Conventions. Details are contained in the Rules for the Election of Synod Members.
- (2) Alternates equal to the number of members elected according to Section 32(1)(d) must be elected by the congregations, parishes and Pastors' Conventions respectively. They stand in for Synod members who are unable to attend, in the same sequence in which votes were registered in their favour. Where a Synod member relinquishes his position, he is replaced by his alternate for the remainder of the Synod period and a by-election must be held in order to elect a new alternate.

- (3) Church Council shall be notified immediately of the names and addresses of elected persons as well as of their alternates.

#### **Section 34      *Synod Period***

- (1) Church Synod is constituted for six years.
- (2) New elections and appointments of Synod members shall take place timeously before the end of each period.
- (3) The Synod period ends with the opening of the first session of the newly constituted Church Synod. Church Synod remains in office until the newly constituted Church Synod convenes for its first session.
- (4) Church Synod may dissolve itself. In this case a new Church Synod must be constituted without delay. It shall be convened within three months after the new Church Synod has been constituted. Section 34(3) applies.

#### **Section 35      *Session of Synod***

- (1) As a rule, an ordinary meeting of Church Synod is convened every two years.
- (2) Church Synod is convened for an extraordinary session if at least 15 members, the Bishop or Church Council demand it.
- (3) If, in terms of Section 35(2), members of Church Synod demand that a meeting be convened, the applicants shall include the proposed agenda with their request. It shall be addressed to Church Council. Church Council may make additions to the agenda.

#### **Section 36      *Convening of Sessions of Church Synod***

- (1) The meetings of Church Synod are convened by Church Council.
- (2) Church Council determines the time and place of the meetings. Members of Church Synod shall be given at least 3 months' notice of a proposed meeting. The notification shall contain the provisional agenda.
- (3) A written invitation shall be sent to members of Church Synod at least 2 months before the commencement of the meeting and it shall include the agenda.

#### **Section 37      *Synod Council***

Meetings of Church Synod are conducted by a Synod Council.

#### **Section 38      *Election of Synod Council***

- (1) Church Synod elects a Synod Council from within its own ranks. It consists of the President, his deputy and two secretaries. The term of office of Synod Council members terminates at the end of the first session at the next Synod Period. Members of Church Council and the Ecclesiastical Council are not eligible.
- (2) An alternate shall be elected for every member of Synod Council.

**Section 39      *Duties of Synod Council***

- (1) The President chairs the meetings of Church Synod, or alternatively any member of the Synod appointed by the President.
- (2) The secretaries are responsible for the records of proceedings.
- (3) Deliberations may take place in German, Afrikaans or English.

**Section 40      *Quorum***

- (1) Church Synod has a quorum if:
  - (a) all members of Church Synod have been formally invited and
  - (b) at least half of the members are present.

#### **Section 41      *Resolutions of Synod and Elections***

- (1) Unless otherwise stated herein, Church Synod passes its resolutions by a simple majority of members present, provided that a quorum is present. In case of a tied vote the motion fails.
- (2) Voting may be done openly or by secret ballot.
- (3) Voting shall be by secret ballot if Synod Council, the Bishop or one tenth of the members of Church Synod request a secret ballot.
- (4) Elections are held by secret ballot. They may be held by open vote if only one candidate is standing for election and if there are no objections.

#### **Section 42      *Synod Committees***

- (1) Church Synod may form committees to assist it with decision making, and may also assign other matters to them for deliberation, even between meetings.
- (2) Church Synod shall enact its own Rules of Procedure.

#### **Section 43      *The Bishop***

- (1) The Bishop holds the leading ecclesiastical post of the NELCSA.
- (2) The Bishop has the right to publicly proclaim the Gospel and to administer the Sacraments in all congregations of the NELCSA. He may make announcements to congregations and may direct that these be read out during worship services.

#### **Section 44      *Duties of the Bishop***

- (1) The Bishop is entrusted, inter alia, with the following specific tasks:
  - (a) He ensures that the Word of God is preached according to the Gospel and in accordance with the Lutheran confession and that the Sacraments are properly administered;
  - (b) He talks to the congregations, the Pastors and other Church co-workers; he advises, comforts and admonishes them in brotherly manner;
  - (c) He fosters fellowship and co-operation among the congregations and Church ministries;
  - (d) He endeavours to foster and reinforce contacts with other Churches;
  - (e) He is the official representative of the NELCSA;
  - (f) He shares experiences with the Deans and deliberates with them on common tasks;
  - (g) He signs and promulgates Church Laws and regulations;
  - (h) He formalises the appointment of Pastors and other Church co-workers;
  - (i) He concerns himself with the advancement of Pastors, other Church co-workers and theological students;

- (j) He convenes the General Pastors' Convention in terms of Section 59.
- (k) He fulfills the functions outlined in Section 30(3).
- (2) The Bishop has the right to ordain and to carry out visitations. He inducts the Deans and may induct Pastors into office and perform dedication services.
- (3) The Bishop chooses a congregation where he can preach regularly.

**Section 45      *Election of the Bishop***

The Bishop is elected in accordance with the Rules on the Election of the Bishop.

**Section 46      *Church Council***

- (1) Church Council leads the NELCSA in accordance with this Constitution, Church Laws, Regulations and decisions of Church Synod.
- (2) It manages all affairs of the NELCSA, unless this Constitution delegates this responsibility to some other organ of the Church.
- (3) It supervises the implementation of decisions of Church Synod, where these cannot be implemented by Synod itself. If during the implementation stage Church Council becomes aware of defects in the decisions of Synod, and Synod cannot itself rectify these defects, Church Council must take measures to remove the defects.
- (4) Church Council, through its chair, reports on its activities and on general Church life to every meeting of Church Synod. The report shall be tabled for discussion.

**Section 47      *Composition of Church Council***

Church Council consists of:

- (a) the Bishop;
- (b) the Deputy to the Bishop;
- (c) the President of Church Synod;
- (d) the Treasurer;
- (e) one ordained member; and
- (f) one lay member from each Circuit.

**Section 48      *Election of Church Council Members***

- (1) The members referred to in Section 47 are elected by Church Synod for a period of 6 years, with the possible exception of the bishop, who is elected in accordance with Section 3 in the Rules on the Election of the Bishop, in the following manner:
  - (a) at the 1st Session of each Synod period
    - the President of Church Synod [Section 47 (c)]

- the Treasurer [Section 47 (d)]
  - one ordained member [Section 47 (e)]
  - (b) at the 2nd Session of each Synod period
    - one lay member of Church Council for each Circuit [Section 47 (f)]
    - the lay member of Circuit Council as alternate to the lay member of Church Council for each Circuit
  - (c) at the 3rd Session of each Synod period
    - the Deputy to the Bishop [Section 47(b)]
  - (d) The Bishop is elected at any session of Synod as required.
- (2) (i) Alternates must be elected for each member referred to in Section 47 (b) to 47 (d), as well as for each lay member of Circuit Council.  
 (ii) The lay members referred to in Section 47(f), as well as their alternates who are in actual fact the lay members of Circuit Council, are elected by delegates from each Circuit from amongst their own number.  
 (iii) The Dean and his alternate are not eligible as the ordained member of Church Council and his alternate [Section 47(e)].
  - (3) Members of Church Council assume office immediately after the end of the session of Church Synod during which they were elected or confirmed in office. They remain in office until the assumption of office of their successors.
  - (4) After two periods in office a member of Church Council shall retire for the duration of at least one Synod period. Exceptions may be permitted by Church Synod.
  - (5) In the event of the Deputy to the Bishop in terms of Section 47 (b) or the ordained member in terms of Section 47 (e) being elected to the post of Bishop, or in the event of the ordained member in terms of Section 47 (e) being elected to the post of Deputy to the Bishop, or vice versa or in the event of the Bishop being elected into one of the above offices, the first period of office for the newly elected person shall run from the date of his election.
  - (6) If a member of Church Council leaves the NELCSA or if he becomes permanently unable to carry out his duties, the alternate assumes office until a by-election is held at the next session of Church Synod.

**Section 49      *Chairship in Church Council***

The Bishop or his deputy chairs the meetings of Church Council. If neither of them is able to do so the President of Church Synod shall take the chair.

**Section 50      *Meetings of Church Council***

Church Council meets as and when necessary, but at least four times per annum, at the invitation of its chair. It must be convened if at least five members demand such a meeting.



**Section 51      *Business of Church Council***

- (1) Church Council has a quorum if more than half of its members are present.
- (2) Church Council shall pass its resolutions by a simple majority of members present, provided that a quorum is present. In case of a tied vote the motion fails.
- (3) Outside of ordinary meetings agreements may be reached in writing, provided at least 5 members agree to this method.
- (4) Minutes of the meetings of Church Council shall be kept. They shall be signed by the chair and one other member.
- (5) Church Council shall enact its own Rules of Procedure.

**Section 52      *Agencies and Offices of Church Council***

Church Council may establish and maintain the necessary agencies and offices to facilitate the execution of its duties.

**Section 53      *Circuits***

- (1) The NELCSA is divided into Circuits.
- (2) The boundaries and size of the Circuits shall be such that inter-congregational tasks may be dealt with effectively.

**Section 54      *Formation, Dissolution and Merging of Circuits***

Decisions on the formation of new Circuits, their dissolution and merging as well as the changing of their boundaries are taken by Church Council after consulting with the respective Pastors' Conventions and Congregational Councils.

**Section 55      *The Dean***

- (1) The Dean leads the Circuit in co-operation with Circuit Council. He carries out the decisions of Church Council and Church Synod within his Circuit. He advises Church Council and the Ecclesiastical Council in matters of his Circuit. He is responsible for organising and co-ordinating the extra-congregational duties within his Circuit.
- (2) The Dean oversees the work of the Church within his Circuit. He supports the work of the Pastors and of the congregations through visitations and by advising them. He inducts the Pastors. He may participate in meetings of Congregational Councils in an advisory capacity. He may conduct services in the congregations within his Circuit. He reports regularly to the Bishop and discusses with him matters relating to his office.
- (3) The office of Dean is linked to a Pastor's post.
- (4) Deans and their deputies are elected at Church Synod by the delegates from each Circuit from among the Pastors in active service within their Circuits. Church Council as well as the Pastors' Convention has a right of proposal. Deans hold office for the duration of one Synod period. The election shall take place at the 1st meeting of each Synod period. The ordained member

of Church Council and his alternate [Section 48(2)(iii)] are not eligible as Dean or his alternative.

- (5) Where a Dean is elected to the position of deputy to the Bishop, or as alternate to the deputy to the Bishop, he may retain the position of Dean in addition to such new position. He shall inform the Church Council accordingly.

#### **Section 56      *Circuit Council***

Circuit Council is composed of the Dean, his deputy, the elected lay member of Church Council and of Circuit Council and his alternate for that Circuit [Section 48(1) (b)]. It assists and advises the Dean.

#### **Section 57      *Circuit Conference***

- (1) The Dean shall convene a Circuit Conference annually for the purpose of promoting co-operation between the congregations, the various church ministries within the Circuit, as well as for fulfilling joint tasks and those which extend across congregational boundaries.
- (2) Each congregation shall be represented by its Pastor, the elected Church Synod members and at least one other member appointed thereto by the Congregational Council.

#### **Section 58      *Pastors' Convention***

- (1) Pastors within a Circuit constitute the Pastors' Convention. The Pastors' Convention elects a chair from within its own ranks.
- (2) The Dean convenes a Pastors' Convention at least once a year. Special meetings must be convened if at least one third of its members request them.
- (3) The meetings of the Pastors' Conventions serve to promote brotherly discussions, to further the education of Pastors and to discuss official Church matters and those matters which extend across congregational boundaries.
- (4) Subject to the provisions of Sections 61 and 62 the Pastors' Convention may submit suggestions and motions to Church Synod.
- (5) The Pastors' Convention shall enact its own Rules of Procedure.

#### **Section 59      *General Pastors' Convention***

At the invitation of the Bishop the Pastors' Conventions meet as General Pastors' Convention every two years in between the sessions of Church Synod.

## **CHAPTER 7**

### **CHURCH LEGISLATION**

#### **Section 60      *Church Laws***

- (1) Church Synod has the right to pass laws.
- (2) The laws are categorized into the following five groups:
  - (a) The Constitution
  - (b) The Congregational Code
  - (c) The Law on Pastors
  - (d) Rules of Procedure and Election Procedures
  - (e) Contracts and Agreements
- (3) The English text of all Church Laws shall be the official version, provided that this text has been approved by Church Synod.
- (4) It is Church Synod's right to interpret Church Laws and Regulations. If Church Synod is not in session this right is delegated to Church Council.

#### **Section 61      *Matters requiring a Church Law***

The following shall be regulated by Church Law:

- (1) The introduction of new and the amendment or abolition of existing Church Laws;
- (2) The introduction, abolition or amendment of agendas, catechisms and hymn books;
- (3) The adoption and introduction of Church Laws of the United Evangelical Lutheran Church in Southern Africa;
- (4) The introduction, abolition or amendment of all matters which, in terms of the provisions of this Constitution, or in terms of a decision of Church Synod, or in the opinion of Church Council require a Church Law.

#### **Section 62      *Introduction of Draft Laws***

- (1) Draft Laws may be introduced by Church Council or by Church Synod members. They shall contain the entire wording of the proposed law and shall include a motivation.
- (2) Draft Laws which are introduced by Church Synod members, shall be signed by at least 15 members of Church Synod.

#### **Section 63      *Publication of Draft Laws***

- (1) Draft Laws introduced by Church Council shall be forwarded to members of Church Synod in terms of Section 36(2).
- (2) Draft laws originating from within Church Synod in terms of Section 62(2) shall be forwarded to Church Council at least two months before the meeting of Church Synod.

- (3) Church Council shall refer draft laws to the Ecclesiastical Council for approval in accordance with Section 68(1).

**Section 64      *Amendments to the Constitution***

- (1) Amendments to this Constitution require the consent of two-thirds of all members of Church Synod.
- (2) The basic article cannot be changed.

**Section 65      *Authority to pass Regulations***

- (1) Church Council may be authorised by Church Law to pass legally binding regulations, provided that the enabling law clearly sets out the contents, purpose and extent of the authorisation. The legal basis for the regulations shall be specified in the regulations.
- (2) When Church Synod is not in session, or when it is not feasible to convene Synod and the matters to be dealt with cannot be delayed, then Church Council may enact regulations to deal with these matters even though normally a Church Law would be required. Such regulations shall be submitted to Church Synod for ratification at its next session. Church Synod may confirm, amend or repeal such regulations.

**Section 66      *Promulgation of Laws***

- (1) Laws and Regulations passed in accordance with the provisions of this Constitution are promulgated by the Bishop by means of written notification to all members of the NELCSA.
- (2) Laws and Regulations shall specify the date on which they will come into operation. In the absence of such a date, they will come into operation on the 14th day after the day on which the notification was dispatched in accordance with Section 66(1). The date of dispatch shall be stated in the records.

## **CHAPTER 8**

### **THE ECCLESIASTICAL COUNCIL**

**Section 67      *Composition of Ecclesiastical Council***

- (1) The Bishop, his Deputy and the Deans together constitute the Ecclesiastical Council.
- (2) The Ecclesiastical Council is convened for regular consultations under the chairship of the Bishop or his Deputy.

**Section 68      *Responsibilities of Ecclesiastical Council***

- (1) The Ecclesiastical Council deals with questions of life and doctrine of the Church as well as with personnel matters and must give its opinion on all matters concerning the Confession and the Laws and Regulations of the

Church before these are submitted to Church Council or Church Synod for decision.

- (2) The Ecclesiastical Council is responsible for the education and in-service training of theologians and laymen who are called to the ministry.
- (3) The Ecclesiastical Council, in consultation with Church Council, determines which members of the NELCSA are to serve on the Theological Board of Examiners of the United Evangelical Lutheran Church in Southern Africa.

#### **Section 69      *Theological Study Commission***

- (1) The Ecclesiastical Council utilizes the services of the Theological Study Commission for performing its tasks.
- (2) Each Pastors' Convention annually elects one of its members onto the Theological Study Commission. The Bishop is an ex officio member of the Theological Study Commission.

### **CHAPTER 9**

#### **THE LEGAL CAPACITY OF THE NELCSA**

#### **Section 70      *Rights and Duties of the Church***

- (1) The NELCSA is a legal entity, whose existence is independent of the change in its membership and it may acquire rights, enter into obligations and may institute and/or defend any court action in its own name.
- (2) Without limiting the powers aforesaid by the following enumeration, the NELCSA may:
  - (a) purchase, rent, lease, borrow, acquire and hold movable and immovable property of any kind as well as sell, alienate, encumber or otherwise dispose of, bind itself as security of mortgage or otherwise let, lease and hire it out;
  - (b) acquire movable and immovable property donated or bequeathed to it and accept other bestowals in cash or in kind;
  - (c) undertake all other legal acts, and conduct legal business transactions.
- (3) The legal domicile of the NELCSA is at the seat of Church Council.
- (4) The liability of members for obligations of the NELCSA is limited to the payment of unpaid contributions and to the settlement of other existing obligations entered into with the NELCSA.
- (5) The NELCSA shall avail itself of its powers to acquire rights and incur liabilities only to the extent that it serves to fulfil its tasks.

#### **Section 71      *Trustees***

- (1) Church Council shall elect one or more persons from among its own ranks, who shall sign all documents and certificates, as well as undertake all legal actions in terms of Section 70.

- (2) As a rule, the Bishop or his deputy together with the treasurer or his deputy has signing powers for the duration of their term of office. In exceptional cases Church Council may authorise one or more persons, who are not members of Church Council, to perform certain legal acts.
- (3) Immovable property shall be registered in the name of:
 

“Die jeweiligen Treuhänder für die Northeastern Evangelical Lutheran Church in South Africa”

“The trustees for the time being of the Northeastern Evangelical Lutheran Church in South Africa”

“Die trustees vir tyd en wyl vir die Northeastern Evangelical Lutheran Church in South Africa ”
- (4) Dispositions of whatever nature in respect of such immovable property shall be legally binding if signed by the relevant Trustees. Proof of appointment of such Trustees shall be rendered on behalf of the NELCSA by means of a certificate signed by a member who is not himself a Trustee.
- (5) Verbal declarations in court, before public bodies or in other instances shall be legally binding only if they are made by the Bishop and another member of Church Council with prior approval of Church Council.

## **CHAPTER 10**

### **FINANCIAL ADMINISTRATION**

#### **Section 72      *Financial Management***

- (1) Church Council is responsible for the finances of the Church and they are managed by the treasurer.
- (2) The Church shall maintain one or more banking accounts through which all income and expenditure shall be conducted.
- (3) Books of account shall be kept and shall be audited annually by a chartered accountant. The financial year is the calendar year.
- (4) Income and property of the Church shall not be distributed in any way to its members or office bearers, except as reasonable compensation for services rendered.
- (5) Church Council must submit full financial reports for the preceding periods to each ordinary meeting of Church Synod. The reports shall be tabled for discussion.

#### **Section 73      *Budget***

- (1) The budget for a two-year period, which shall include all estimated income and expenditure of the NELCSA, shall be drawn up by Church Council and approved by Church Synod by way of a Church Law.
- (2) Church Council may draw up a financial assistance plan for a congregation to alleviate its financial burden and for this purpose it may assist with the budgeting and financial management of the congregation concerned. The plan shall be included in the budget.

**Section 74      *Contributions***

- (1) The income of the NELCSA consists of contributions by the members, of general Church offerings and donations from congregations or third parties.
- (2) The formula for the payment of contributions is prescribed by Church Synod.

**CHAPTER 11**

**DISSOLUTION**

**Section 75      *Dissolution***

- (1) A decision to dissolve the NELCSA may only be taken by an extraordinary session of Church Synod convened for that purpose only. The decision can only be taken if at least two-thirds of all members of Church Synod are present and at least two-thirds of those members present vote for the dissolution.
- (2) If a decision to dissolve has been taken, Church Synod must issue directives concerning the liquidation of the assets of the NELCSA and shall appoint a committee to carry out the liquidation. This committee must carry out the liquidation according to the directives given by Church Synod and in terms of any South African laws which may be applicable.
- (3) Any assets remaining after liquidation of the NELCSA shall be transferred to another Church, which is also a non-profit organisation, having similar objectives as the NELCSA.

**CHAPTER 12**

**FINAL PROVISIONS**

**Section 76      *Requirements of the South African Revenue Services***

- (1) All activities of the Church, or substantially the whole thereof shall be carried out for the benefit of persons within the Republic of South Africa.
- (2) At least three of the persons referred to in Section 71(1) and (2) shall accept fiduciary responsibility for the Church. They shall not be connected persons in relation to each other, and no single person directly or indirectly shall control the decision-making powers of the Church.
- (3) The funds of the Church shall be used solely for the objects for which they were established, or they shall be invested with a financial institution as defined in Section 1 of the Financial Services Act, 1990 (Act No 97 of 1990) or in securities listed on a stock exchange as defined in the Stock Exchange Control Act, 1985 (Act No. 1 of 1985).

- (4) The Church shall not carry on any business undertaking or trading activity unless specifically permitted in terms of Section 30(3)(b)(iv) of the Income Tax Act 1962 (Act no 58 of 1962).
- (5) A copy of all amendments to this Constitution shall be submitted to the Commissioner for South African Revenue Services.
- (6) The Church shall submit the required yearly income tax return together with the relevant supporting documents.
- (7) No remuneration shall be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the services rendered and has not and shall not economically benefit any person in a manner which is not consistent with the objects of the Church.
- (8) All donations made to the Church shall be made irrevocably. They may not be subject to any conditions which could enable the donor to derive a direct or indirect benefit from the application of such donations.
- (9) Office bearers of the Church or any member thereof shall not be personally liable for any loss suffered by any person or group of persons or organisation as a result of an act or omission which occurs in good faith while they are performing functions in terms of the laws of NELCSA for and on behalf of the Church or its members.

**Section 77      Commencement Date**

- (1) This Constitution shall come into effect on the 16<sup>th</sup> October, 2022.