

CAPE Defence Fund Terms of Reference

1.0 PURPOSE

The purpose of the CAPE Defence Fund is to be applied to eligible expenses to offset the costs of:

- Activities undertaken expressly in order to avert a job action or strike, after members have taken a job action vote and delivered a mandate, and after CAPE has reached a point in negotiations where strike issues have been clearly identified and job action is imminent.
- Miscellaneous expenses directly related to the conduct of the job action, such as transportation, telephone or communication charges, leaflets, food and beverages, etc.;
- Pay replacement for job action activities as described in this Terms of Reference and as mandated in each specific job action situation;
- In the case of cessation of work activities, health premiums for the members entitled to job action pay for the whole period of the job action, if the premiums are not prepaid.
- With the approval of the National Executive Committee (NEC), to absorb any extraordinary expenses related to legal defense of the Association related to litigation, internal, external and/or By-Law 5 complaints, and any other associated costs, that may pose a significant risk to the financial integrity of the Association.

2.0 GOVERNANCE

The CAPE Defence Fund is administered in accordance with the provisions of the Constitution and Bylaws of CAPE, and in particular, in accordance with Constitution Article 9, 10, 11, and 35.

CAPE Defence Fund monies are to be placed on deposit in accordance with CAPE policy and practice. Cheques on this account are to be issued in accordance with Constitution Article 35.

Reports and statements regarding this Fund shall be prepared and presented to the Finance Committee, the Audit Committee, National Executive Committee and the membership along with other financial reports and statements. The CAPE Defence Fund is reviewed and audited along with other financial reports and statements.

CAPE Defence Fund monies must be invested in accordance with the CAPE Investment Policy Statement.

It is understood that all income from investment shall accrue to the Fund.

3.0 FUNDING SOURCES

The source of funds for the CAPE Defence Fund are as follows:

- Use of surplus
- donations

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- investments
 - other sources of income as approved by the membership

4.0 USE OF THE FUND

4.1 DEFINITION OF JOB ACTION

“JOB ACTION” includes any cessation of work including:

- walkouts of any duration and at any location, such as rotating, targeted, or strategic walkouts;
- work-to-rule campaigns;
- any other cessation of work;

Where such action falls within a job action mandate as granted by a vote of the membership and following an action being called by the CAPE President, in accordance with the CAPE Constitution and Bylaws and with the federal law and regulations.

4.2 DEFINITION OF JOB ACTION PAY

Job Action Pay is money paid from the CAPE Defence Fund to members engaging in job action. Job action pay is compensation for lost wages for those who participate in job action by carrying out job action and related duties as assigned by CAPE.

A member who is entitled to job action pay under shall receive job action pay for all assigned job action duties in accordance with this article

4.3 ELIGIBLE JOB ACTION PAID ACTIVITIES

Eligible job action activities include, but are not limited to:

- picketing;
- fundraising;
- picket line servicing (e.g., coffee, food, job action administration, technical support, equipment set-up/tear-down);
- phone banking;
- planning and providing refreshments;
- transportation;
- preparing and distributing paraphernalia;
- child care;
- various administrative duties;
- helping to organize activities such as demonstrations and rallies;
- etc.

Job action activities are determined in the context of each specific job action situation.

The National Executive Committee may put an upper limit on draws from the fund as appropriate.

4.4 AMOUNT OF PAY

The decision on the appropriate amount of job action pay will vary depending on the decision of the National Executive Committee, and shall be in alignment with the dues structure of CAPE.

4.5 ELIGIBILITY FOR JOB ACTION PAY

To be eligible for job action pay, a member must fulfill the following requirements:

- a) be a regular, pending or holding member in good standing, according to the CAPE Constitution, before a job action begins;
- b) complete and sign a Job Action Pay Application in the form provided;
- c) been on the active payroll of the employer who is subject to the job action at the beginning of the job action; and,
- d) participate in the job action by performing assigned job action duties.

4.6 INELIGIBILITY FOR JOB ACTION PAY

A member in good standing is not eligible for job action pay if:

- a. at the beginning of the job action, the member was unemployed or laid off, unless the lay-off is directly related to the job action;
- b. the member is receiving vacation pay, EI, sickness, accident and/or Workers Compensation benefits;
- c. the member fails to perform assigned job action duties because of employment obligations;
- d. the member is in arrears of payment of dues, assessments or owes a fine or any other debt to CAPE, except in circumstances beyond the member's control;
- e. the member fails to respect the job action or picket line without authorization from CAPE.

A member who is not entitled to job action pay for a reason set out in (d) will become eligible for job action pay upon payment of all monies owing to CAPE.

Any member failing to perform assigned job action duties without just cause shall not be eligible for job action pay.

4.7 ENTITLEMENT TO JOB ACTION PAY

To be entitled to job action pay, members must complete a Job Action Pay Application as set out in Appendix "A" and administered by National Office staff.

4.8 REFUSAL OF JOB ACTION PAY

In the event of a member being refused job action pay, they shall have the right of appeal to the National Executive Committee by sending written notice of appeal to the Vice President of the member's respective bargaining unit and to the President.

Such appeals are heard by the National Executive Committee through the following process:

- receipt of the notice of appeal via the VP and/or the President, including reasons for the appeal

- if desired, the member can attend and present their appeal to a regular NEC meeting

The decision of the NEC is final. Communication of the decision shall include the reasons for the decision. Reasons are not limited to those included in the notice of appeal.

4.9 LEGAL DEFENSE OF THE ASSOCIATION

With the approval of the National Executive Committee, the Defense Fund can be used to absorb any unusual and extraordinary legal defense related activities and/or associated costs to defend the Association against internal and external matters, which may expose the Association and its members to potential risk.

These extraordinary legal defense related expenses may include, but are not limited to: direct legal defense of the Association related to litigation (which may fall outside the parameters of our insurance), internal complaints, external complaints and/or By-Law 5 processes, and any other associated costs, including potential settlements, that may pose a significant risk to the financial integrity of the Association, and that may fall outside of associated budgeted line expenditures, for professional fees, NEC expenditures, and settlements.

5.0 REVISION OF THE POLICY

This policy will be reviewed occasionally and at a minimum every two years by the Finance Committee.

Appendix “A” – Job Action Pay Application Form

I/we, the undersigned, hereby apply for job action pay.

Date of job action, number of hours/days of job action activity [filled out by job action anchor/picket captain/local or national executive member, PRIOR TO MEMBER SIGNATURES]

Action undertaken was approved Y/N and date [filled out by job action anchor/picket captain/local or national executive member]

Name	Member in good standing* Y/N	Signature of member

Verified by:

ALL PAGES MUST BE VERIFIED AND SIGNED BY TWO NATIONAL FINANCIAL SIGNATORIES AS PER THE CAPE CONSTITUTION

*see sub-paragraph 4.5a