

**CONFEDERATION OF SOUTH AFRICAN WORKERS' UNIONS  
(CONSAWU)**

**CONSTITUTION**



**VICTORY IS CERTAIN**

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## PREAMBLE

Whereas, we, the representatives of Federations, Trade Unions, Social and other organisations here present

- \* firmly commit ourselves to the advancement, development and the socio-economic well-being of all workers; and
- \* accept, commit and subscribe to the principles adhered to by DOAWTU and the ITUC, which are to:
  - (a) organise all workers employed and unemployed to build effective trade unions and other organisations based on the principles and programmes subscribed to by all workers in any circumstances and workplaces;
  - (b) organise Federations, Trade Unions, Unemployed and Community-based Organisations, financed and controlled by their members through democratically elected committees;
  - (c) combat the divisions amongst the workers of South Africa and unite them into a strong and confident work force;
  - (d) encourage all workers' organisations and their leadership in all spheres of our society together with other progressive sectors of the community to strive for unity;
  - (e) reinforce and encourage progressive continental and international worker contact and solidarity; and
  - (f) strengthen the activities of DOAWTU and the ITUC in Southern Africa.

We call on all those who identify with this commitment to join us and establish CONSAWU on a principle of political non-alignment. We call on all unions subscribing to the above principles to strive to unite their members in their ranks without discrimination and prejudice. To this end, we, as this Confederation, shall determinedly seek to further and protect the interests of all workers in South Africa and Internationally.

## CONFEDERATION OF SOUTH AFRICAN WORKERS' UNIONS CONSTITUTION

### 1. NAME

The name of the Organisation shall be the CONFEDERATION OF SOUTH AFRICAN WORKERS' UNIONS, hereinafter referred to as "THE CONFEDERATION".

### 2. HEAD OFFICE

The head office of the Confederation shall be situated in or at an address decided on by the National Executive Committee from time to time, based on the following criteria: International status, where the majority of members are and where the major commercial centres are and not far from an international airport.

### 3. AIMS AND OBJECTIVES

- 3.1 To eradicate poverty, exploitation and discrimination in all workplaces.
- 3.2 To secure social and economic justice for all workers especially the development, empowerment and promotion of women.
- 3.3 To strive for the building of a united working force regardless of race, colour, creed, gender, individual affiliation or origin.
- 3.4 To encourage all workers to join trade unions and to develop a spirit of solidarity among all workers on the principles of equality, peace and justice for all workers.
- 3.5 To understand how the economy of the country affects workers and to formulate clear policies as to how the economy should be transformed in the interests of workers.
- 3.6 To work for a restructuring of the economy that will allow the creation of wealth to be democratically controlled and shared amongst all South African citizens.
- 3.7 To strive for just standards of living, social security and fair conditions of work for all.
- 3.8 To respect and uphold the autonomy of each individual affiliate.
- 3.9 To help actively in the formation of trade unions in all sectors where none exist.
- 3.10 To assist affiliates operating in the same sector, on request, to merge or establish co-operation agreements.
- 3.11 To assist affiliates, on request, to encourage co-operation across all sectors as defined by the secretariats, to co-ordinate joint activities, to act as a forum for achieving common goals and to perform such actions as are necessary to achieve these goals.

- 3.12 To endeavour to resolve disputes between affiliates and within the Confederation.
- 3.13 To facilitate and co-ordinate education and training of all workers so as to further their interests.
- 3.14 To comment on, advance or oppose any law, action or policy of any authority or institution affecting the interests of the affiliates in particular, or the workers in general.
- 3.15 To conduct, co-ordinate and publish research into matters affecting workers.
- 3.16 To raise and acquire funds by affiliation fees or by any other legal means to further these aims and objectives.
- 3.17 To purchase, borrow, invest, lend, subscribe, donate money, lease, hire or acquire any movable or immovable property and rights, for the furtherance of the objectives of the Confederation.
- 3.18 To undertake, where it is not in conflict with the objectives of the Confederation, the institution or defence of legal proceedings affecting the interest of the Confederation or any of its affiliates, by or against any person, body or association.
- 3.19 To strengthen and advance the activities of DOAWTU, ITUC, independent trade union action and solidarity.
- 3.20 To affiliate with like minded organisations both regionally and internationally.

#### 4. DEFINITIONS

- 4.1 Affiliated Union/Association: means without limiting the ordinary meaning thereof, any organisation of workers in good standing which:
  - 4.1.1 is involved in achieving the aims and objectives of the Confederation;
  - 4.1.2 has a constitution approved by the general membership; and
  - 4.1.3 is controlled by its members through an elected committee of members.
- 4.2 Delegate: A “delegate” means a person representing an affiliated organisation on any committee or at any congress of the Confederation. Such delegate shall be a member or an official of the affiliated organisation or association represented.
- 4.3 DOAWTU: Democratic Organisation of African Workers’ Trade Unions.
- 4.4 Member: A “member” means an affiliate/association who pays membership dues and is in good standing as prescribed by this Constitution.

- 4.5 Official: An “official” means an employee of the Confederation or any of its affiliated unions/associations employed as a secretary or organiser or in any other prescribed capacity, whether or not such employee is employed in a full-time capacity, provided that and notwithstanding any other clause in this Constitution, the terms and conditions of employment of both officials and other staff members shall be determined from time to time by the National Executive Committee, provided further that, in the case of officials, such conditions shall not breach any provisions of this Constitution.
- 4.6 Office-bearer: An “office-bearer” means a person, other than an official, unless expressly allowed for, who holds office in the Confederation nationally or provincially as specified in this Constitution.
- 4.7 Proper Notice: “Proper notice” shall be notice given to an affiliated union/association in terms of the Constitution at such address as the affiliated union/association may in writing indicate from time to time. Fourteen days prior notice of any change to the chosen address of the affiliated union/association shall be given to the Confederation.
- 4.8 ITUC: International Trade Union Confederation.
- 4.9 Good standing: Affiliates who are members of the Confederation shall pay affiliation fees in arrears not later than 15<sup>th</sup> of the following month. An affiliate which fails to pay affiliation fees for three months shall not vote in any forum of the confederation and shall bear any further exclusions which the NEC of the confederation may deem appropriate. In the period between NEC meetings, the NSC shall decide about affiliate good standing.
- 4.10 Returning Officer: This shall be a person to conduct elections decided upon by the NEC in the case of National Congress. The minimum requirements are that the person shall not be voting and/or standing to be elected. The person so appointed shall not be a member of any affiliate of the confederation. Further requirements may be set by NEC.
- 4.11 Equity National Office Bearer: This shall be an office bearer elected at congress to oversee matters of equity including leading any equity commission which may be established from time to time.
- 4.12 The Labour Relations Act No 66 of 1995 as amended from time to time referred to as the ‘Act’.

## 5. MEMBERSHIP

### 5.1 Ordinary Membership

Membership shall be restricted to trade unions and associations registered in terms of the Labour Relations Act.

## 5.2 Associate Membership

Associate membership shall be open to any organisation with labour-based programmes. Criteria for admission and benefits of membership shall be determined by the NEC subject to the condition that they shall pay only the registration fees set by the NEC.

5.3 Membership shall be open to all unions, associations and social organisations that subscribe to and conform with the requirements of the Constitution of the Confederation subject to the acceptance of their application in terms of this clause. A provision can be made for any other organisation, with labour programmes, not named herein.

5.4 Application/s for membership to the Confederation shall be lodged in writing to the National Executive Committee (NEC).

5.5 The National Executive Committee may request further information in connection with the above or any additional information as may be required. The National Executive Committee shall have full and discretionary powers to admit or refuse to admit any application for membership subject to 5.6 below.

5.6 Upon application for membership, applicants must comply with the minimum criteria to the Confederation as determined from time to time by the NEC, which shall include that the applicant must:

5.6.1 be registered with the relevant authority and submit a copy of its constitution on application;

5.6.2 subscribe to the Preamble, Aims and Objectives of the Confederation;

5.6.3 have a labour-based programme;

5.6.4 pay a registration fee and a monthly subscription fee as prescribed by the National Executive Committee.

5.7 Any organisation whose application for membership of the Confederation is rejected by the National Executive Committee shall, notwithstanding this decision, have the right to appeal in writing via the General Secretary to the National Congress and the National Congress shall confirm or reverse the decision of the National Executive Committee.

5.8 In the event that the National Executive Committee has satisfied itself that an application for membership complies with the entrance requirements and has resolved to admit the applicant, it shall direct the applicant to take up its membership of the Confederation or integrate its membership into the recognised affiliate in the sector/s in which the applicant operates.

5.9 Applications for membership by non-registered organisations may be considered by the National Executive Committee, subject to granting the said

applicant a three month window period, after which the applicant shall have finalised its registration.

- 5.10 An affiliated union/association can terminate its membership by giving three (3) months notice in writing to the NEC.
- 5.11 The NEC may give three (3) months or shorter notice to terminate the membership of an affiliate who in its opinion is not operating in the interest of the Confederation.

## 6. NATIONAL STRUCTURES

- 6.1 The control of the Confederation shall be vested in the following bodies in order of supremacy:

- 6.1.1 National Congress; (NC)

- 6.1.2 National Executive Committee; (NEC)

- 6.1.3 National Standing Committee; (NSC) and

- 6.1.4 National Office Bearers Committee: (NOB)

### 6.2 Meetings

- 6.2.1 All notices for any meeting, other than the National Congress, shall be sent to members/affiliates/associations at least 14 days before the meeting and an agenda shall be attached to such notice. Confirmation of attendance from affiliates to be received within 7 days.

- 6.2.2 The quorum of meetings other than the National Congress shall be 50% +1 of members.

- 6.2.3 If within one (1) hour of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to such time and place as the Chairperson of the meeting may decide, provided that the meeting must be called within one (1) month after a due notice of 14 days has been sent to the members. At such adjourned meeting the members present shall form a quorum. Written notice of such adjourned meeting shall be given to all members.

## 7. NATIONAL CONGRESS (NC)

- 7.1 The supreme control of the Confederation shall be vested in the National Congress, and this body may confirm, repudiate or ratify any decision or resolution of any other body of the Confederation. The National Congress may resolve to refer any matter to the National Standing Committee and/or the National Executive Committee to finalise or conclude that matter.

- 7.2 The National Congress shall be every three years convened by the National Executive Committee at such a venue as decided by the National Executive Committee (NEC). This venue shall, as far as possible, be selected on a rotational basis.
- 7.3 Three (3) months written notice of a National Congress meeting shall be given to each affiliated union/association provided that in the case of special or urgent meetings shorter notice, but not less than thirty (30) days, as may be decided by the President when such a need arises, shall be given. To every notice of meeting an agenda shall be attached.
- 7.4 A special meeting of the NC shall be called by the President upon resolution of the National Executive Committee or upon a written request of not less than two thirds ( $\frac{2}{3}$ ) of the affiliated unions/associations in good standing as per recent membership audit. In the event of the President failing to call such special meeting, the National Executive Committee shall be empowered to nominate the convenor of the meeting. A Special Congress can replace a three year Congress if the NEC sees it fit.
- 7.5 A quorum for either a National Congress or a Special National Congress shall be two thirds ( $\frac{2}{3}$ ) of the affiliates in good standing. In the event that a quorum is not achieved at a duly convened Congress, it shall be postponed for one month, to be held at the same place and time if possible. Proper notice shall be given to all affiliates of the postponed National Congress or Special National Congress as well as notification of the date, place and time of the next meeting. Affiliates attending such a reconvened National Congress or Special National Congress shall constitute a quorum.
- 7.6 The congress shall be presided over by the President or in his/her absence by the Deputy President First Vice-President or the Second Vice-President in the absence of the First Vice-President. The President, Deputy President, First Vice-President, Second Vice-President, National Treasurer, Sector Office Bearer and Equity Office Bearer or any other officials as determined from time to time by the National Executive Committee, shall be elected at Congress. The duties of the National office bearers are as defined in this Constitution and in annexure C1 attached to this constitution.
- 7.7 Composition
- 7.7.1 The NC shall be composed of the Confederation's President, Deputy President First Vice-President, Second Vice-President, Treasurer, General Secretary, Assistant General Secretary, Publicity Secretary, Sector Office Bearer, Equity Office Bearer, Provincial Office Bearers and delegates from affiliated unions / associations as specified below and any guest or observer invited by the NEC.
- 7.7.2 Each affiliated union/association shall inform the General Secretary of the Confederation of the names of their delegates to the NC at least one (1) month before any ordinary meeting and one (1) week before a special meeting.

7.7.3 Proportional Representation: Each affiliated union/association in good standing shall be entitled to attend the Congress with one or more delegates as follows:

7.7.3.1 500 – 1000 members constitute 2 delegates

7.7.3.2 1001 – 2000 members constitute 3 delegates

7.7.3.3 2001 – 3000 members constitute 4 delegates

7.7.3.4 3001 – 4000 members constitute 5 delegates

7.7.3.5 4001 – 5000 members constitute 6 delegates

7.7.3.6 5001 – 6000 members constitute 7 delegates

7.7.3.7 6001 – 7000 members constitute 8 delegates

7.7.3.8 7001 – 8000 members constitute 9 delegates

7.7.3.9 8001 – 9000 members constitute 10 delegates

7.7.3.10 9001 – 10 000 members constitute 11 delegates

Thereafter there shall be an additional 2 delegates for every 10 000 members or part thereof up to 50 000 members. Thereafter 1 delegate for every 10 000 members or part thereof. Application may be made to the National Executive Committee for observers to attend Congress at affiliates' own cost.

7.8 The NC shall adopt general and specific policy measures by means of resolutions in furtherance of the Aims and Objectives of the Confederation and will consider and/or decide on the following:

7.8.1 the credentials of delegates;

7.8.2 amendments to the Confederation's Constitution;

7.8.3 reports from the National Standing Committee;

7.8.4 reports of the office-bearers of the Confederation;

7.8.5 a financial report and the approval of the auditor's reports and the Confederation's financial statements;

7.8.6 resolutions;

7.8.7 the nomination and election of the Confederation's office-bearers, namely the President, Deputy President, First Vice-President,

Second Vice-President, Equity Office Bearer, Sector Office Bearer and the Treasurer. Affiliates in good standing are entitled to nominate any member of an affiliate in good standing. The nomination should be seconded by at least two other affiliates in good standing. The affiliate to which the member belongs is entitled to allow or not allow its member to stand, the member nominated can also decline nomination. The member must be in good standing with the union belonging to.

7.8.8 any such matter that may be deemed to be in the interest of the Confederation referred to it by the NEC.

7.8.9 Procedure for Election

The General Secretary shall circulate a list of affiliates in good standing. This list shall be updated one calendar month before Congress. The nominations shall ordinarily close a month before Congress. The Congress may, while in session still allow late nominations.

7.8.9.1 The Returning Officer shall receive nominations for the office of the Presidents and the Treasurer. The General Secretary of the Confederation shall call for nomination three months before Congress.

7.8.9.2 If, after closure of nominations, only one candidate is nominated for a particular position, the candidate will be deemed to have been elected unopposed, and must be declared by the Returning Officer of the meeting to have been so elected.

7.8.9.3 If two or more candidates are nominated, the Returning Officer must conduct a vote by secret ballot, and must declare the candidate in whose favour the simple majority of the votes has been cast, to have been elected. In the case of a tie the Returning Officer will order another round of voting until the tie has been broken.

7.9 Election and Removal of Office-bearers

7.9.1 Voting for the President, Deputy President, First Vice-President, Second Vice-President, Treasurer, Sector Office Bearer and Equity Office Bearer shall be by secret ballot, or any other means as the NC might resolve, except that if no more than the required number of nominations are received, the candidates so nominated shall be declared duly elected without a ballot being taken.

7.9.2 The President, Deputy President, First Vice-President, Second Vice-President, Treasurer, Sector Office Bearer and Equity Office Bearer shall vacate their seats during their term of office if they cease to be members of an affiliated union/association, or if a special NC so decides by resolution.

- 7.10 Vacancies occurring in the position of President, First Vice-President, Second Vice-President, Treasurer, Sector Office Bearer or Equity Office Bearer shall be filled by the National Executive Committee on nomination duly seconded.
- 7.11 Voting at Congress shall be on the basis of one delegate, one vote.
- 7.12 The National Executive Committee shall determine which members of staff, other than allowed for in 7.7.1 are deemed necessary to attend the National Congress. The staff may be asked to contribute to the discussions, but will have no voting rights.
- 7.13 The General Secretary shall submit to all affiliates not less than 90 days before the Congress, an invitation to submit items and resolutions, together with explanatory documentation for inclusion on the agenda for Congress. The due date for submissions and resolutions will be 60 days prior to Congress and these must be circulated to all affiliates not later than 30 days before the date of Congress, together with any other motions of proposed resolutions submitted by the National Executive Committee.
- 7.14 The National Executive Committee shall be responsible for the drafting and distribution of the agenda as well as the minutes and relevant supporting documentation for Congress.
- 7.15 Resolutions:
  - 7.15.1 Resolutions to be moved at the NC shall be submitted in writing and delivered to the General Secretary for circulation to affiliated unions/associations not less than thirty (30) days before the NC is held, provided that the NC shall have the right to consider special resolutions.
  - 7.15.2 Unless otherwise provided herein, every matter for consideration by the NC shall be on motion duly seconded, and shall be decided by the majority of members present.

## 8. OTHER STRUCTURES

### 8.1 National Executive Committee

#### 8.1.1 Composition

The National Executive Committee shall consist of one delegate per affiliated union/association, the President, Deputy President, both Vice-Presidents, Treasurer, Sector Office Bearer, Equity Office Bearer and the General Secretary who will also have a permanent position on the Committee.

#### 8.1.2 Voting

The President, Deputy President, Vice-Presidents, Treasurer, Sector Office Bearer, Equity Office Bearer and General Secretary will have no

voting rights. In the event of a motion being hung after 3 voting sessions, the President will have a casting vote.

#### 8.1.3 Vote weights

The NEC votes will be based on congress representation of each affiliate.

#### 8.1.4 Quorum

The quorum shall be 50%+1 of the NEC members. Any meeting of a CONSAWU structure other than Congress shall convene at the scheduled time. If after two hours from the scheduled time there is no quorum the meeting shall be adjourned to a later date subject to Clause 4.7 of the CONSAWU Constitution. The meeting so convened shall be quorate.

#### 8.1.5 Powers and Functions

- (a) To establish departments, offices, provincial structures, new sectors where necessary and committees as may be required by the Confederation for the servicing of its affiliates.
- (b) New unfunded posts will be approved by the NEC.
- (c) To negotiate and co-operate with other federations / confederations, trade unions, organised business etc as authorised by Congress.
- (d) To elect delegates to represent the Confederation when deemed necessary.
- (e) The National Executive Committee shall be accountable to Congress.
- (f) The National Executive Committee shall be the only body to approve budgets, business plans, projects and on the recommendation of FINCOM financial requests not budgeted for.
- (g) The NEC decides on the staff establishment and Human Resources Policy, salary packages and conditions of service of CONSAWU staff and on the recommendation of the NSC on salary increases and employee benefits.

8.1.6 The National Executive Committee shall convene every six months. Special meetings shall be determined by the President with the permission of 50% of the members of the National Executive Committee.

## 8.2 National Standing Committee

8.2.1 The National Standing Committee shall meet every two months or as regularly as may be required, in order to oversee the day to day management of the affairs of the Confederation. The General Secretary with the permission of the President, shall convene any special meetings outside of the regular bi-monthly meetings.

### 8.2.2 Composition

The National Standing Committee shall consist of the President, Deputy President, both Vice- Presidents, Treasurer, General Secretary, the Project Co-ordinator, the Finance Manager, Sector Office Bearer, Equity Office Bearer, five members of the National Executive Committee including the Sector Office Bearer, Equity Office Bearer and the Provincial Chairpersons.

### 8.2.3 Voting

There shall be no vote weights, each delegate will be entitled to one vote.

### 8.2.4 Quorum

The quorum shall be 50% +1 of NSC members

### 8.2.5 Powers and Functions:

The National Standing Committee shall perform such functions as delegated to it by the National Executive Committee and shall be accountable to the National Executive Committee regarding decisions taken by it. Such powers and functions shall include, *inter alia*,

- (a) To oversee the Secretariat and co-ordinate its functions with regard to the ordinary management and day to day operations of the Confederation.
- (b) To formulate proposals to the National Executive Committee with regard to strategic directions and operational issues pertaining to the Confederation.
- (c) The function of disciplining employees shall be dealt with by the NSC in terms of the Confederation's disciplinary procedure and appointments to existing approved posts will be dealt with by the NSC.
- (d) To set in motion procedures for internal discipline and the orderly functioning of the Confederation's employees as prescribed by the Labour Relations Act (LRA).

- (e) To make recommendations with regard to the formation of special task teams, committees and any other structures that are necessitated by any changes within the various sectors of the Confederation.
- (f) To continuously evaluate the need for expansion, the opening of offices, to ensure sufficient servicing of affiliates and to make recommendations to the National Executive Committee in this regard.
- (g) To direct all matters pertaining to the administration and good governance of the Confederation and its member affiliates, including financial management, matters of a legal nature, office management, building of a brand for the Confederation and matters as requested by the National Executive Committee from time to time.

## 9. ESTABLISHMENT OF PROVINCES OF THE CONFEDERATION

9.1 The National Executive Committee together with the Secretariats may establish any provinces of the Confederation as per demarcation where two (2) or more affiliates have established significant representation.

### 9.2 Provincial Congress

#### 9.2.1 Composition

Each affiliate which has a branch or branches within the area of jurisdiction of the province shall be entitled as follows:

9.2.1.1 1 – 500 members constitute 2 delegates.

9.2.1.2 501 – 1 000 members constitute 3 delegates.

9.2.1.3 Thereafter 1 additional delegate per each 1 000 members to a maximum of 7 delegates.

#### 9.2.2 Powers and Duties

A Provincial Congress shall have such powers and duties as may be assigned to it by the National Executive Committee and shall include the following powers and duties:

9.2.2.1 to implement and give effect to decisions of the National Congress, National Executive Committee and the National Standing Committee in their provinces;

9.2.2.2 to examine provincial problems and to co-ordinate activities and campaigns to overcome such problems;

- 9.2.2.3 to carry out the Aims and Objectives of the Confederation with regard to the organising of workers in the provinces;
- 9.2.2.4 to facilitate and encourage co-operation between affiliated organisations in the province;
- 9.2.2.5 to consider reports of the activities of affiliated organisations in the province;
- 9.2.2.6 to elect or employ a Provincial Chairperson and Vice-Chairperson and Treasurer from its members, at least once every two (2) years;
- 9.2.2.7 to elect or employ a Provincial Secretary subject to the powers of the National Executive Committee to determine the conditions of employment in terms of clause 8.1.5;
- 9.2.2.8 to liaise with the National Executive Committee on the employment of full-time or part-time officials, subject to the powers of the National Executive Committee to determine the terms of employment of such officials.

Notwithstanding anything to the contrary herein, the Provincial Congress shall be a subordinate body to the National Executive Committee and its decisions may be confirmed, amended or reversed by the National Executive Committee, which shall also have the right to limit any one or more of the aforementioned powers and duties of the Provincial Congress by resolution.

### 9.2.3 Office-bearers

- 9.2.3.1 The election, removal from office and powers and duties of the office-bearers of the Provincial Congress shall *mutatis mutandis* be the same as those of the office-bearers of the NC as contained in the rules and they shall liaise with their respective national counterparts and keep them informed generally about the affairs of the Provincial Congress.
- 9.2.3.2 The Provincial Treasurer shall present a financial statement to each ordinary meeting of the Provincial Congress and shall generally exercise supervision over the financial affairs of the province and together with the Provincial Secretary shall present the annual budget to the Provincial Congress.

### 9.2.4 Meetings

- 9.2.4.1 Generally the Provincial Congress shall meet once every year and may be convened by the Provincial Executive Committee whenever necessary on thirty (30) days written notice to all the affiliates in the province. Special Provincial Congresses may be

called on fourteen (14) days notice to such affiliates. Such notice shall state the agenda for the meeting, as well as its venue, date and time.

9.2.4.2 The quorum for meetings of a Provincial Congress shall be at least two thirds ( $\frac{2}{3}$ ) of the affiliated unions/associations in good standing in the province.

## 10. PROVINCIAL EXECUTIVE COMMITTEE

The management of the affairs of the Province between Provincial Congress meetings shall be vested in the Provincial Executive Committee.

### 10.1 Composition

The Provincial Executive Committee shall consist of:

10.1.1 The Provincial Chairperson, Vice-Chairperson, Provincial Treasurer, Provincial Secretary and two delegates from each affiliated union/association in the province. The delegates from each affiliated union/association should be elected office-bearers or appointed and mandated representatives of the affiliate.

#### 10.1.2 Vote weights

Shall be proportional and shall be determined by the NEC taking into account the unions represented in that province.

### 10.2 Powers and Duties

The powers and duties of the Provincial Executive Committee shall be:

10.2.1 To regularly submit reports on all issues raised at the Provincial Executive Committee meetings to the Provincial Branch Executive Committees of affiliated unions/associations in the province.

10.2.2 To consider any matter submitted by an affiliated union/association.

10.2.3 To manage the affairs of the province between meetings of the Provincial Congress.

10.2.4 To endeavour to settle disputes between affiliates in the province.

10.2.5 To open and operate a banking account in the name of the province of the Confederation into which all monies received by it shall be deposited. Money dealt through National Office

10.2.6 To carry out all resolutions, instructions and/or requests of the Provincial Congress and/or NEC and/or NSC, provided that in the event of a conflict between any resolution, instruction and/or request of the

Provincial Congress and the National Standing Committee, the Provincial Executive Committee shall be bound by the decision of the National Standing Committee subject to the confirmation of the NC.

10.2.7 To organise the Provincial Congress.

### 10.3 Meetings of the Provincial Executive Committee

10.3.1 The last Provincial Executive Committee (hereinafter referred to as the "PEC") meeting in each calendar year shall set dates for the normal meetings of the Provincial Executive Committee for the following year, which shall be held once every two (2) months.

10.3.2 Such dates may be changed only in a PEC meeting on good cause, provided that this may be waived with prior consent of the majority of the affiliates.

10.3.3 Notice of normal meetings together with agendas, minutes of the previous meetings and other relevant documentation shall be circulated by the Provincial Secretary to all members of the PEC, and the NSC, at least ten (10) days before the meeting is due to take place.

10.3.4 The Provincial Secretary shall give all members at least fourteen (14) days' notice of any change of date of a normal PEC meeting and shall likewise give forty-eight (48) hours' notice of any special urgent meeting of the PEC together with a written agenda specifying the issues requiring such meeting, provided such period of notice and/or written agenda may be waived with the prior consent of the majority of affiliates.

10.3.5 Only such business as is occasioned by the calling of a special urgent meeting of the PEC shall be discussed at such meeting.

10.3.6 No decision of a Special PEC shall be valid if it detrimentally affects any delegate of the PEC who did not receive notification of such meeting.

10.3.7 The PEC shall be quorate when at least one delegate of each of two thirds of the affiliates entitled to representation are present and provided there shall be a majority of members of affiliates in the meetings. If there is no quorum present within sixty (60) minutes of the time of the meeting, the meeting shall stand adjourned for seven (7) days. When reconvened the members present shall form a quorum.

## 11. SECRETARIAT COMMITTEE

11.1 Composition: The General Secretary, 1<sup>st</sup> Vice-President, Project Co-ordinator, Sector Chairpersons and the Finance Manager.

## 11.2 Powers and functions of the Secretariat Committee:

- (a) Shall perform such functions as delegated to it by the NEC and shall be accountable to the NEC for all decisions taken by it.
- (b) Shall keep minutes of all Sector Chamber meetings and distribute copies to the NEC and the NSC.
- (c) Shall meet every three months or as regularly as decided by the NEC.
- (d) Shall co-ordinate all labour projects within the Confederation and submit written reports of projects undertaken to the NEC.

## 12. OFFICIALS

- 12.1 Officials shall be appointed by the National Executive Committee or their mandated delegates.
- 12.2 The functions, powers and responsibilities of the General Secretary shall be determined by the NEC from time to time. The General Secretary is ultimately accountable to the National Executive Council via the National Standing Committee for the orderly functioning and effective management of the Secretariat.
- 12.3 Staff shall be appointed by the General Secretary on approval of the posts by the National Executive Committee. A Human Resources Policy shall be implemented after due consultation with the National Executive Committee.

## 13. RULES OF PROCEDURE

- 13.1 The Chair shall be taken by the President, or in his/her absence by the Deputy President or in the latter's absence the First Vice-President, or in their absence, the Second Vice-President, or in their absence as the quorate meeting may decide. In the case of provinces, the Chair shall be taken by the Provincial Chairperson, or in his/her absence, by the Vice-Chairperson, or in their absence as the quorate meeting may decide.
- 13.2 Business shall be proceeded with in accordance with the agenda unless otherwise decided by the meeting.
- 13.3 Except where otherwise provided, all questions shall be decided by a motion duly seconded by a majority of votes by a show of hands, unless such a meeting decides on a ballot. In the event of a tie of votes on the motion, the chairperson of the meeting shall have a casting vote.
- 13.4 No motion that has been debated and determined shall be reconsidered, debated, altered, added to, varied or rescinded at that meeting unless the meeting decides to review its earlier decision.

- 13.5 The chairperson shall be entitled to make a ruling on matters of procedure and such a ruling can be rescinded through a motion to rescind it moved, seconded and voted upon if the majority of votes are in favour of the rescission of the ruling.
- 13.6 The mover of a motion shall have the right to speak for ten (10) minutes, provided that any delegates other than the mover may propose an extension of time of not longer than five (5) minutes.
- 13.7 The mover of a motion shall have the right to reply to the debate, provided such reply shall not be longer than five (5) minutes.
- 13.8 All other speakers, except with the permission of the meeting, shall not speak longer than five (5) minutes.
- 13.9 No subject shall be debated for longer than one and a half (1½) hours, provided that any delegate shall have the right to propose an extension of time, and such motion, if seconded, shall be put without debate and shall not have effect unless carried out by a two thirds ( $\frac{2}{3}$ ) majority.
- 13.10 Any delegate who refuses to obey the chairperson's ruling, except in the event of section 13.5 above, or who is deemed guilty of misconduct shall, upon a vote being taken to that effect, withdraw from the meeting, and the meeting shall have the right to suspend any such member for such period as it may deem fit.
- 13.11 At all meetings where more than fifty (50) delegates are present, votes shall be counted by scrutineers who shall be appointed by the meeting and who shall record the vote and report to the chairperson.
14. FINANCES
- 14.1 The funds of the Confederation shall be made up of all monies received by means of affiliation fees, levies, donations, functions and in any other manner within the framework of this Constitution, and subject to the principles and objectives of the Confederation.
- 14.2 Funds received by the General Secretary on behalf of the Confederation shall be deposited to its credit within three (3) days of receipt by the General Secretary to the Confederation's bank account. Such funds may be used for the payment of expenditure relating to the attainment of the objectives specified in Clause 3, the acquisition of movable and immovable property, or such other purposes as may be decided upon by the National Executive Committee or the National Standing Committee.
- 14.3 Affiliated unions/associations shall pay an affiliation fee to the Confederation. The amount of such fee shall be determined by the National Executive Committee, subject to directives of the National Congress.
- 14.4 Affiliation fees payable in terms of section 14.1 above shall be payable in respect of each month on or before the fifteen (15<sup>th</sup>) day of following

month into the bank account of CONSAWU; or to the authorised offices of the Confederation.

- 14.5 Funds contributed by affiliates of the Confederation for any specific purpose shall not be used for any other purpose, subject to the provisions of the constitution of the Confederation.
- 14.6 The Confederation's financial year shall be from 1 January to 31 December.
- 14.7 The Finance Committee (FINCOM), composed of the Treasurer elected at the Congress, President (ex officio), the Second Vice- President, three(3) persons elected by the NEC, the General Secretary, Project Co-ordinator, Assistant General Secretary and the Financial Manager shall meet at least once every month. The Treasurer shall act as Chairperson of the FINCOM. FINCOM shall report directly to the National Standing Committee.
- 14.8 Powers and functions –
- FINCOM shall be responsible for
- 14.8.1 Assisting the Treasurer;
- 14.8.2 Preparing financial reports and budgets for the National Standing Committee and NEC;
- 14.8.3 Recommending amendments or additions to financial policies;
- 14.8.4 Monitoring the Confederation's accounts and querying unusual expenditure;
- 14.8.5 Making recommendations regarding financial requests from affiliates;
- 14.8.6 Proposing ways of making the Confederation financially self-sufficient;
- 14.8.7 Preparatory work regarding the Confederation.
- 14.9 All income and expenditure shall be reported to each meeting of the National Standing Committee and the NEC. Such reports shall include a clear statement of any unbudgeted expenditure.
- 14.10 The National Standing Committee shall have responsibility for ratification of all expenditure by FINCOM, provided that expenditure on movable and immovable property and vehicles shall be subject to the approval of the NEC.
- 14.11 There shall be three (3) signatories to the national banking account to be decided on by the NEC, provided that there shall always be two (2) signatories to all cheques issued.

14.12 An affiliated union/association that disaffiliates or is expelled from membership of the Confederation, shall have no claim on the funds or assets of the Confederation.

14.13 General Provisions:

14.13.1 No accounts shall be opened by any bank or any registered financial institution in the name of the “Confederation of South African Workers’ Union” or “CONSAWU” or any other similar name without the explicit written authority of a resolution of the National Executive Committee on an official Confederation letterhead, and subsequent verbal confirmation by either the Treasurer or General Secretary. Such written authority shall be signed by at least three (3) of the following: The President, First Vice-President, Treasurer, General Secretary or Assistant General Secretary.

14.13.2 No profits or gains shall be distributed to any persons and the funds of the Confederation shall be utilised solely for the achievement of the Aims and Objectives of the Confederation.

## 15. STATUS OF THE CONFEDERATION

The Confederation shall be a body corporate not for gain with perpetual succession and legal existence independent of its affiliated union/association and no affiliated union/association has any right to any of its assets, and it shall be entitled to sue and be sued in its own name.

## 16. INDEMNIFICATION OF OFFICIALS, OFFICE-BEARERS AND COMMITTEE MEMBERS

The officials, office-bearers, and committee members of the Confederation shall be indemnified by the Confederation against all proceedings, costs and expenses incurred by reason of any omission, negligence or other act done in performance of their duties on behalf of the Confederation or its affiliated unions/associations and they shall not be personally liable for any of the liabilities of the Confederation or any of its affiliated unions/associations.

## 17. RESIGNATION AND DISCIPLINE

17.1 Any national office-bearer or national official of the Confederation who accepts any senior leadership position of any registered political party at a provincial or national level will have to resign as a leader of the Confederation.

17.2 Regarding leaders of the Confederation who campaign as candidates of any registered political party at a provincial or national level, the NEC shall consider their participation and if found that their participation compromises the independence and non-alignment principles of the Confederation, the NEC will remove those leaders from the Confederation’s leadership positions.

- 17.3 An affiliate may resign from the Confederation by giving three (3) months written notice and shall present its reasons for resigning to the National Executive Committee which may at its discretion waive the notice period.
- 17.4 An affiliate may be suspended or expelled by the NC or the National Executive Committee for:
- 17.4.1 Acting against the interest of the Confederation;
- 17.4.2 Its delegate failing to attend more than two (2) consecutive meetings of the National Executive Committee without an apology acceptable to the National Executive Committee;
- 17.4.3 Failing to pay its affiliation fees.
- 17.4.4 No such suspension or expulsion shall have effect unless the National Executive Committee has notified the affiliate in writing of the reasons for such suspension or expulsion and granted the affiliate permission to present its case to the National Executive Committee.
- 17.5 Appeals against suspension or expulsion by the National Executive Committee may be made to the NC and the decision of the NC shall be final and binding. Notice of intention to appeal should be lodged with the General Secretary within thirty (30) days of notification of the decision having been taken by National Executive Committee.
- 17.6 Affiliates who resign or are expelled shall have no claim on the assets of the Confederation. The National Executive Committee shall be empowered to recover all monies owing to the Confederation, as at the date of resignation or termination of an affiliate.
- 17.7 The National Executive Committee undertakes to promote and preserve the dignity and self-esteem of all workers and Confederation officials, and shall draw up a Code of Conduct which will form part of the disciplinary code, and failure by any member or official to adhere to it shall constitute misconduct which may result in disciplinary action being taken, which could result in suspension, expulsion or dismissal.
- 17.8 Any member of a CONSAWU committee or any office-bearer shall vacate his or her office:
- when his or her term of office expires;
  - in the case of permanent incapacity;
  - if he or she resigns by giving notice in writing to the Chairperson;
  - if the nominating party withdraws its representatives, giving notice in writing;
  - if the nominating party ceases to exist.
- 17.9 The President or Chairperson shall vacate his/her seat if a majority vote of no confidence in him/her is adopted by a quorate meeting or in the case of any of the above.

17.10 The National Executive Committee may request a leader: anyone serving in a structural committee of a political party to vacate his or her leadership position in any instance where it is found that he/she failed to comply with the CONSAWU Code of Conduct.

18. PROTEST ACTION TO PROMOTE OR DEFEND SOCIO-ECONOMIC INTERESTS OF WORKERS

In terms of the furtherance of the Aims and Objectives of this Constitution, CONSAWU shall have the right to call on its affiliates to embark upon any industrial action subject to the Labour Relations Act as amended from time to time. However any such call for industrial action in terms of this clause shall not impact on the autonomy of each affiliate.

19. SHOP STEWARD COUNCILS

19.1 The Confederation shall strive to encourage affiliated unions/associations to set up local offices of their organisations in blocks so as to facilitate closer liaison between affiliated organisations.

19.2 The province shall use its best endeavours to establish a local shop steward council which shall consist of all shop stewards or committee members in that region.

20. BALLOTS

Electronic voting or E-mail voting is unacceptable

20.1. In addition to those cases in respect of which the taking of a ballot of members of the whole Confederation or of an affiliate is compulsory in terms of this Constitution, a ballot on any question shall be taken if the National Executive Committee so decides, and shall also be taken if demanded by an affiliate;

20.2 Ballots shall be conducted in the following manner:

- (a) Notice of a ballot shall be given to each member of the affiliate in writing by the General Secretary, at least three days before the ballot is to be taken: Provided that a ballot may be taken without notice at any general meeting on the decision of a majority of the affiliates present.
- (b) Two scrutineers shall be appointed by each affiliate's Executive Committee or by the NEC to supervise any ballot and to ascertain the results thereof.
- (c) Except in the case of postal ballots and ballots taken at general meetings on the decision of a majority of the affiliates present, ballots shall be conducted at the various offices of the affiliated organisations or at such other places as may be specified in the notice referred to in paragraph (a) of this subclause on the date and during the hours specified in the said notice.

- (d) Ballot papers shall be supplied to the affiliates' secretaries by the General Secretary of the Confederation. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify the voter.
- (e) Ballot boxes shall be inspected by the scrutineers and sealed in their presence prior to the issuing of ballot papers.
- (f) One ballot paper only shall be issued on demand at the place and during the hours fixed for the taking of the ballot to each member of the affiliate who is entitled to vote.
- (g) Each voter shall, in the presence of the scrutineers, be issued with one ballot paper which he/she shall thereupon complete, fold and deposit in a ballot box provided for the purpose.
- (h) Ballot papers shall not be signed or marked in any way apart from the mark required to be made by a member in recording his/her vote. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.
- (i) On completion of a ballot or as soon as possible thereafter, the result thereof in respect of each affiliate in the presence of its officials and will be made known to its executive structures which shall, as soon as possible, advise the NEC.
- (j) Ballot papers, including spoilt papers, shall be placed in a container which shall be sealed after they have been counted and retained by the affiliate for not less than three years.

20.3 The National Executive Committee may decide that a postal ballot of affiliates shall be taken, in which event the ballot shall be conducted in the following manner:

20.3.1 The General Secretary shall send by registered post to each affiliate member of the organisation a ballot paper and a stamped addressed envelope marked "Ballot". The ballot paper shall on completion be inserted in the envelope provided for the purpose which shall be sealed and posted so as to reach the General Secretary within 14 days from the date of despatch from Head Office to such member. On receipt of such envelopes, the General Secretary shall immediately place such envelopes in a sealed ballot box.

20.3.2 Two scrutineers shall be appointed by the National Executive Committee to ascertain the result of the ballot. The ballot box shall be opened and the ballot papers counted by the scrutineers in the presence of the General Secretary, who shall immediately advise the National Executive Committee of the result of the ballot.

20.3.3 The same procedure shall *mutatis mutandis* apply to a postal ballot confined to members of the National Executive Committee or any National Executive Committee of the affiliated union/association.

20.3.4 In any ballot conducted in connection with any election the candidates, up to the required number receiving the highest number of votes shall be declared elected.

20.3.5 The National Congress, the National Executive Committee or the executive structure of the affiliated union/association shall be bound to take action according to the decision of a majority of members voting in a ballot.

## 21. AMENDMENTS TO THE CONSTITUTION

The provisions of the constitution may be repealed, amended, or added to, or new provisions inserted by a resolution passed by a two thirds ( $\frac{2}{3}$ ) majority at a quorate meeting of the Congress, provided that notice of the proposed amendment shall have been sent to the General Secretary and circulated finally on the agenda for such meeting to all affiliates.

## 22. DISSOLUTION

22.1 The Confederation may be dissolved by resolution of the Congress carried by not less than two thirds ( $\frac{2}{3}$ ) majority of a quorate Congress meeting and the quorum of that meeting shall be not less than  $\frac{2}{3}$  of the Confederation's affiliated unions/associations in good standing.

22.2 In the event of a resolution being adopted as provided in sub-section 22.1 hereof, the Congress shall appoint a liquidator to wind up the affairs of the Confederation.

22.3 The liquidator shall at the date of dissolution, take the necessary steps to liquidate the debts of the Confederation from its unexpended funds and any other monies released from any asset of the Confederation. The liquidator's fees and expenses shall rank in order of preference as though he/she were a trustee of an insolvent estate and as though the expenses were the costs of the sequestration of an insolvent estate

22.4 After payment of all debts the remaining assets, if any, shall be given or transferred to another non-profit, tax-exempt organisation/s with objectives similar to those of the Confederation. Priority shall be given to affiliated organisations which were in good standing as at the date of dissolution with each affiliated organisation receiving a share in proportion to the subscriptions actually paid by it in respect of the twelve (12) months immediately preceding the said date.

23. INTERPRETATION

Whenever any doubt arises as to the interpretation of any provisions of the Constitution, the NC shall make a ruling on the matter and such ruling (by majority vote) shall be the only and final interpretation of the Constitution, provided that the National Executive Committee shall be empowered to make an interim ruling on interpretation prior to the NC's final decision.

Thus signed at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ 2007 by:

\_\_\_\_\_  
**The President**  
**JOEL MFINGWANA**

\_\_\_\_\_  
**The General Secretary**  
**KHULILE NKUSHUBANA**