

# **COSATU CONSTITUTION**

**As amended at the 9<sup>th</sup> National Congress in 2006**

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## PREAMBLE

We, the Trade Union representatives here present firmly commit ourselves to a unified democratic South Africa, free of oppression and economic exploitation.

We believe that this could only be achieved under the leadership of a united working class. Our history has taught us that to achieve this goal we will have to carry out the following tasks:

- 1 organise the unorganised workers and build effective trade unions based on the democratic organisation of workers in the factories, mines, shops, farms and other workplaces.
- 2 organise national industrial trade unions, financed and controlled by their worker members through democratically elected committees.
- 3 unify national industrial trade unions, under COSATU's leadership.
- 4 combat the divisions amongst the workers of South Africa and unite them into strong and confident working class formations.
- 5 encourage democratic worker organisation and leadership in all spheres of our society together with other progressive sectors of the community.
- 6 reinforce and encourage progressive international worker contact and solidarity so as to assist one another in our struggles.

**COSATU** calls on all those who identify with this commitment to join us and the workers whom we represent, as comrades in the struggle ahead. We call on all trade unions to strive to unite their members in their ranks without discrimination and prejudice. We seek to protect and further the interests of all workers. Our struggle is inspired by the universal slogan of working class solidarity: "**An injury to one is an injury to all**".

# **1 CHARACTER OF THE FEDERATION**

## **1.1 Name**

The name of the organisation is the Congress of South African Trade Unions (COSATU), hereinafter referred to as the "Federation".

## **1.2 Legal status**

1.2.1 The Federation is a corporate body with perpetual succession and legal existence independent of its affiliates.

1.2.2 No affiliate has any right to its assets.

1.2.3 The Federation may sue and be sued in its own name.

## **1.3 Structure**

The Federation consists of the following structures -

1.3.1 National Congress ("NC").

1.3.2 Central Committee ("CC").

1.3.3 Central Executive Committee ("CEC").

1.3.4 Provincial Congress ("C").

1.3.5 Provincial Executive Committees ("EC").

1.3.6 Provincial Shop Steward Councils ("SSC").

1.3.7 Local Shop Steward Councils ("Locals"); and

1.3.8 Local Executive Committee ("LEC")

## **1.4 Aims and objectives**

The aims and objectives of the Federation are

1.4.1 to fight for worker rights by –

1.4.1.1. securing social and economic justice for all workers;

1.4.1.2. understanding how the economy of the country affects workers and formulating clear policies on how the economy should be restructured in the interests of the working class;

- 1.4.1.3. restructuring the economy to allow the creation of wealth to be democratically controlled and its fruits shared among the working class;
- 1.4.1.4. striving for just standards of living, social security and fair conditions of work for all;
- 1.4.1.5. advancing or opposing any law, action or policy of any authority or body affecting the interests of affiliates in particular, or the working class in general;
- 1.4.1.6. facilitating and co-ordinating education and training of all workers so as to further the interests of the working class; and
- 1.4.1.7. conducting, co-ordinating and publishing research into matters affecting workers;
- 1.4.2 to build solidarity by:
  - 1.4.2.1. encouraging all workers to join progressive and democratic trade unions; and
  - 1.4.2.2. striving for a united working class movement regardless of race, colour, creed or sex;
- 1.4.3 to encourage industrial unions by:
  - 1.4.3.1. forming broadly based industrial unions in all industries where none exist; and
  - 1.4.3.2. assisting unions operating in the same industry to merge into broadly based industrial unions;
- 1.4.4 to support affiliates by:
  - 1.4.4.1. encouraging co-operation among affiliates;
  - 1.4.4.2. co-ordinating joint activities;
  - 1.4.4.3. creating a forum to achieve common goals and perform such actions as are necessary to achieve these goals;
  - 1.4.4.4. resolving disputes between affiliates and within the Federation; and
  - 1.4.4.5. instituting or defending legal proceedings affecting affiliates or the Federation;
- 1.4.5 to manage finances and assets by:
  - 1.4.5.1. raising and acquiring funds by affiliation fees or by any other legal means in order to further these aims and objectives; and

- 1.4.5.2. purchasing, leasing, hiring or acquiring any movable and immovable property and rights which the Federation may deem necessary; and
- 1.4.6 to pursue any action which may be in the interests of the Federation and its affiliates and which are consistent with this Constitution.

## **1.5 Location of head office**

The CEC decides on the location and address of the head office.

## **2 MEMBERSHIP**

### **2.1 Application**

2.1.1 The Federation is open to all unions that-

- 2.1.1.1. subscribe to the preamble; and
- 2.1.1.2. conform to the requirements of this Constitution.

2.1.2 Unions intending to apply for membership must send to the CEC-

- 2.1.2.1. a copy of their current constitution which must state that –
  - 2.1.2.1.1. the union is controlled by democratically elected worker representatives at all levels;
  - 2.1.2.1.2. the union limits its membership to specified industries;
  - 2.1.2.1.3. officials have no voting rights in the union;
- 2.1.2.2. a statement of membership setting out the number of members they have and where those members are organised; and
- 2.1.2.3. a copy of its latest audited financial statements.

2.1.3 The CEC may request further information to that supplied in subsection 2.1.2 above.

### **2.2 Decision making**

2.2.1 The CEC has full and discretionary powers to-

- 2.2.1.1. accept an application for membership; or
- 2.2.1.2. reject an application for membership.

2.2.2 If the CEC is satisfied that the applicant complies with the entrance requirements and resolves to admit the applicant it must direct the union to –

- 2.2.2.1. take up its membership in the Federation; or

- 2.2.2.2. integrate its membership into the appropriate union affiliate in the industrial section in which the (applicant) union operates.
- 2.2.3 If the CEC is not satisfied that the applicant complies with the entrance requirements and resolves not to admit the applicant, then the applicant may appeal to the next National Congress, and this National Congress must confirm or reverse the decision of the CEC.
- 2.2.4 Notwithstanding the provisions of clause 2.2.2 the CEC may determine the process by which the applicant union is integrated into and orientated about the Federation. In so doing the CEC may determine –
  - 2.2.4.1. the orientation programme;
  - 2.2.4.2. the period for which the applicant union should be orientated about the Federation, which may not exceed six months; and
  - 2.2.4.3. the process of evaluating the progress of the orientation programme;
- 2.2.5 During the orientation period the applicant union may chose to have observer or full participatory status.
- 2.2.6 During the orientation programme the applicant union must pay affiliation fees.
- 2.2.7 A union that is an amalgamation or merger of two or more unions that are affiliates of the Federation will be an affiliate of the Federation from the date of the merger or amalgamation if the CEC –
  - 2.2.7.1. agrees to the merger or amalgamation before the merger or amalgamation takes place; and
  - 2.2.7.2. ratifies the decision to have the merged or amalgamated union as an affiliate of the Federation after the merger or amalgamation has taken place.
- 2.2.8 The CEC may condone an affiliate being more than six months in arrears with its affiliation fees to the Federation if the affiliate –
  - 2.2.8.1. shows good cause to the CEC for its failure to pay its affiliation fees;
  - 2.2.8.2. brings an application for condonation to the CEC before it is more than six months in arrears; and
  - 2.2.8.3. enters into good faith discussions and arrangements with the Federation to settle its outstanding affiliation fees.
- 2.2.9 Good cause referred to in clause 2.2.8.1 includes –
  - 2.2.9.1. substantial payments for litigation which has had an adverse effect on the income of the affiliate such that payment of affiliation fees may likely lead to the liquidation of the union;

- 2.2.9.2. loss of 20% of members due to dismissals within a period of six months that demonstrably affects the affiliate's finances;
  - 2.2.9.3. 50% of the affiliate's members are engaged in six months protracted strike; or
  - 2.2.9.4. the disaffiliation of the affiliate is likely to –
    - 2.2.9.4.1. affect the affiliate by, for example, resulting in mass resignations of members;
    - 2.2.9.4.2. substantially reduce the membership of the Federation and materially affect its representativity; or
    - 2.2.9.4.3. substantially prejudice the Federation's financial position.
- 2.2.10 If an affiliate is not in good standing, then the affiliate will have speaking rights, but no voting rights in any of the structures of the Federation.

### **2.3 Autonomy of affiliates**

Affiliates, including affiliates that are being orientated about the Federation, remain autonomous bodies governed by their own constitution but they must abide by this Constitution and the policies of the Federation.

## **3 NATIONAL CONGRESS**

### **3.1 Purpose, powers and duties**

- 3.1.1 The National Congress ("NC") must adopt general and specific policy measures by means of resolutions which further the aims and objectives of the Federation.
- 3.1.2 The NC considers and decides on –
  - 3.1.2.1. credential of delegates to the NC;
  - 3.1.2.2. the agenda;
  - 3.1.2.3. reports from the CEC;
  - 3.1.2.4. reports from the National Office Bearers of the Federation;
  - 3.1.2.5. reports of a financial nature, namely audited financial statements;
  - 3.1.2.6. the nomination and election of the Federation's National Office Bearers;
  - 3.1.2.7. amendments to the Federation's Constitution;
  - 3.1.2.8. resolutions; and

3.1.2.9. any other matter that may be deemed to be in the interest of the Federation.

3.1.3 The NC makes decisions –

3.1.3.1. on motions and resolutions which have been duly seconded;

3.1.3.2. by simple majority vote unless otherwise provided in this Constitution.

### **3.2 Composition**

3.2.1 The NC must be composed of the –

3.2.1.1. President;

3.2.1.2. First Deputy-President;

3.2.1.3. Second Deputy President;

3.2.1.4. Treasurer;

3.2.1.5. General Secretary;

3.2.1.6. Deputy General Secretary; and

3.2.1.7. delegates from affiliates contemplated in subclause (3.2.2) below.

3.2.2 Each affiliate, in good standing with the Federation, is entitled to send 1 delegate for every 750 members or part thereof provided that the majority of these delegates are members of their union.

3.2.3 Each affiliate must inform the General Secretary of the Federation in writing of the total number and the names of the delegates at least –

3.2.3.1. one month before any ordinary congress; or

3.2.3.2. one week before a special congress.

3.2.4 The NC is entitled to request reasonable proof of the size of the membership on which affiliates have decided the size of their delegation.

### **3.3 Meetings**

3.3.1 **Ordinary NC**

3.3.1.1. The NC shall ordinarily meet once every 3 years.

3.3.1.2. The CEC decides on the date of the NC.

3.3.1.3. Three months written notice must be given to each affiliate.

3.3.1.4. An agenda must be attached to the notice.

### 3.3.2 **Special NC**

- 3.3.2.1. The President must call a special NC if –
  - 3.3.2.1.1. the CEC passes a resolution calling for the meeting; or
  - 3.3.2.1.2. not less than 1/3 of the affiliates in good standing submit a written request to the General Secretary for the attention of the President calling for the meeting.
- 3.3.2.2. If the President fails to call a special NC, then the CEC is empowered to nominate a convener of the special NC.
- 3.3.2.3. The President decides on the notice period, but not less than 14 days written notice must be given to each affiliate.
- 3.3.2.4. An agenda must be attached to the notice.

### 3.4 **Quorum**

- 3.4.1 The quorum for meetings of the NC must be at least 2/3 of the affiliates in good standing provided that –
  - 3.4.1.1. each affiliate is represented by at least 1/3 of its delegates; and
  - 3.4.1.2. the majority of those delegates are members of their unions; and
  - 3.4.1.3. the delegates are those who have had their names submitted to the General Secretary.
- 3.4.2 If after 3 hours of the time fixed for the meeting, a quorum is not present, the meeting must stand adjourned to a time and place decided upon by the President, provided that the meeting must be held within (1) month.
- 3.4.3 The General Secretary must send written notice to affiliates of the adjourned meeting.
- 3.4.4 The members present at the adjourned meeting form a quorum.

### 3.5 **Election of National Office Bearers**

- 3.5.1 The NC elects people to the following National Office Bearers' ("NOB's") positions from members of affiliates:
  - 3.5.1.1. President;
  - 3.5.1.2. First Deputy President;
  - 3.5.1.3. Second Deputy President; and
  - 3.5.1.4. Treasurer.

3.5.2 The NC elects people to the following NOB's positions:

3.5.2.1. General Secretary; and

3.5.2.2. Deputy General Secretary.

3.5.3 Only shop stewards, elected worker representatives and officer bearers of affiliates in good standing are eligible for election to the positions of President, First Deputy President; Second Deputy President and Treasurer.

3.5.4 Nominations for NOB's positions have to be submitted to an independent body appointed for the purpose of receiving such nominations.

3.5.5 Nominations for these positions must be duly seconded, and the NC votes by secret ballot.

3.5.6 If only one candidate is nominated for a position, then no ballot is necessary and that candidate must be declared duly elected.

### **3.6 Period of office**

The National Office Bearers hold office for a period of 3 years and thereafter until the next election.

### **3.7 Resolutions**

3.7.1 Resolutions to be moved at a NC shall be submitted in writing and delivered to the General Secretary for circulation to affiliated unions not less than thirty (30) days before the NC is held, provided that the NC shall have the right to consider special resolutions.

3.7.2 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 the members present.

### **3.8 General**

3.8.1 The NOB's shall hold their positions on the CC and CEC.

3.8.2 The CEC determines the General Secretary and Deputy General Secretary's remuneration and conditions of employment.

## **4 CENTRAL COMMITTEE**

### **4.1 Purpose, powers and duties**

4.1.1 The Central Committee ("CC") must adopt general and specific policy measures which further the aims and objects of the Federation by means of resolution between meetings of National Congresses.

4.1.2 In particular, but without limiting the generality of this, the CC shall:

4.1.2.1. consider, process and/or determine- credentials of delegates;

- 4.1.2.1.1. the agenda;
  - 4.1.2.1.2. reports from CEC's;
  - 4.1.2.1.3. reports from NOB's;
  - 4.1.2.1.4. the nomination and election of acting NOB's; and
  - 4.1.2.1.5. any other matter that may be deemed to be in the interest of the Federation other than amending the constitution.
- 4.2** assess resolutions; implement resolutions that have been adopted and draft resolutions on urgent matters. **Composition**

4.2.1 The CC must be composed of the –

- 4.2.1.1. NOB's;
- 4.2.1.2. delegates from affiliates as contemplated in subclause 4.2.2 below.

4.2.2 Each affiliate is entitled to send 1 delegate from each group of 4000 members or part thereof of each affiliate in good standing provided that the majority of these delegates are in good standing with their union.

### **4.3 Meetings**

4.3.1 The CC shall ordinarily meet at least once between ordinary meetings of the NC and that meeting should take place in the year preceding the year in which the NC will meet.

4.3.2 The CEC decides on the date of the CC.

### **4.4 Quorum**

4.4.1 The quorum for meetings of the CC must be at least 2/3 of the affiliates in good standing provided that –

- 4.4.1.1. each affiliate is represented by at least 1/3 of its delegates;
- 4.4.1.2. the majority of those delegates are members of their union; and
- 4.4.1.3. the delegates are those who have had their names submitted to the General Secretary.

4.4.2 If after 3 hours of the time fixed for the meeting, a quorum is not present, the meeting must stand adjourned.

4.4.3 The President must decide on a time and place, provided that the meeting must be called and held within 1 month.

4.4.4 The General Secretary must send written notice to affiliates of the adjourned meeting.

4.4.5 The members present at the adjourned meeting form a quorum.

## **5 CENTRAL EXECUTIVE COMMITTEE**

### **5.1 Purpose, powers and duties**

The Central Executive Committee ("CEC") manages the affairs of the Federation between meetings of the NC and CC and has such powers and duties which customarily vest in an executive body, which includes in relation to -

#### **5.1.1 policy -**

giving broad direction concerning organisational, political and educational issues within the Federation;

#### **5.1.2 membership -**

admitting or refusing to admit applications for membership to the Federation;

#### **5.1.3 employment –**

5.1.3.1. creating positions of employment within the Federation;

5.1.3.2. determining conditions of employment;

#### **5.1.4 property, finances and the annual report –**

5.1.4.1. approving the Federation's budget;

5.1.4.2. determining budgetary guidelines;

5.1.4.3. establishing and funding projects and activities in accordance with the aims and objects of the Federation;

5.1.4.4. considering and approving the annual audited financial statements and balance sheet and annual report; and

5.1.4.5. submitting the documents referred to in sub-clause 5.1.4.4 above to the NC;

5.1.4.6. opening and operating a bank account in the name of the Federation into which all monies raised in the name of the Federation shall be placed, and to administer such funds;

5.1.4.7. acquiring, either by purchase, lease or otherwise, any movable or immovable property on behalf of the Federation and selling, letting, mortgaging or otherwise dealing with or dispose of any movable property belonging to the Federation; and

5.1.4.8. appointing auditors of the Federation.

#### **5.1.5 structures –**

- 5.1.5.1. establishing sub committees and determining their nature, membership and scope;
  - 5.1.5.2. approving, rejecting or amending recommendations from sub committees of the Federation; and
  - 5.1.5.3. making regulations concerning the composition, meetings, Office Bearers and role of the Shop Stewards Councils.
- 5.1.6 **provinces** –
- 5.1.6.1. establishing or dissolving provinces;
  - 5.1.6.2. demarcating the jurisdiction of the provinces where 2 or more affiliates have established significant organisation;
  - 5.1.6.3. further delegating powers to the Provincial Congress and Provincial Executive Committee ("PEC");
- 5.1.7 **leadership** –
- 5.1.7.1. filling vacancies in the positions of NOB's; and
  - 5.1.7.2. adopting or amending, a leadership Code of Conduct;
- 5.1.8 **legal**
- 5.1.8.1. authorising legal or other assistance to affiliates in terms of the aims and objectives of the Federation; and
  - 5.1.8.2. instituting and/or defending legal proceedings in the name of the Federation, appointing attorneys to act on behalf of the Federation and appointing any person to sign any document in connection therewith on behalf of the Federation;
- 5.1.9 **miscellaneous**
- 5.1.9.1. assisting the General Secretary in the exercise of his/her duties;
  - 5.1.9.2. dealing with matters specially delegated to it by the CC;
  - 5.1.9.3. referring decisions having major policy implications to the CC or NC.

## 5.2 **Composition**

The CEC must be composed of the -

- 5.2.1 NOB's;
- 5.2.2 Chairperson and Provincial Secretary of each province; and

- 5.2.3 representatives from affiliates such that there are –
- 5.2.3.1. two national leaders, one of whom must be a member of the affiliate, from each affiliate with less than 80 000 members;
  - 5.2.3.2. four national leaders, two of whom must be members of the affiliate, from each affiliate with more than 80 000 members.

## **5.3 Meetings**

### **5.3.1 Ordinary meetings**

- 5.3.1.1. The CEC must meet at least four times a year.
- 5.3.1.2. The General Secretary consults the NOB's and decides on the dates, and agenda for the meeting.
- 5.3.1.3. The General Secretary notifies all affiliates, not less than 21 days prior to date of the meeting.
- 5.3.1.4. No meeting of the CEC may be invalidated only because any member did not receive the notice and agenda.

### **5.3.2 Special meetings**

- 5.3.2.1. The NOB's or not less than 1/3 of the affiliates on requisition, can request a special meeting of the CEC.
- 5.3.2.2. The General Secretary must give not less than 7 days notice to the affiliate unions of the special meeting.
- 5.3.2.3. The meeting may only discuss those issues which necessitated the calling of this meeting.

## **5.4 Quorum**

- 5.4.1 The quorum must include representation by at least –
- 5.4.1.1. half of the affiliates in good standing; and
  - 5.4.1.2. half of the delegates who must be members of affiliates.
- 5.4.2 If after 2 hours of the time fixed for the meeting, a quorum is not present, the meeting must stand adjourned.
- 5.4.3 The General Secretary must decide on a time and place, provided that the meeting must be called and held sometime between 14 to 21 days thereafter.
- 5.4.4 The General Secretary must send written notice to affiliates of the adjourned meeting.
- 5.4.5 The members present at the adjourned meeting form a quorum.

## **5.5 Speaking and voting rights**

- 5.5.1 The NOB's, the Chairperson and Provincial Secretary of each province have speaking rights but no voting rights.
- 5.5.2 The representatives from affiliates have full speaking rights and voting rights.

## **5.6 Decision making**

- 5.6.1 The meeting makes a decision if –
  - 5.6.1.1. the motion is duly seconded; and
  - 5.6.1.2. a simple majority of people vote in favour thereof unless otherwise provided for in this Constitution.
- 5.6.2 The decisions are made by show of hands or by ballot if the meeting so decides.
- 5.6.3 If less than a simple majority vote in favour of a motion, or as otherwise provided for in this Constitution, then the motion lapses.
- 5.6.4 If the CEC cannot meet because of circumstances beyond its control, a decision can be made by way of a resolution signed by a simple majority of the affiliates or as otherwise provided for in this Constitution.

## **6 PROVINCIAL CONGRESS**

### **6.1 Powers and duties**

- 6.1.1 The Provincial Congress ("PC") is a subordinate body to the CEC:
- 6.1.2 The CEC may –
  - 6.1.2.1. designate powers to the PC;
  - 6.1.2.2. confirm, amend or reverse its decisions;
  - 6.1.2.3. limits its powers and duties by way of resolution.
- 6.1.3 The PC must –
  - 6.1.3.1. implement decisions of the NC, CC and CEC;
  - 6.1.3.2. carry out the aims and objects of the Federation with regard to the organisation of workers in the Province;
  - 6.1.3.3. facilitate and encourage co-operation between affiliates in the Province;
  - 6.1.3.4. examine provincial problems and co-ordinate activities and campaigns to address such problems;

- 6.1.3.5. consider reports of activities of affiliates in the Province; and
- 6.1.3.6. elect a Provincial Chairperson, Deputy Chairperson, Treasurer and Provincial Secretary.

## **6.2 Composition**

- 6.2.1 The PC must be composed of the –
  - 6.2.1.1. Provincial Chairperson;
  - 6.2.1.2. Provincial Deputy-Chairperson;
  - 6.2.1.3. Provincial Treasurer;
  - 6.2.1.4. Provincial Secretary; and
  - 6.2.1.5. Delegates of affiliates contemplated in sub-clause (7.2.2) below.
- 6.2.2 Each affiliate in good standing with the Federation which has a branch, branches, provinces or province within the area of jurisdiction of the PC is entitled to-
  - 6.2.2.1. five representatives for the first 1000 members or part thereof; and
  - 6.2.2.2. one additional representative for every additional 250 members.

## **6.3 Meetings**

- 6.3.1 The PC must meet at least once every three years.
- 6.3.2 The Provincial Executive Committee –
  - 6.3.2.1. convenes this Congress; and
  - 6.3.2.2. must send written notice on thirty (30) days to all affiliates in the province.
- 6.3.3 The PEC may convene a Special Provincial Congress on fourteen days written notice.
- 6.3.4 The notice must include the agenda for the meeting as well as the date, time and venue.

## **6.4 Quorum**

- 6.4.1 The quorum for meetings of the PC must be at least 2/3 of the affiliates in good standing provided that –
  - 6.4.1.1. each affiliate is represented by at least 1/3 of its delegates;
  - 6.4.1.2. the majority of those delegates are members of their union; and
  - 6.4.1.3. the delegates are those who have had their names submitted to the Provincial Secretary.

6.4.2 If after three (3) hours there is no quorum, the meeting must stand adjourned for seven (7) days.

6.4.3 The Provincial Secretary must send notice of the adjourned meeting to the affiliates.

6.4.4 The members present at the adjourned meeting form a quorum.

## **6.5 Office Bearers**

6.5.1 PC elects the people to the following Provincial Office Bearers' (P OB's) positions-

6.5.1.1. Chairperson;

6.5.1.2. Deputy Chairperson;

6.5.1.3. Treasurer; and

6.5.1.4. Secretary.

6.5.2 PC elects the Office Bearers at least once every three (3) years.

6.5.3 The position of the Provincial Secretary is subject to the CEC's powers to ratify the election and to determine the terms and conditions of employment.

6.5.4 The positions of other full time or part time officials are subject to :

6.5.4.1. ratification by the CEC;

6.5.4.2. the CEC's powers to ratify and determine the terms and conditions of employment.

6.5.5 The Treasurer must –

6.5.5.1. together with the Secretary present the financial statement to the Provincial Congress; and

6.5.5.2. generally supervise the financial affairs of the Province.

6.5.6 The election, removal from office and powers and duties of National Office Bearers apply to the POB's with the necessary change in context.

6.5.7 Only members of affiliates in good standing may stand for election to the positions of Chairperson, Deputy-Chairperson and Treasurer.

6.5.8 The POB's must liaise with their national counterparts and keep them informed about the affairs of the Province.

## **7 PROVINCIAL EXECUTIVE COMMITTEE**

### **7.1 Purpose, powers and duties**

- 7.1.1 The PEC manages the affairs of the region between meetings of the PC.
- 7.1.2 The PEC must carry out the resolutions, instructions or requests of the NC, CC, CEC and PC.
- 7.1.3 If there is a conflict between a resolutions, instructions or requests of the PC and the CEC; then the PEC must be bound by the CEC subject to confirmation by the NC.
- 7.1.4 The PEC must
  - 7.1.4.1. consider any matter submitted by an affiliate;
  - 7.1.4.2. endeavour to settle disputes between affiliates in the province;
  - 7.1.4.3. approve monthly financial statements by POB's;
  - 7.1.4.4. open and operate a banking account in the name of the province for the Federation; and
  - 7.1.4.5. deposit all monies received into this account.

## **7.2 Composition**

The PEC must be composed of -

- 7.2.1 The Office Bearers of the Province who are the Office Bearers of the PEC.
- 7.2.2 Provincial leaders from each affiliate in the province such that there are –
  - 7.2.2.1. 2 delegates from unions with less than 8000 members; or
  - 7.2.2.2. 4 delegates from unions with more than 8000 members.

## **7.3 Meetings**

### **7.3.1 Ordinary meetings**

- 7.3.1.1. The PEC meets once every two months.
- 7.3.1.2. The PEC meeting at the end of each calendar year confirms the dates for the PEC meetings of the next year as in the national year planner.
- 7.3.1.3. The PEC may change these dates –
  - 7.3.1.3.1. on good cause;
  - 7.3.1.3.2. with the prior consent of the majority of affiliates; and
  - 7.3.1.3.3. the Provincial Secretary must give members at least 14 days notice of the change.

7.3.1.4. The Provincial Secretary must send to the PEC at least 10 days before the meeting is due to take place –

7.3.1.4.1. notice of the meeting;

7.3.1.4.2. the agenda;

7.3.1.4.3. minutes of the previous meetings;

7.3.1.4.4. and any other relevant documentation.

### 7.3.2 **Special meetings**

7.3.2.1. Unless the majority of affiliates agree otherwise, the Provincial Secretary must –

7.3.2.1.1. give 48 hours notice of the meeting; and

7.3.2.1.2. send out a written agenda specifying the issues requiring such a meeting.

7.3.2.2. The meeting may only discuss those issues which necessitated the calling of this meeting.

7.3.2.3. No decision is valid if it detrimentally affects an affiliate who did not receive notification of the meeting.

## 7.4 **Quorum**

7.4.1 The quorum for meetings of the PEC must be at least 2/3 of the affiliates in good standing provided that –

7.4.1.1. each affiliate is represented by at least one delegate; and

7.4.1.2. the majority of those delegates are members of their union.

7.4.2 If after one (1) hour there is no quorum, the meeting must stand adjourned for seven (7) days.

7.4.3 The Provincial Secretary must send notice of the adjourned meeting to the affiliates.

7.4.4 The members present at the adjourned meeting form a quorum.

## 8 **SHOP STEWARD COUNCIL**

### 8.1 **Local Structures**

8.1.1 The Federation must encourage affiliates to set up Local offices to facilitate closer liaison between affiliates.

8.1.2 The Provinces must aim to establish Local Shopstewards Councils ("Locals") which consist of all members of Shopstewards Committees in that locality.

8.1.3 Each Local Executive Committee ("LEC") must be composed of –

8.1.3.1. affiliate Local office bearers; or

8.1.3.2. any representative of that affiliate where that affiliate does not have a local structure.

## **8.2 Meetings**

8.2.1 The LEC must meet at least once a month.

8.2.2 Each Local must decide on its meeting days, times and delegations.

## **8.3 Local Office Bearers**

8.3.1 The Local elects the following office bearers to manage the affairs of the Local:

8.3.1.1. Chairperson;

8.3.1.2. Deputy Chairperson;

8.3.1.3. Treasurer; and

8.3.1.4. Secretary.

8.3.2 Only members of affiliates in good standing may stand for election to a local office bearer position.

8.3.3 The Local Office Bearers hold office for a period of 3 years and thereafter until the next election.

## **8.4 Powers and Duties**

The LEC must –

8.4.1 ensure the smooth running of the union Local structures;

8.4.2 deal with any issue referred to it by the PEC for decision or recommendation;

8.4.3 raise the level of understanding of the Federation policies amongst all members in the area where the Local operates;

8.4.4 implement decisions of the Federation;

8.4.5 co-ordinate the activities of the Federation within the Local;

- 8.4.6 appoint sub-committees;
- 8.4.7 nominate member/s to attend PEC meetings specifically to represent the interests of members in the Local; and
- 8.4.8 nominate member/s to attend particular meetings, if instructed to do so by the PEC.

## **8.5 Removal of the Local Office Bearers**

- 8.5.1 A Local Office Bearer shall vacate his/her position if he/she:
  - 8.5.1.1. No longer pays union subscriptions to his/her affiliate subject to provisions of affiliate's Constitution.
  - 8.5.1.2. Has not attended three consecutive meetings of the Local Shop Stewards Council or Local Executive Committee without sending a reasonable written apology.
  - 8.5.1.3. Is no longer employed and/or has resigned from the workplace and ceases to be a member of the affiliate union in good standing.

## **8.6 Effect of Suspension of Local Office Bearer**

- 8.6.1 In the event that there is a suspension of a Local Office Bearer, he/she shall temporarily vacate his/her position until the matter has been finalised or alternatively, in the event where a Local Office Bearer has been suspended by his/her union, such office bearer shall temporarily vacate his/her position until his/her suspension process has been finalised.

## **9 WORKER NATIONAL OFFICE BEARERS**

### **9.1 The President**

The President has the following powers and duties -

- 9.1.1 to preside over meetings of the NC, CC and the CEC;
- 9.1.2 to conduct the meetings according to the provisions in this Constitution;
- 9.1.3 to sign the minutes of meetings of the NC, CC and CEC; and
- 9.1.4 to generally supervise the affairs of the Federation between meetings of the NC and the CEC in conjunction with other Office Bearers.

### **9.2 First Deputy President**

The First Deputy President exercises the powers and duties of the President in his / her absence.

### **9.3 Second Deputy President**

The Second Deputy President exercises the powers and duties of the President if the First Deputy President is absent.

#### **9.4 Acting President**

9.4.1 The CC and CEC appoints an Acting President if the President and both Deputy Presidents are temporarily unable to exercise the powers and duties of the President.

9.4.2 The Acting President holds office until –

9.4.2.1. the President or one of the Deputy Presidents are available; or

9.4.2.2. a new President or Deputy President has been elected in accordance with clause 3.

#### **9.5 Treasurer**

The Treasurer is responsible for –

9.5.1 to preside over meetings of the Finance Committee;

9.5.2 the supervision of the financial affairs of the Federation; and

9.5.3 such other duties as may reasonably required by the NC, CC or the CEC.

#### **9.6 Removal of National Office Bearers**

9.6.1 The President, First Deputy President, Second Deputy President and Treasurer must vacate their seats during their term of office if –

9.6.1.1. they cease to be members of an affiliate;

9.6.1.2. a special NC so decides by resolution; or

9.6.1.3. if a majority of the CEC so decides by resolution.

9.6.2 The CEC must fill vacancies from nominations which have been duly seconded in terms of clause 3.5.

### **10 OFFICIALS**

#### **10.1 General Secretary**

The General Secretary is responsible for -

10.1.1 financial affairs including –

10.1.1.1. the keeping of books and accounts as may be required by the CEC;

10.1.1.2. the collection of affiliate fees;

- 10.1.1.3. the banking of monies received in the name of the Federation;
- 10.1.1.4. the preparation and circulation of detailed monthly financial statements to the Provinces and affiliates of the Federation;
- 10.1.2 correspondence and notices including –
  - 10.1.2.1. tabling correspondence where necessary, at CEC meetings;
  - 10.1.2.2. sending out notices and minutes of all meetings of the NC, CC, CEC and other related committees and sub-committees;
- 10.1.3 reports including –
  - 10.1.3.1. the preparation and circulation of the Financial Annual Report which must include statements of income and expenditure and the balance sheet; and
  - 10.1.3.2. the circulation of the auditor's report to the CEC;
- 10.1.4 general co-ordination and supervision including –
  - 10.1.4.1. office work and administration of the affairs and activities of the Federation; and
  - 10.1.4.2. the supervision of staff and the Provincial Secretaries,
- 10.1.5 other duties including tasks issued by the NC, CC and CEC.

## **10.2 Deputy General Secretary**

The Deputy General Secretary is responsible for performing the functions and duties as contemplated in subclause 11.1 above -

- 10.2.1 with the General Secretary; or
- 10.2.2 in the absence of the General Secretary.

## **10.3 Speaking and voting rights**

Officials of the Federation have full speaking rights but no voting rights.

## **10.4 Removal of officials**

- 10.4.1 The CEC may suspend or dismiss the General Secretary or any other official, if in the opinion of the CEC the official –
  - 10.4.1.1. has committed misconduct;
  - 10.4.1.2. has neglected his / her duties;
  - 10.4.1.3. has acted in a manner detrimental to the Federation; or

- 10.4.1.4. has acted in a manner which conflicts with this Constitution.
- 10.4.2 The CEC or the NC may suspend or dismiss the General Secretary or any other official for any other reason deemed sufficient.
- 10.4.3 The official has the right to appeal to the next NC.
- 10.4.4 The General Secretary and Deputy General Secretary may resign on 3 months notice to the CEC.
- 10.4.5 The CEC may terminate the services of the General Secretary or Deputy General Secretary on 3 months notice for reasons other than those warranting instant dismissal.
- 10.4.6 The notice period of other officials are determined by their terms and conditions of employment.
- 10.4.7 The CEC may appoint a General Secretary or Deputy General Secretary in an acting capacity, until the election of a person to this position at the NC.

## **11 STANDING ORDERS AND RULES OF PROCEDURE AT FEDERATION MEETINGS**

### **11.1 Chair**

- 11.1.1 The President must chair the meeting.
- 11.1.2 If the President is absent then, the First Deputy President or in his or her absence the Second Deputy President, or in their absence the meeting may decide on a chair.

### **11.2 Agenda**

- 11.2.1 The meeting must follow the agenda unless the participants decide otherwise.
- 11.2.2 Only the issues on the agenda may be debated, unless the meeting decides by resolution not to discuss a matter.

### **11.3 Debating a motion**

- 11.3.1 The mover of a motion may speak for 10 minutes or for an additional 5 minutes if another delegate so proposes.
- 11.3.2 Participants may speak for up to 5 minutes, unless the meeting decides that they may speak for longer.
- 11.3.3 The mover of the motion has the right of reply for up to 5 minutes.
- 11.3.4 No subject may be debated for longer than 1 hour unless a delegate proposes an extension of time which –
- 11.3.4.1. may not be debated; and

11.3.4.2. is duly seconded and supported by a 2/3 majority.

#### **11.4 Decision making**

Except where otherwise provided in this Constitution the meeting makes a decision if:

11.4.1 A motion is duly seconded; and

11.4.2 The motion is carried if a simple majority of participants vote in favour thereof.

11.4.3 A motion will lapse if it is not supported by a simple majority of participants.

11.4.4 If there are equal votes in favour of and against a motion then the Chairperson shall have a casting vote.

11.4.5 At all meetings where there are more than 50 participants, votes must be counted by scrutinisers who –

11.4.5.1. must be appointed by the meeting; and

11.4.5.2. must record the votes and report the results to the Chairperson.

11.4.6 No motion that has been debated and determined may be reopened or varied or rescinded at the same meeting.

#### **11.5 Rulings**

11.5.1 The ruling of the chairperson is final.

11.5.2 If any delegate refuses to obey the Chairperson's ruling a vote may be taken by the meeting to deem the member guilty of misconduct.

11.5.3 If the meeting decides that the member is guilty of misconduct then –

11.5.3.1. that member must withdraw from the meeting; and

11.5.3.2. the meeting has the right to suspend that member for as long as the meeting deems fit.

11.5.4 The provisions of this sub-section shall not apply:

11.5.4.1. where a duly seconded motion is moved to overrule or rescind the chairperson's ruling; and

11.5.4.2. the motion is carried by a majority of the members present.

11.5.5 In the event of a motion being moved in terms of this subsection –

11.5.5.1. the mover of such a motion is limited to making a statement in support of the motion; and

11.5.5.2. the chairperson has a right to reply limited to 5 minutes in each case.

## **12 FINANCES**

### **12.1 General**

The funds of the Federation are made up of all monies received by means of affiliation fees, levies, donations, functions and by any other means within the framework of this Constitution.

### **12.2 Purpose of funds**

12.2.1 The funds of the Federation must be applied solely in furtherance of the Federation's aims and objectives subject to the decision of the NC, CC or the CEC.

12.2.2 Funds contributed for a specific purpose must be used for that purpose and no other except as otherwise decided by the CEC.

12.2.3 No profits or gains may be distributed to any person.

### **12.3 Banking accounts**

12.3.1 The General Secretary must deposit funds received into the Federation's bank account within 3 days of receipt.

12.3.2 No person may open a banking account in the name of the "Congress of South African Trade Unions, "COSATU" or any other similar name without –

12.3.2.1. the explicit written authority of a resolution of the CEC on an official Federation letterhead signed by at least 3 NOB's; and

12.3.2.2. subsequent verbal confirmation to the bank or financial institution concerned by either the National Treasurer or General Secretary.

### **12.4 Affiliates**

12.4.1 Affiliates must pay an affiliation fee to the Federation.

12.4.2 The CEC, subject to the directives of the NC, determines the amount of the fee.

12.4.3 Affiliates must pay their fees in respect of each month on or before the 7th day of the following month.

12.4.4 An affiliate that disaffiliates or is expelled shall have no claim on the funds or assets of the Federation.

### **12.5 Financial year**

The financial year is from 1 January to 31 December.

### **12.6 Finance Committee**

- 12.6.1 The Finance Committee (Fincom) is composed of:
- 12.6.1.1. the National Treasurer;
  - 12.6.1.2. General Secretary; and
  - 12.6.1.3. one delegate from each affiliate.
- 12.6.2 Fincom must meet at least once a month.
- 12.6.3 The National Treasurer is the chairperson of Fincom.
- 12.6.4 Fincom reports directly to the CEC and must be responsible for –
- 12.6.4.1. assisting the National Treasurer;
  - 12.6.4.2. preparing financial reports for the NOB's and CEC;
  - 12.6.4.3. recommending amendments to financial policy;
  - 12.6.4.4. monitoring the Federation's accounts and querying unusual expenditure;
  - 12.6.4.5. making recommendations to the CEC regarding financial requests from affiliates;
  - 12.6.4.6. proposing ways of making the Federation financially self-sufficient; and
  - 12.6.4.7. preparatory work regarding the Federation's budget.

## **12.7 Reporting**

- 12.7.1 Fincom must prepare an income and expenditure report for each meeting of the CEC.
- 12.7.2 This report must include a clear statement of any unbudgeted expenditure.

## **12.8 Signatories**

- 12.8.1 The CEC must appoint the President, First Deputy President, Second Deputy President, Treasurer, General Secretary and Deputy General Secretary signatories to the National Banking Account.
- 12.8.2 Three signatories must authorise any cheque.

## **13 INDEMNIFICATION OF OFFICIALS, OFFICE BEARERS AND COMMITTEE MEMBERS**

The Officials, Office Bearers and Committee members of the Federation, provided that they have not acted in a manner which would constitute misconduct, shall –

- 13.1 be indemnified by the Federation against all proceedings, costs and expenses incurred by reason of any omission, negligence or other act done whilst performing their duties on behalf of the Federation or an affiliate; and
- 13.2 shall not be personally liable for any of the liabilities of the Federation or any of its affiliates.

## **14 RESIGNATION AND DISCIPLINE OF AN AFFILIATE**

### **14.1 Resignation**

- 14.1.1 An affiliate may disaffiliate from the Federation by giving to the CEC –

- 14.1.1.1. 3 months written notice; and
- 14.1.1.2. its reasons for resigning.

- 14.1.2 The CEC may waive the notice period.

### **14.2 Suspension or expulsion**

- 14.2.1 The NC or the CEC may suspend or expel an affiliate for –

- 14.2.1.1. acting against the interests of the Federation;
- 14.2.1.2. failing to attend more than 2 consecutive meetings of the CEC without an apology acceptable to the CEC; or
- 14.2.1.3. failing to pay its affiliation fees.

- 14.2.2 No such suspension or expulsion shall have effect unless the CEC –

- 14.2.2.1. has notified the affiliate in writing of the reasons for the suspension or expulsion; and
- 14.2.2.2. has granted the affiliate permission to present its case to the CEC.

### **14.3 Appeal**

- 14.3.1 The affiliate must give notice of their intention to appeal to the General Secretary within 30 days of the decision.
- 14.3.2 The appeal is made to the NC, and the decision of the NC is final and binding.
- 14.3.3 Where the decision to suspend or expel is made by the NC, such decision shall be final and binding.

### **14.4 Financial and legal consequences**

- 14.4.1 Affiliates who disaffiliate or are expelled have no claim on the assets of the Federation.

14.4.2 The CEC is empowered to recover all monies owing by the affiliate to the Federation.

## **15 DISSOLUTION**

15.1 The Federation may be dissolved by a resolution of the NC supported by not less than  $\frac{3}{4}$  of the meeting.

15.2 The NC must appoint a liquidator to wind up the affairs of the Federation.

15.3 The liquidator must take the necessary steps to liquidate the debts of the Federation from its available funds and any other monies realised from any assets of the Federation.

15.4 The liquidators fees and expenses must rank in order of preference -

15.4.1 as though he/ she were a trustee of an insolvent estate; and

15.4.2 as though the expenses were the costs of an insolvent estate.

15.5 After the liquidator has paid the debts and if there are any remaining assets these assets shall be given or transferred to affiliates -

15.5.1 in good standing; and

15.5.2 in proportion to subscriptions paid by them in respect of the 12 months immediately preceding the date of the decision to dissolve the Federation.

## **16 AMENDMENTS TO THE CONSTITUTION**

16.1 The Constitution may be repealed or amended by the NC.

16.2 A notice of the proposed amendment must be sent to the General Secretary

16.3 The General Secretary must:

16.3.1 circulate the notice to all affiliates and members of the NC; and

16.3.2 include the proposed amendment on the next agenda.

16.4 A  $\frac{2}{3}$  majority of the NC must agree to the resolution to repeal or amend the Constitution.

## **17 INTERPRETATION**

If there is any doubt as to the interpretation of any provision of this Constitution then -

17.1 the CEC may make an interim ruling;

17.2 the NC, by majority vote, must make the final ruling.

## **18 DEFINITIONS**

- 18.1 **Affiliate** – An "affiliate" means - a union that has been admitted to membership of the Federation in terms of Clause 2(2) and which is not more than six (6) months in arrears in affiliation fees to the Federation or such longer period as the CEC condones in terms of clause 2.2.8.
- 18.2 **Affiliate in good standing** – An "affiliate in good standing" means an affiliate which is not more than three months in arrears in affiliation fees to the Federation.
- 18.3 **Delegate** – A "delegate" means a person representing an affiliate on any committee or at any meeting of the Federation. Such delegate shall be a member or an official of the affiliate represented.
- 18.4 **Member** – A "member" means a person, other than an official, who pays membership dues to an affiliate and is in good standing as prescribed by that affiliate's constitution.
- 18.5 **National Office Bearers** – means the President, First Deputy -President, Second Deputy President, Treasurer, General Secretary and Deputy General Secretary.
- 18.6 **Office-Bearer** – An "office-bearer" means a person, other than an official, unless expressly allowed for in this constitution, who holds office in the Federation nationally, regionally as specified in this Constitution.
- 18.7 **Official** – An "official" means an employee of the Federation or any of its affiliates employed as a secretary or organiser or in any other specified capacity.
- 18.8 **Union** – "Union" means, without limiting the ordinary meaning thereof, any organisation of workers which:
- 18.8.1 has a constitution approved by the general membership; and
  - 18.8.2 is controlled by its members through an elected committee of worker members;
  - 18.8.3 is involved in achieving the Aims and Objects of the Federation.
  - 18.8.4 identifies with and is committed to the principles set out in the preamble to this Constitution.
-