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Age in Action
THE SA COUNCIL FOR THE AGED

CONSTITUTION
6 OCTOBER 2009



1. PREAMBLE

This Constitution replaces the Constitution of 9 October 2007 and signifies a fundamental shift away from a body solely representing organisations serving older persons, to a united organisation primarily representing the older citizens of South Africa. This Constitution further reflects a profound commitment to upholding the highest ideals of a united South Africa as embodied in the Constitution of our country, and specifically, the rights of older persons to dignity, respect, equity, protection and empowerment.

2. NAME

The name of the organisation is Age-in-Action, hereinafter referred to as the 'Organisation'.

3. MISSION

A developmental Organisation which strives, in collaboration with other stakeholders, to uphold the rights and dignity of older persons, through advocacy and lobbying and improved access to care; support and protection; training and development; and sustainable economic empowerment.

4. OBJECTIVES OF THE ORGANISATION

- 4.1 To initiate and promote programmes aimed at advancing the status, well being, safety and security of vulnerable and needy older persons.
- 4.2 To provide community based health care services for frail, bedridden, vulnerable and needy older persons.

- 4.3 To initiate prevention and educational programmes on HIV/AIDS for older persons.
- 4.4 To provide empowerment programmes for vulnerable and needy older persons *visa viz*, adult education.
- 4.5 To conduct relevant social research so as to provide and initiate effective interventions.
- 4.6 To compile relevant publications and disseminate information relating to older persons.
- 4.7 To initiate and implement inter-generational programmes.
- 4.8 To lobby and advocate for the rights of older persons.

5. AREA OF OPERATION

The Organisation shall operate in the Republic of South Africa.

6. LEGAL STATUS OF THE ORGANISATION

- 6.1 The Organisation is a body corporate with its own legal identity which is separate from its individual members and will continue to exist even if the members change.
- 6.2 The Organisation may own property, enter into contracts, and sue or be sued in its own name.

7. MEMBERS AND OFFICE BEARERS

- 7.1 Members or office bearers have no rights in the property or other assets of the Organisation solely by virtue of their being members or office bearers.

- 7.2 The income and property of the Organisation shall:
- 7.2.1 Be used solely for the promotion of its stated objectives;
 - 7.2.2 Not be paid or distributed directly or indirectly to any person, or to any member of the Organisation or office bearers, except as reasonable compensation for services actually rendered to the Organisation or reimbursement of actual costs or expenses reasonably incurred on behalf of the Organisation.
- 7.3 The Organisation is an approved Public Benefit Organisation with the Commissioner for the South African Revenue Service for exemption from appropriate taxes and duties.

In compliance with Section 30 of the Income Tax Act, the provisions set out in Schedule A shall bind the Organisation and qualify this Constitution.

8. MEMBERSHIP

- 8.1 Any non-governmental organisation, engaged in the care and/or provision of services to the aged, may be granted full membership of the Organisation upon payment of the prescribed fees.
- 8.2 Membership, with no voting rights, can be granted to any other organisation or an individual interested in ageing and pays the prescribed fees.
- 8.3 A business or corporate body which has made a financial contribution to the Organisation can be granted corporate membership by the National Executive Committee, hereinafter referred to as the

NEC, without voting rights, upon payment of the prescribed fees.

- 8.4 Membership fees are determined by the NEC.
- 8.5 The NEC, on recommendation by the Management Committee, hereinafter referred to as MANCO, may at any time suspend a member, provided that notice of the intention shall be given in writing to the member, with full reasons, at least one [1] month before the meeting of the NEC at which the motion is to be tabled. If the interests of the aged are seriously at risk, MANCO may temporarily suspend membership with immediate effect provided that this matter is referred to the NEC for a final decision. Such suspension of membership shall require approval by a two-thirds [2/3] majority of members.

9. MEETINGS OF THE ORGANISATION

- 9.1 The Organisation shall hold an Ordinary General Meeting, hereinafter referred to as the OGM, once every two [2] years at a time and place to be determined by the NEC, which shall give not less than two [2] month's notice of such meeting.
- 9.2 The following matters shall be dealt with at an OGM of the Organisation:
 - 9.2.1 adoption of a two yearly report by the NEC on its activities and financial statements since the last OGM;
 - 9.2.2 confirmation of the election of the members of the NEC;
 - 9.2.3 ratification of the appointment and remuneration of an auditor;

- 9.2.4 other matters of which due notice has been given; and
- 9.2.5 resolutions submitted by members.
- 9.3 The NEC may, and at the written request of not less than fifty [50] members of the Organisation, convene a Special General Meeting, hereinafter referred to as SGM, of the Organisation by giving not less than one month's [1] notice of such SGM.
- 9.4 In the notice convening an OGM or a SGM of the Organisation, an agenda on the nature of the business to be transacted shall be included.
- 9.5 The quorum at an OGM or SGM of the Organisation is twenty-five per cent [25%] of members.
- 9.6 If there is no quorum at an OGM or SGM of the Organisation, the meeting shall stand adjourned for not less than one week [1] to a place and time fixed by the NEC with notice to all members. The members attending such adjourned meeting shall constitute a quorum.
- 9.7 The Chairperson of the NEC shall chair meetings of the Organisation, provided that in his/her absence, the Vice-Chairperson, and in his/her absence, the Second Vice-Chairperson, and provided that in the absence of these elected officers, those members present may appoint their own person to chair meetings.
- 9.8 The Organisation, NEC, MANCO, Provincial Executive Committees, hereinafter referred to as PEC's, and other Sub-Committees shall cause therein minutes of all meetings to be recorded, and such minutes, when confirmed at the next respective meeting and signed by the Chairperson of the meeting, shall be *prima facie*

evidence of the correctness of the matters recorded therein.

- 9.9 The following rules shall apply to voting at an OGM:
- 9.9.1 All members are entitled to nominate persons to represent them at an OGM or SGM, provided that:
- [a] the member has authorised the delegate in writing;
 - [b] the NEC has been informed accordingly at least two weeks [2] before the meeting; and
 - [c] a delegate may represent a maximum of five members [5] at the meeting by proxy.
- 9.9.2 Members and serving members of the NEC and MANCO may vote at meetings and each will have one vote [1].
- 9.9.3 Members referred to under 8.2 and 8.3 may attend meetings and participate in discussions, but will have no vote.
10. **THE NATIONAL EXECUTIVE COMMITTEE**
- 10.1 The NEC shall manage and control such affairs as have been delegated by the OGM.
- 10.2 The NEC shall consist of nine [9] members elected by the full members in each of the nine provinces. The NEC may appoint up to four [4] additional members, who have distinguished themselves in the field of care of the aged or by virtue of their expertise, or who have a direct contribution to make towards the advancement of the work of the Organisation. Additional members shall have full voting rights and the same term of office as the elected members.

- 10.3 The NEC shall hold office from the date on which the election of its members is confirmed for a period of four [4] years.
- 10.4 After the confirmation of its election, the NEC shall meet to elect a Chairperson, a First Vice-Chairperson and a Second Vice-Chairperson.
- 10.5 The Chairperson of the NEC shall have both a deliberative vote and a casting vote, except when the voting deals directly with individuals and votes are tied, in which case the decision will be made by lot.
- 10.6 The NEC shall fill a vacancy in the offices of Chairperson or First and Second Vice-Chairperson from its members, and shall fill a vacancy in its membership by appointment of a member from the same province who shall hold office until the next OGM of the Organisation, with full voting rights.
- 10.7 Appointment or election of the nine [9] NEC members will be subject to the following:
- 10.7.1 Ex staff members of the Organisation will not be eligible to serve on the NEC;
- 10.7.2 Should a nominated representative be appointed as the Chairperson of the Organisation, the NEC will consider a further nomination for an NEC member from the PEC who will be representative of the Chairperson's province; and
- 10.7.3 PEC members should have served for one term, i.e. two years, before being eligible to serve on the NEC, comprising of two members per region of that province. The NEC can, in its sole discretion, decide to waive this requirement should it be considered in the best interests of the Organisation to do so.
- 10.8 Membership of the NEC will terminate when:
- 10.8.1 a member resigns in writing;
- 10.8.2 a member's registration as an affiliate lapses;
- 10.8.3 a member fails to attend three consecutive meetings without prior notification of absence;
- 10.8.4 the NEC terminates the membership of a member with a two-thirds majority; and
- 10.8.5 a member acts outside the terms as stipulated in Age-in-Action's Constitution or policies.
- 10.9 The NEC shall be entitled to:
- 10.9.1 invite representatives of the Government to attend deliberations and/or meetings in an advisory capacity; and
- 10.9.2 recommend to the Organisation the conferment of Honorary Life Presidency to a maximum of two [2] persons at any given time, who have given outstanding service to the cause of older persons.
- 10.9.3 appoint a MANCO which will comprise of:
- [a] The Chairperson;
- [b] Two Vice-Chairpersons; and
- [c] The Chief Executive Officer.
- The Chairperson of MANCO shall have both a deliberative and a casting vote.
- 10.9.4 Appoint other sub-committees to advise the NEC on specific issues on the understanding that such sub-committees are subject to the decision of the NEC.

10.9.5 The NEC shall meet at least twice [2] during a financial year.

10.9.6 A quorum at meetings of the NEC and MANCO shall be half plus one of the members of these committees.

11. FUNCTIONS AND POWERS OF THE NEC

11.1 The NEC shall carry out such duties as the Organisation may require of it, including the implementation of resolutions adopted by members' meetings and shall have the right to delegate any of its functions to MANCO or PEC's.

11.2 Finance

The NEC shall:

11.2.1 Make the necessary policies that will ensure effective financial management and control.

11.2.2 Approve and authorise the annual budget.

11.2.3 Approve the annual audited financial statements.

11.2.4 Recommend the appointment and remuneration of an auditor to the OGM.

11.3 Legal

The NEC shall institute and approve such policies and their execution that will allow the Organisation to enter into contracts or agreements and institute, conduct, defend, compound or abandon any legal proceedings by or against the Organisation.

11.4 Human Resources

The NEC shall:

11.4.1 Institute and approve policies in respect of the human resources of the Organisation and monitor their execution.

11.4.2 Receive, consider and approve reports from members of staff.

11.4.3 Appoint the Chief Executive Officer and all other senior national office staff.

11.5 Service Programmes

The NEC shall:

11.5.1 Institute and monitor the execution of policies in respect of all services rendered by the Organisation.

11.5.2 Receive, consider and approve annual planning and evaluation reports.

11.6 Membership

The NEC shall:

11.6.1 Determine and/or amend and monitor policies in respect of membership, including a Code of Conduct for members.

11.6.2 Approve applications for membership.

11.6.3 Regulate and institute the suspension of members and report to the OGM.

11.7 **Administration**

The NEC shall:

- 11.7.1 Institute, approve, amend and monitor policies and regulations to ensure effective governance.
- 11.7.2 Compile a report for the OGM or SGM.
- 11.8 Perform all other tasks that in its opinion, are conducive to the attainment of the mission and objectives of the Organisation.

11.9 **Relationship with MANCO**

- 11.9.1 MANCO will be the functional arm of the NEC and be accountable at all times to that Committee.
- 11.9.2 The NEC shall refer any specific matters of an urgent or general interest to MANCO and receive and consider progress reports.

12. **MANAGEMENT COMMITTEE**

12.1 **Composition**

12.1.1 MANCO will comprise of the following in accordance with 10.9.3 of this Constitution:

- [a] The Chairperson;
- [b] Two Vice-Chairpersons; and
- [c] The Chief Executive Officer.

12.1.2 The term of office of MANCO will be the same as that of the NEC.

12.2 **Meetings**

MANCO will meet at least four [4] times during a financial year.

12.3 **Functions and Duties of Manco**

- 12.3.1 Execute policies made by the NEC, including ongoing evaluation of policies, and advise the NEC.
- 12.3.2 Exercise financial management and control, including the approval of expenditure in accordance with the approved budget, and report to the NEC.
- 12.3.3 MANCO [as approved by an OGM] may authorise the opening of an account at a bank, on behalf of the national and/or provincial offices, who act on behalf of the Organisation, as nominated in writing by MANCO.

MANCO will authorise the bank to accept the signature[s]/endorsement[s] of the people authorised thereto on all cheques, bills of exchange, promissory notes and other negotiable instruments on behalf of the client and to pay out all cheques, bills, promissory notes and other negotiable instruments signed by or on behalf of the client by the said authorised signatories.

The authorised signatories may be changed/amended from time to time but these changes/amendments will only be effective when furnished in writing to the bank, duly authorised by MANCO at the branch where the account is domiciled.

- 12.3.4 Undertake strategic planning, including annual planning of services, and report to the NEC.
- 12.3.5 Set standards, approve and appraise service programmes, and report to the NEC.

- 12.3.6 Undertake accreditation of services to older persons, which means setting standards, norms and codes of conduct, and report to the NEC.
- 12.3.7 Supervise, implement and appraise human resource policies and practices, and report to the NEC.
- 12.3.8 Supervise and evaluate public relations and fundraising programmes, and advise the NEC.
- 12.3.9 Undertake specific tasks allocated by the NEC, and report back.
- 12.3.10 Report to the NEC on any other matter referred to MANCO.

13. PROVINCIAL EXECUTIVE COMMITTEES

- 13.1 PEC's are regarded as sub-committees of the NEC and are, therefore, directly accountable to that committee and have designated powers as given by the NEC.
- 13.2 At least two members per region should be appointed to serve on the PEC so that all regions are adequately represented.
- 13.3 The boundaries of PEC's will be determined by the NEC.
- 13.4 The functions and powers of PEC's will be determined by the NEC in consultation with PEC's and may include:
 - 13.4.1 representing the interests of members of the Organisation in a particular region;

- 13.4.2 identifying and communicating needs of older persons to provincial offices, provincial authorities and the NEC;
- 13.4.3 initiating advocacy and social action;
- 13.4.4 promoting networking in the field of ageing;
- 13.4.5 providing consultation and advice to provincial offices;
- 13.4.6 undertaking fundraising and promotions in consultation with provincial offices;
- 13.4.7 undertaking specific tasks referred to them by the NEC and reporting back; and
- 13.4.8 provincial budgets should be prepared in consultation with the PEC and staff for the next financial year, provided that the NEC has the sole discretion to approve the final provincial budgets.

14. FINANCIAL PROVISIONS

- 14.1 A budget of estimated income and expenditure of the Organisation for the next financial year shall be prepared and approved by the NEC, before commencement of the financial year.
- 14.2 All monies received by the Organisation shall be paid into its banking account and be invested only in registered financial institutions. All disbursements shall be made by cheque signed by not less than two [2] persons authorised by the NEC.

All disbursements of items not approved in the budget shall require the approval of MANCO, and be ratified by the NEC.

14.3 The NEC shall cause full and true accounts of the Organisation to be kept; such accounts shall be balanced and audited by the auditor as at 31 March of each year when the Organisation's financial year shall end.

Copies of the consolidated financial statements shall, by 30 September of each year, after adoption by the NEC, be sent to the Directorate for Non-Profit Organisations, together with a narrative report of the Organisation's OGM and on request, to the Organisation's members.

15. **POWERS OF THE ORGANISATION**

The Organisation shall have all the powers necessary for it to carry out its stated objectives effectively. Such powers shall include, but not be limited to:

- 15.1 institute or defend any legal or arbitration proceedings and to settle any claims made by or against the Organisation;
- 15.2 prudently invest funds of the Organisation;
- 15.3 accept donations made to the Organisation and retain them in the form in which they are received, or sell them and re-invest the proceeds;
- 15.4 purchase, acquire, maintain, manage, develop, exchange, lease, sell, or in any way deal with property and assets of the Organisation;
- 15.5 To donate and transfer the property and assets of the Organisation to other organisations with the same or similar objectives and the same exemptions from taxes and duties to those of the Organisation;

15.6 To borrow and to use the property or assets of the Organisation as security for borrowing;

15.7 To execute any act or deed in any deeds registry, mining titles or other public office; and

15.8 To exercise all the management and executive powers that are normally vested in the Board of Directors of a Company.

16. **AMENDMENT OF THE CONSTITUTION**

16.1 This Constitution may be amended with the approval of not less than two-thirds [2/3] of the voting members present at an OGM of the Organisation, or at a SGM thereof, of which due notice in accordance with the Constitution shall have been given, and such notice shall include the text of the proposed amendment.

Voting members who are not able to attend the above-mentioned meetings, may cast a postal vote or make use of a personal proxy as provided under Clause 9.9.1[c].

It is further provided that the NEC may determine the procedures and forms to be used in casting a postal vote.

16.2 Notice of a motion by a member for the amendment of this Constitution shall be in writing and received in the office of the Organisation at least three [3] calendar months before the date of the OGM or SGM at which the motion is to be considered.

17. DISSOLUTION OF THE ORGANISATION

- 17.1 The Organisation may be dissolved if not less than two-thirds [2/3] of the voting members present at an OGM or SGM of the Organisation are in favour of dissolution, provided that the notice convening the meeting has clearly stated that the question of dissolution of the Organisation and disposal of its assets are to be considered.
- 17.2 Upon the dissolution of the Organisation, after all debts and commitments have been paid, any remaining assets shall not be paid to or distributed amongst members, but shall be transferred by donation to some other non-profit organisation which the NEC [and failing which any division of the High Court] considers appropriate and which has objectives the same or similar to the objectives of the Organisation and should the Organisation be exempt from the payment of any taxes and duties:
- 17.2.1 any similar Public Benefit Organisation which has been approved in terms of Section 30 of the Income Tax Act;
- 17.2.2 any institution, board or body which is exempt from tax under the provisions of Section 10[1][cA[i]] of the Income Tax Act, which has as its sole or principal objective the carrying on of any public benefit activity; or
- 17.2.3 any department, state or administration in the national or provincial or local sphere of government of the Republic of South Africa.

18. INDEMNITY

- 18.1 Subject to the provisions of any relevant law, members and staff of the Organisation or appointed delegates shall be indemnified by the Organisation for all acts done by them in good faith on its behalf.
- 18.2 Subject to the provisions of any relevant law, no member or staff of the Organisation or appointed delegates shall be liable for the acts, receipts, neglects or defaults of any other member or office bearer, or for any loss, damage or expense suffered by the Organisation, which occurs in the execution of the duties of his or her office, unless it arises as a result of his or her dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

19. COMING INTO OPERATION

This Constitution shall replace the Constitution of 9 October 2007 as amended, and shall come into operation on 6 October 2009, provided that the present NEC shall remain in office until the date of the first meeting of the first NEC elected under this Constitution, and provided further that the election of such first NEC need not be confirmed by an OGM of the Organisation, and that such first NEC shall be deemed to hold office from the date of such first meeting.

[Regulations available on request]

SCHEDULE A [REFERRED TO UNDER 7.3]

REQUIREMENTS FOR APPROVAL AS A PUBLIC BENEFIT ORGANISATION IN TERMS OF THE INCOME TAX ACT NO. 58 OF 1962 (AS AMENDED)

As provided for in Clause 7 of this Constitution, the Organisation is an approved Public Benefit Organisation with the Receiver of Revenue for the exemption from appropriate taxes and duties. In compliance with Section 30 and Section 18A of the Income Tax Act, the following provisions shall bind the Organisation, and shall prevail in the event of any contrary clause that may exist within this Constitution.

The Organisation shall:

1. Ensure that no activities of the Organisation are intended to directly or indirectly promote the economic self-interest of any fiduciary or employee of the Organisation, otherwise than by way of reasonable remuneration payable to that fiduciary or employee.
2. Carry on its public benefit activities in a non-profit manner and with an altruistic or philanthropic intent.
3. Comply with such conditions, if any, as the Minister of Finance may prescribe by way of regulation to ensure that the activities and resources of the Organisation are directed in the furtherance of its objectives.
4. Submit to the Commissioner a copy of and a copy of any amendment to this Constitution.
5. Have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Organisation and no other single person directly or indirectly controls the decision making powers relating to that Organisation.
6. Be prohibited from distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity).
7. Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy, which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Act or any other Act administered by the Commissioner.
8. Be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation; provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of Section 10(1)(cA)(i), which has as its sole or principal object the carrying on or any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

**This constitution
was duly approved at an
Ordinary General Meeting
of Age-in-Action
on 6 October 2009 in Bloemfontein**

9. Not pay any remuneration as defined in the Fourth Schedule to the Income Tax Act, to any employee, office bearer, member or other person, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objectives.
10. Comply with such reporting requirements as may be determined by the Commissioner.
11. Take reasonable steps to ensure that the funds, which it may provide to any association of persons, as contemplated in section paragraph 10(iii) of Part I of the Ninth Schedule to the Income Tax Act are utilised for the purpose for which they are provided.
12. Not use its resources directly or indirectly to support, advance or oppose any political party.
13. Ensure that any books of account, records of other documents relating to its affairs are:
 - 13.1 where kept in book form, retained and carefully preserved by any person in control of the Organisation, for a period of four years after the date of the last entry in any such book; or
 - 13.2 where not kept in book form, are retained and carefully preserved by any person in control of the Organisation, for a period of four years after the completion of the last transaction, act or operation to which they relate.



**Rev John Phillips
National Chairperson**

ABBREVIATIONS

NEC	National Executive Committee
MANCO	Management Committee
OGM	Ordinary General Meeting
SGM	Special General Meeting
PEC	Provincial Executive Committee