

South Africa - Constitution of 1997 [Sections pertinent to Not-for-Profit Law]

{ Adopted on: 8 May 1996 }
{ Amended on: 11 Oct 1996 }
{ In Force since: 7 Feb 1997 }

Preamble

We, the people of South Africa, Recognise the injustices of our past;
Honour those who suffered for justice and freedom in our land;
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs to all who live in it, united in our diversity.
We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to -
Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;
Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;
Improve the quality of life of all citizens and free the potential of each person; and Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.
May God protect our people.
Nkosi Sikelel iAfrika. Morena boloka setjhaba sa heso.
God seën Suid-Afrika. God bless South Africa.
Mudzimu fhatutshedza Afurika. Hosi katekisa Afrika.

Chapter 1 Founding Provisions

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Section 9 Equality

- (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- (3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- (4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
- (5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

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Section 15 Freedom of religion, belief and opinion

- (1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion.
- (2) Religious observances may be conducted at state or state-aided institutions, provided that -
 - (a) those observances follow rules made by the appropriate public authorities;
 - (b) they are conducted on an equitable basis; and
 - (c) attendance at them is free and voluntary.

- (3) (a) This section does not prevent legislation recognising -
- (i) marriages concluded under any tradition, or a system of religious, personal or family law; or
 - (ii) systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.
- (b) Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.

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Section 17 Assembly, demonstration, picket and petition

Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

Section 18 Freedom of association

Everyone has the right to freedom of association.

Section 19 Political rights

- (1) Every citizen is free to make political choices, which includes the right -
- (a) to form a political party;
 - (b) to participate in the activities of, or recruit members for, a political party; and
 - (c) to campaign for a political party or cause.
- (2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.
- (3) Every adult citizen has the right -
- (a) to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and
 - (b) to stand for public office and, if elected, to hold office.

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Section 22 Freedom of trade, occupation and profession

Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

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Section 23 Labour relations

- (1) Everyone has the right to fair labour practices.
- (2) Every worker has the right -
- (a) to form and join a trade union;
 - (b) to participate in the activities and programmes of a trade union; and
 - (c) to strike.
- (3) Every employer has the right -
- (a) to form and join an employers' organisation; and
 - (b) to participate in the activities and programmes of an employers' organisation.
- (4) Every trade union and every employers' organisation has the right -
- (a) to determine its own administration, programmes and activities;
 - (b) to organise; and
 - (c) to form and join a federation.
- (5) Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).
- (6) National legislation may recognise union security arrangements contained in collective

agreements. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).

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Section 29 Education

- (1) Everyone has the right -
 - (a) to a basic education, including adult basic education; and
 - (b) to further education, which the state, through reasonable measures, must make progressively available and accessible.
- (2) Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account -
 - (a) equity;
 - (b) practicability; and
 - (c) the need to redress the results of past racially discriminatory laws and practices.
- (3) Everyone has the right to establish and maintain, at their own expense, independent educational institutions that -
 - (a) do not discriminate on the basis of race;
 - (b) are registered with the state; and
 - (c) maintain standards that are not inferior to standards at comparable public educational institutions.
- (4) Subsection (3) does not preclude state subsidies for independent educational institutions.

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Section 31 Cultural, religious and linguistic communities

- (1) Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community -
 - (a) to enjoy their culture, practise their religion and use their language; and
 - (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
- (2) The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

Section 32 Access to information

- (1) Everyone has the right of access to -
 - (a) any information held by the state; and
 - (b) any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

Section 33 Just administrative action

- (1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
- (2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
- (3) National legislation must be enacted to give effect to these rights, and must -
 - (a) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;
 - (b) impose a duty on the state to give effect to the rights in subsections (1) and (2); and
 - (c) promote an efficient administration.

Section 34 Access to courts

Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

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