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CONSTRUCTION MAINTENANCE AND ALLIED WORKERS CANADA

CONSTITUTION & BYLAWS

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Established in 2004, CMAW's role is to establish and maintain the best possible standards of pay, benefits and working conditions for members; to organize the unorganized; to promote progressive labour and human rights legislation; to cooperate with other unions and organizations to achieve these aims; to encourage social unionism; to promote and champion workers' legitimate struggles; to provide aid and assistance to members so they may share in benefits of collective agreements and favourable employment legislation; and to inform and educate workers on the principles and policies of the organization and the benefits they may achieve through organization and collective bargaining. CMAW has agreements with over 130 contractors and a membership of 7,000.



About Us

Hours: Monday to Friday 8:00am to 4:00pm
Telephone: 604.437.0471 Fax: 604.437.1110
Toll Free: 1.855.616.3555 Email: council @cmaw.ca
@CMAWunion @cmawunion



Contacts:

President, Chris Wasilenchuk cwasilenchuk@cmaw.ca
Secretary Treasurer, Paul Nedelec pnedelec@cmaw.ca

**Construction, Maintenance
and Allied Workers Canada**
CONSTITUTION AND BYLAWS

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**CONSTRUCTION, MAINTENANCE
AND ALLIED WORKERS CANADA**

CONSTITUTION

ARTICLE 1: NAME AND INTERPRETATION

- 1.01** This organization shall be known as the Construction, Maintenance and Allied Workers Canada (hereafter referred to as “the Union”).
- 1.02** The Constitution shall be interpreted in a manner consistent with the policies and provisions of the applicable labour legislation of the various jurisdictions of Canada.

ARTICLE 2: PURPOSES AND AIMS

- 2.01** The Union’s purposes and aims are the following:
- a) To promote and regulate relations between employees and employers through collective bargaining and to establish and maintain the best possible standards of pay, benefits, and other working conditions.
 - b) To organize the unorganized.
 - c) To promote progressive legislation in the areas of labour relations, labour standards, human rights, Employment Standards, Occupational Health and Safety, and all other regulations that govern the rights and well-being of workers.
 - d) To cooperate with unions and organizations of unions in order to achieve the above objectives.

- e) To encourage social unionism that recognizes the importance of participation in our society.
- f) To promote, protect, and champion the legitimate struggles of workers.
- g) To provide aid, assistance, and guidance to our members, to the end that all workers may share in the benefits resulting from employment under the terms of collective bargaining agreements and legislation related to employment.
- h) To inform, advise, and educate workers in the principles and policies of this organization and of the benefits and gains that they may achieve through organizing and collective bargaining.
- i) To treat all regions, sectors, and members of the Union fairly and equitably.

ARTICLE 3: MEMBERSHIP

3.01 Any person employed in a bargaining unit that is, or could be, represented by the Union is eligible for membership.

3.02 The Executive Board of the Union or a Local Union may refuse membership for reasonable cause. Reasonable cause shall include, but not be limited to, the fact that an applicant for membership has:

- a) Crossed a picket line of this or another union.
- b) Accepted employment as a replacement for an employee not at work due to a strike or lockout.

- c) Acted to prevent a union from obtaining or maintaining a certification for any unit of employees.
- d) Acted or conspired to act against the Union.

3.03 Every applicant for membership shall have a right to natural justice, and shall not be denied membership on a discriminatory basis.

3.04 New members shall pay an initiation fee as determined by the Union Executive Board. The Union Executive Board may waive or reduce initiation fees upon application from a Local Union.

3.05 Every applicant for membership shall, before being admitted to membership, subscribe to the following obligation:

“I, (name of individual), do of my own free will, sincerely promise on my honour that I will support organizing, and will not reveal by word or deed the business of this Union, unless legally authorized to do so. I promise to abide by the Constitution and the will of the majority, and to observe the Bylaws established by Local Unions and Councils affiliated to the Union. I will use every honourable means to procure employment for brother and sister members. I pledge myself to be obedient to authority, to be orderly in meetings, and to be charitable in judgement of my brother and sister members. To all this, I promise and pledge my honour.”

- 3.06** A member being three (3) months in arrears in payment of Local Union counter dues, and having received due notification of such delinquency, shall be deemed not to be in good standing with the Union.
- 3.07** A member, being six (6) months in arrears in payment of Local Union counter dues, and having received due notification of such delinquency, shall be removed from the rolls of the Local Union in which he/she is a member.
- 3.08** The members of the Union agree that they will not raid each other in relation to the bargaining union certified to or party to a collective agreement with the Union.
- 3.09** If any Local Union is found in violation of Article 3.08, the Union Executive Board will have the authority to remove the Local Union or regional representative from the Union Executive Board and may revoke the Local Union's Union Charter.
- 3.10** A member resigning with current dues paid may be given an Honourable Resignation Card indicating honourable withdrawal from the Union if the member truthfully affirms in writing that he or she is leaving the industry, unless it is known that the resignation has been submitted for the purpose of violating trade rules.
- If within twenty-four (24) months of honourable withdrawal, an ex-member who in fact left the industry may be readmitted to membership without payment of any initiation fee by re-depositing the Honourable Resignation Card with the issuing Local Union.

The foregoing readmission privilege may not be used more than once in a three (3) year period.

ARTICLE 4: LOCAL UNIONS

- 4.01** The Union may charter Local Unions on a geographic or sectoral basis for the purpose of exercising bargaining rights and obligations over certifications and collective agreements held by the Union or the Local Unions.
- 4.02** Local Unions in the industrial and public sectors are entitled to individually negotiate and administer any collective agreements entered into by the Union or the Local Unions that apply to bargaining units within the Local Union's jurisdiction.
- 4.03** Local Unions in the construction sector are entitled to negotiate jointly, and to administer any collective agreements entered into by the Union or the Local Unions, and are subject to the following:
- a) All major negotiations in the construction industry shall be supervised and coordinated by a committee of the Union Executive Board.
 - b) All construction industry collective agreements must be signed by the President and Secretary Treasurer in order to be valid.
 - c) In negotiating such collective agreements, a committee of the Union Executive Board is entitled to determine provincial bargaining strategies, and shall have the power to postpone the ratification of any collective

agreement if it concludes that it would be harmful for the Council as a whole, taking into account the Council's bargaining priorities.

4.04 The Union Executive Board may appoint a temporary administrator to conduct the affairs of a Local Union including the removal of any and all officers. Such action may be taken when the Union Executive Board has reason that the Local Union is acting contrary to the welfare of its members or in the best interest of the Union.

A decision to appoint an administrator must be supported by at least two-thirds ($\frac{2}{3}$) of the members of the Union Executive Board. The Local will be given the opportunity to attend and address the Union Executive Board at any meeting where such a decision is being considered.

ARTICLE 5: LOCAL UNION ELECTIONS

5.01 A member must be in the Local Union and in good standing for at least one (1) year to be eligible to hold office in their Local Union. Local Union elections for officers and other elected positions must be conducted in accordance with the Union Constitution and Bylaws.

5.02 Local Union officers must be elected for a four (4) year term, commencing July 1 of the relevant year.

ARTICLE 6: UNION EXECUTIVE BOARD

6.01 The Union Executive Board shall be comprised of a President, Secretary Treasurer, and the following Vice Presidents:

- a) Vice Presidents at Large:
 - i) First Vice President
 - ii) Two (2) Vice Presidents at Large from under-represented sectors (2-year terms)
- b) Regional Construction Vice Presidents:
 - i) Central British Columbia Vice President
 - ii) Kootenay Vice President
 - iii) Lower Mainland Vice President
 - iv) Northwest British Columbia Vice President
 - v) Thompson-Okanagan Vice President
 - vi) Vancouver Island Vice President
 - vii) Alberta/Saskatchewan Vice President
- c) Sector Vice Presidents:
 - i) Industrial Vice President
 - ii) School Board Vice President
 - iii) Shipbuilders Vice President

All paid and elected business representatives will hold the position of Vice President based on this formula.

- d) The Union Executive Board Members/Vice Presidents terms expire upon adjournment of the Convention.

6.02 Any new region or sector with a membership exceeding two hundred (200) members may

request from the Union the right to elect one of their members to a Vice Presidency seat at the next Convention. The entitlement to Vice Presidency seats per Local Union is based on membership and is as follows:

- 200 to 700 - one Union Executive Board member
- 701 to 1000 - an additional Union Executive Board member
- 1001 and greater - the last Union Executive Board member

6.03 Any Union region or sector with a membership of fewer than one hundred (100) members may, at the discretion of the Union Executive Board, have their Union Vice Presidency position terminated at the end of that Vice President's term.

6.04 All members of the Union Executive Board shall be elected for a four (4) year term, in accordance with the provisions of this Constitution, except when otherwise stated. For the purpose of staggering the terms of the President and Secretary Treasurer, the following will occur at the 2018 Convention: the President will be elected for four (4) years; the Secretary Treasurer will be elected for two (2) years, reverting to four (4) year terms thereafter.

6.05 The Union Executive Board shall meet at least quarterly, at such times and places as the President may designate. A special meeting will be called by the President upon the request of a majority of the Union Executive Board.

- 6.06** A majority of the Union Executive Board, participating by whatever means the Union Executive Board deems appropriate, shall constitute a quorum.
- 6.07** The Union Executive Board shall direct and supervise the business of the Union between Conventions. They shall set the remuneration for the Union staff and Resident Officers.
- 6.08** The Union Executive Board has the power to interpret this Constitution.
- 6.09** Members of the Union Executive Board who do not participate in or have any direct connection to the construction industry shall not participate in or vote on issues that relate solely to the construction industry. Similarly, members of the Union Executive Board from the Construction Sector shall not participate in or vote on issues relating solely to other sectors. This does not apply to the Resident Officers, President or Secretary Treasurer.

ARTICLE 7: DUTIES OF EXECUTIVE OFFICERS

- 7.01** President
- The President shall be employed by the Union in a full-time position.
- 7.02** The President together with Secretary Treasurer (Resident Officers) is a Chief Executive Officer of the Union in all matters where authority is not conferred on other officers, and shall have the following powers and duties:

- a) The President is the Chair of the Union Executive Board. At such meetings, the President shall enforce the Constitution, Rules of Order adopted by the Union Executive Board, and Bylaws of the Union. The President shall have the power to call Special Meetings, and will call meetings requested by a majority of the Union Executive Board. Except in the case of a tie vote or secret ballot, the President will not cast a vote.
- b) The President has responsibility for the assignment, direction, and supervision of the work of all staff and employees of the Union, with the exception of the office support staff, whose work is under the direction and supervision of the Secretary Treasurer. Any decision to hire or terminate staff and employees is subject to the President obtaining the approval of the Union Executive Board.
- c) The President shall report on the activities of non-clerical staff to the Union Executive Board at their regular meetings.
- d) The President shall serve as delegate-elect to all conventions and conferences at which the Union participates.
- e) The President shall be an ex-officio member of all committees, and shall function in an advisory capacity without vote.
- f) The President shall exercise care and supervision over all the affairs of the Union.

- 7.03** In the event that the President is temporarily unable to fulfill the duties of office, the Secretary Treasurer, the First Vice President, or other member of the Union Executive Board, in that order, shall act on the President's behalf.
- 7.04** Provided the President so authorizes it in writing, a Vice President or Union representative may sign a collective agreement or any other document relative to collective agreement administration.
- 7.05** Secretary Treasurer
- The Secretary Treasurer shall be employed by the Union in a full-time position.
- 7.06** The Secretary Treasurer together with the President (Resident Officers) is a Chief Executive Officer of the Union in all matters where authority is not conferred on other officers, and shall have the following powers and duties:
- a) The Secretary Treasurer shall receive all funds of the Union and shall maintain accounts in a credit union or other financial institution approved by the Union Executive Board.
 - b) The Secretary Treasurer shall make such payments as authorized by the Union Executive Board, and shall provide statements of accounts when required to do so by the Union Executive Board.
 - c) The Secretary Treasurer shall temporarily assume the duties of President when so directed by the President.

- d) The Secretary Treasurer shall keep an accurate record of proceedings, meetings, and conventions held by the Union.
- e) The Secretary Treasurer shall serve as a delegate-elect to all conventions and conferences at which the Union participates.
- f) The Secretary Treasurer shall appoint ballot counter(s) for all Referendum votes and shall oversee all referendum votes conducted by the Union.
- g) The Secretary Treasurer shall maintain an accurate accounting of the revenue, expenses, assets and liabilities of the Union, and shall submit a semi-annual report of such matters to the Union Executive Board and an audited annual statement to the Convention.

7.07 Vice Presidents

Vice Presidents shall have the following powers and duties:

- a) Vice Presidents may temporarily assume the duties of President or Secretary Treasurer when directed by the President.
- b) Vice Presidents shall chair committees of the Union, as assigned by the President.

7.08 No member of the Union Executive Board will reveal by word, deed, or action any information that the Union Executive Board acquired which would be deemed confidential during their tenure as a member of the Union Executive Board.

ARTICLE 8: UNION AUDIT TRUSTEES

8.01 The Union will elect three (3) Trustees to hold office for a term of four (4) years.

The duties of the Trustees are as follows:

- a) To examine the financial records and Executive Board minutes of the Union every six (6) months.
- b) To determine whether receipts and expenditures have been properly documented and authorized.
- c) To report their findings to the Union Executive Board, and make any necessary recommendations.

8.02 The Union Audit Trustees will be elected at Convention. Trustees will be elected for the following terms:

In each year when the Union Executive Board elections are held, one (1) Trustee shall be elected for a term of four (4) years, and in the years when the Executive Board is not elected; there will be an election for two (2) Trustees for a term of four (4) years.

The elected three (3) Union Trustees be comprised of no more than one (1) Union Audit Trustee from any Local Union.

As these terms expire, the Trustees will be elected in accordance with the provisions of Article 8.01.

8.03 The Trustees of the Union are not members of the Union Executive Board and shall not hold positions on the Union Executive Board.

- 8.04** The Union will make its best efforts to ensure that Trustees receive training regarding their duties and responsibilities.
- 8.05** In the event of a vacancy of a Union Trustee position as a result of retirement, resignation or missing three (3) called Trustees' meetings without acceptable excuse provided to the Secretary Treasurer, the Union Executive Board will appoint a Union Trustee until the next Union Convention is held.

ARTICLE 9: CONVENTION

- 9.01** The Union shall hold a Biennial Convention at a time and place to be determined by the Union Executive Board.
- 9.02** The Convention, when in session, has all legislative, executive, and administrative powers of the Union.
- 9.03** The Union shall hold a Special Convention at a time and place specified in one of the following motions:
- a) A motion passed by a two-thirds ($\frac{2}{3}$) majority of the Union Executive Board; or
 - b) A motion approved by a majority of the Local Unions representing a majority of the Union's membership.
- 9.04** The Secretary Treasurer shall mail a notice of any Convention to all members of the Union Executive Board and all Local Unions ninety (90) days prior to the opening of the Convention.

9.05 All members of the Construction, Maintenance and Allied Workers Canada Executive Board will be delegates to Convention. In addition to the Executive Board, each Local Union will be entitled to delegates based on the average number of members for whom dues have been paid in the twelve (12) months preceding notice of the Convention. For the purpose of determining the number of delegates, a person may only be considered a member of a single Local Union.

9.06 The delegate entitlement of Local Unions be calculated as follows:

50 members or fewer	2 delegates
51 to 150 members	4 delegates
151 to 250 members	5 delegates
251 to 350 members	7 delegates
351 to 450 members	8 delegates
451 to 550 members	9 delegates
551 to 650 members	10 delegates
651 to 750 members	11 delegates
751 to 850 members	12 delegates
851 to 950 members	13 delegates
951 to 1,050 members	14 delegates
1,051 to 1,150 members	15 delegates

A cap of 15 delegates will be the maximum entitlement.

9.07 A Local Union that is three (3) months in arrears in the payment of its dues to the Union shall not be entitled to any delegates to Convention, unless exempted pursuant to Article 12.10.

- 9.08** A member who wishes to become a delegate to a Convention must meet the following qualifications:
- a) The member must have been a member of an affiliated Local Union for a period of twelve (12) months or a combined period of twelve (12) months for those who have been members of more than one Local Union.
 - b) The member must produce a dues book from his or her home Local Union or other Local Union if more than one (1), signed by the Local Union Financial Secretary, and present it to the Convention Registration Committee as confirmation that dues have been paid and that they are in good standing (not in arrears) for twelve (12) months prior to the nomination or appointment.
- 9.09** Visitors and members of a Local Union may attend the Convention, but shall not have voice or vote.
- 9.10** The Executive Board and Local Unions of the Union may bring matters before Convention for consideration by means of resolution, in accordance with the following procedure:
- a) All resolutions and names of delegates must be received by the Union sixty (60) days prior to the opening of the Convention.
 - b) The resolutions submitted by a Local Union or the Union Executive Board must be signed by two (2) officers.
 - c) The Union Council will send all resolutions to all Local Unions fifteen (15) days prior to Convention.

d) Emergency resolutions approved by the Union Executive Board may be submitted to Convention at any time.

9.11 A quorum shall consist of a majority of credentialed delegates in attendance at Convention.

9.12 Delegates are entitled to cast one (1) vote on any question, unless the Convention has required a weighted vote on any question. Resolutions shall be passed if they receive a majority of the votes cast. There is no proxy voting by delegates.

9.13 A weighted vote on any question shall be held upon the request of thirty percent (30%) of the Delegates voting, except when a weighted vote is mandatory for the election of the President and Secretary Treasurer.

9.14 A weighted vote will be determined in accordance with the following procedure:

- a) The Union shall determine the average number of members for whom dues have been paid in the twelve (12) months preceding notice of the Convention. For the purpose of determining the number of members, a person may only be considered a member of a single Local Union.
- b) The votes held by each Local Union will equate to the membership number calculated in accordance with 9.14 (a) above.
- c) Each Local Union shall assign the number of votes to which it is entitled equally amongst its delegates.

- 9.15** To ease any financial burden incurred by each Local Union office to send their allotment of Delegates to Convention, the Union will split all costs for sending Delegates and Executive Board Members to Convention on a fifty-fifty (50/50) basis.

ARTICLE 10: ELECTIONS

- 10.01** There shall be an election of officers (President, Secretary Treasurer, and members of Union Executive Board) every four (4) years. The election will occur at the Convention held in the fourth (4th) year of the officers' terms and their terms will expire when the election process takes place.
- 10.02** A person is qualified to be nominated for office and to hold office if the person is a member in good standing and has been so for at least one (1) year.
- 10.03** The election of the President, Secretary Treasurer and Vice Presidents At Large will be conducted by a secret ballot at Convention, in accordance with the following and the election of the Union Regional Construction Vice Presidents will be elected at the Local Union elections in compliance with the Union Constitution and Bylaws.
- a) The Chair shall call for nominations.
 - b) Nominees will be given five (5) minutes to address the delegates.
 - c) The time of the election will be set by the Union Executive Board.

- d) Voting will be conducted by secret ballot.
- e) Only delegates from Industrial and School Board Sectors are entitled to vote for their respective Vice Presidents.
- f) The nominee receiving the greatest number of ballots will be elected to the position.

10.04 The Shipbuilders Vice Presidents will be elected at their Local Union no later than two (2) months prior to the Resident Officer elections. The School Board Vice President will be elected at Convention with only the School Board delegates attending the Convention casting votes. The Industrial Vice President will be elected at Convention with only the Industrial delegates attending the Convention casting votes.

10.05 From all Union Executive Board Vice Presidents elected, the Convention delegates shall elect, by majority vote, a First Vice President of the Union.

10.06 The term of office for all members of the Executive Board is four (4) years, except in the case of a by-election, where it will be for the remainder of the term.

In order to be installed in office, a person must take the following oath:

“I solemnly swear to faithfully execute the office to which I have been elected and will, to the best of my ability, preserve, protect, and defend the Constitution of the Construction, Maintenance and Allied Workers Canada. Upon completion of my

term of office, I will deliver to my successor in office all Union books, papers, and property that may be in my possession.”

ARTICLE 11: VACANCIES

- 11.01** If any Union Executive Board member fails to discharge the duties of their office for three (3) meetings without satisfactory reason provided to the Secretary Treasurer and approved by the Union Executive Board, the position shall be declared vacant by the Union Executive Board. The filling of vacancies shall be in compliance with the applicable article in Article 11.00.
- 11.02** In case of a permanent vacancy in the office of President, the First Vice President shall assume the office and perform the duties of the President. An election for that position will take place at the next Convention.
- 11.03** In case of a vacancy in the office of Secretary Treasurer, an alternate will be selected by a majority vote of the Union Executive Board. An election for that position will take place at the next Convention.
- 11.04** Vacancies for all other positions elected at Convention will be filled for the term by an alternate. An alternate will be selected by the affected region or sector. An election for that position will take place at the next Convention. In the case of a Vice President At Large position, the Union Executive Board shall appoint until the next Convention.

11.05 Other vacancies for positions not elected at Convention will be filled by persons appointed by their respective organizations.

ARTICLE 12: FINANCES

12.01 Revenue:

The revenue of the Union is obtained from the following sources:

- a) Field dues paid by members.
- b) Initiation fees paid by members.
- c) Per capita tax payments made by Local Unions.
- d) Other miscellaneous receipts.

12.02 Field dues:

The dues payable by members shall be fixed by the Executive Board and approved by Convention.

12.03 Initiation fees:

Initiation fees shall be fixed by the Executive Board.

12.04 Per capita tax:

The per capita tax payments shall be fixed by the Executive Board and approved by Convention.

12.05 Budget:

The fiscal year of the Union shall be the calendar year. The Secretary Treasurer shall prepare and present to the Union Executive Board for approval an operating budget for the fiscal year. The budget shall be presented no later than the

first Union Executive Board meeting of the fiscal year.

12.06 The proposed budget must include the following items:

- a) Operating expenditures
- b) Wages and benefits expenditures
- c) Defence expenditures
- d) Organizing expenditures
- e) Revenue

12.07 Property:

The Union is authorized to own property and to maintain funds necessary to carry out the general management of the Union. The title to all property shall be held in the name of the Construction, Maintenance and Allied Workers Canada. The property and funds of Local Unions shall remain their exclusive property, and the Union shall have no interest in that property or funds.

12.08 Signatories:

All cheques issued against the funds of the Union, other than amounts less than \$500, shall be signed by the Secretary Treasurer and the President or a Vice President.

12.09 Auditor:

The Union Executive Board shall appoint an auditor who holds the professional qualifications of an auditor under the British Columbia Society Act. The Union Executive Board shall authorize the auditor to conduct an annual audit of the

Union's financial position and to prepare an audited financial statement.

12.10 Good standing:

Any Local Union three (3) months in arrears in the payment of per capita tax or delinquent in payment of any outstanding Convention registration fees, pool fare assessments, or other amounts owing to the Union shall not be in good standing and shall not be entitled to representation at Convention, a vote on referenda conducted by the Union, or payments from any Union funds, until all arrears are paid, except at the discretion and approval of the Union Executive Board for reasons of financial hardship.

ARTICLE 13: PENSION & BENEFIT PLANS

13.01 The Union is authorized to sponsor and participate in the benefit plan known as the Construction, Maintenance and Allied Workers Canada Benefit Plan as well as the pension plans known as the Carpentry Workers Pension Plan and the Construction, Maintenance and Allied Workers Canada Defined Contribution Pension Plan (collectively the Plans). The Union is further authorized to act as custodian in connection with any or all of the Plans as well as to act as agent for the administrators of any or all of the Plans.

13.02 Only those Union members who are beneficiaries of a Plan shall be entitled to vote on issues that relate to their specific Plan.

- 13.03** The CMAW Benefit Plan return to Board representation based on one (1) Board Member per Local. To be eligible to run for a Trustee position, a Member must be endorsed by their Local as either a delegate to Convention or by a support letter from their Local. This election shall be by all of the delegates at Convention that are Plan beneficiaries.
- 13.04** Elections for the position of CMAW Pension Plan Trustees be done at the CMAW Convention and that only those people who are beneficiaries of the Plan be allowed to vote for their Trustee.
- 13.05** Elections of Trustees for each of the Plans shall be held in compliance with the same rules as are in effect for the election of Local Union officers.
- 13.06** The name of any newly elected Trustee shall be forwarded to the Union Executive Board for affirmation and appointment to the appropriate Plan.
- 13.07** In the event of a vacancy, the Union Executive Board, by majority vote, will appoint a replacement on recommendation from the affected region until the next Convention.
- 13.08** If the Union has a reasonable basis on which to believe that a Trustee has engaged in misconduct including, without limitation, misappropriation of Plan assets, the Union Executive Board may, by majority vote, remove that Trustee from the Plan which upon removal will take effect as the date of the Union Executive Board's decision. If the Union Executive Board removes a Trustee it shall advise the remaining Trustees of the Plan of the

Trustee's removal and reasons for that removal, this information shall be kept within the Personal Information Privacy Act.

- 13.09** Despite any other section of this Article 13, any Plan's Trustees may with the Union's consent consolidate that Plan with any other Plan or any other benefit or pension plan on such terms as the Plan's Trustees and the Union consider appropriate, provided that within four (4) years of a consolidation, a majority of the Trustees of the Plan created by that consolidation must be elected at Convention.

ARTICLE 14: DISCIPLINE

- 14.01** A member may file a complaint against another member, in accordance with the procedure set out in this Article if there are reasonable grounds to believe that another member has:
- a) Violated any provision of this Constitution;
 - b) Revealed confidential information about the Union or the membership or personal information about a member or members to anyone not entitled to such information;
 - c) Crossed a union picket line;
 - d) Engaged in an activity or course of conduct that is detrimental to the welfare or best interests of the Union;
 - e) Carried on, as a principal or through a corporation, partnership, or other entity wholly or partially owned or controlled by the member, and which does not have a

collective agreement with the Union, any activities that compete directly with employers certified or in a voluntary recognition with the Union.

14.02 All complaints must be set out in writing and delivered to the Secretary Treasurer of the Union. Complaints must contain the following information:

- a) Name, address, telephone number, and signature of person making the complaint.
- b) Member named in complaint, along with their address and telephone number, if available.
- c) Facts that form the basis of the complaint.
- d) The portion of the Constitution that is alleged to have been violated.
- e) Whether the person making the complaint has personal knowledge of the facts and, if not, from where the information is derived.

14.03 A complaint shall be delivered to the Secretary Treasurer not later than six (6) months after the date on which the person making the complaint knew or ought to have known of the action or circumstances giving rise to the complaint.

14.04 Notice of the complaint will be given as follows:

- a) The Secretary Treasurer shall, as soon as practicable after receiving a complaint, notify the person who is the subject of the complaint by mail, ensuring proof of delivery, and provide that person with a copy of the complaint received.

- b) The Secretary Treasurer shall in the same notice require the person who is the subject of the complaint to provide a written response to the complaint, in which the response may be limited to admitting or denying the complaint. Such response shall be provided within fifteen (15) working days of the complaint being mailed to the member.

14.05 The complaint will be investigated as follows:

- a) When a complaint has been received, the Secretary Treasurer shall ask the Union Executive Board to appoint an Investigator, who shall be a member of the Union.
- b) That investigator shall make a preliminary investigation of the complaint, and for this purpose may consider such evidence and facts as are considered relevant.
- c) If the Investigator sees an opportunity for alternative dispute resolution, then the Investigator shall recommend this action to the Secretary Treasurer.
- d) If the Investigator concludes that the complaint is without merit, the complaint may be dismissed by the Secretary Treasurer, and a report of this action shall be provided to the Union Executive Board with the Investigator's findings.
- e) Where the Investigator has determined that the complaint has sufficient merit to proceed to trial in whole or in part, the Investigator will provide a report, through the Secretary

Treasurer, to the Union Executive Board. The Union Executive Board then will appoint a three (3) person Trial Committee to convene a hearing.

- f) That the Union Executive Board will retain counsel to prosecute the charges before the Trial Committee.

14.06 Trial procedure:

Trials shall be conducted in accordance with the following procedure.

- a) The Trial Committee will convene a hearing to hear the charges.
- b) Members have the right to know the charges against them, and to be provided with particulars of those charges.
- c) Members must be given reasonable notice of the charges prior to any hearing, and must be given reasonable notice of the hearing date.
- d) The Trial Committee will determine its own procedures, and will receive and hear evidence in accordance with the following principles:
 - i) The hearing must be conducted in compliance with the intent and purpose of this Constitution.
 - ii) The Trial Committee shall hear evidence and receive submissions from the charged members and members making the complaint.
 - iii) The trial must be conducted in good faith and without bias.

- iv) The Trial Committee is not bound by the strict rules of evidence. However, any decision reached must be based on the actual evidence adduced and not be influenced by any matters outside the scope of the evidence.
- e) A charged member has the right to have a representative accompany them to the hearing.
- f) The Trial Committee shall be provided with access to legal counsel if desired.

14.07 Upon conclusion of the hearing, the Trial Committee shall, as soon as practicable, publish a written decision and forward it to the Union Executive Board, the member who filed the complaint, and the member charged.

14.08 Where a member has been found in breach of the Constitution, the Trial Committee shall decide the appropriate level of discipline, considering all of the circumstances. If appropriate, the Trial Committee may seek further submissions from the parties before imposing any discipline. Discipline may include the following:

- a) A written warning.
- b) Removal from office of position in the Union.
- c) A fine not in excess of \$20,000 that must be paid prior to being accepted as a member again.
- d) Suspension or expulsion from Union membership.

e) Where a member has been found to be in breach of Article 14.01 (e), the member shall be suspended from Union membership.

14.09 The Local Union may reimburse members and witnesses for their reasonable transportation expenses and lost wages resulting from their necessary attendance at the hearing.

14.10 Should expenses be incurred as a result of processing a complaint and the process is not completed due to the member(s) bringing the complaint not participating in the hearing, the Local Union may bill the member(s) to recoup the costs.

14.11 Appeals may be brought in accordance with the following procedure.

- a) The disciplined member has the right to appeal any decision of the Trial Committee to the Union Executive Board. Any appeal must be submitted in writing to the President within one (1) month of mailing of the decision of the Trial Committee to the member's address on file with the Trial Committee. The appeal must contain the facts and submissions that form the basis for the appeal.
- b) In the case of a suspension or expulsion from Union membership, the penalty will not be implemented pending resolution of an appeal.
- c) The appeal will not be conducted as a new trial, but will be based on the record before the Trial Committee.

- d) The Union Executive Board may overturn the Trial Committee's decision and may vary any discipline imposed by the Trial Committee.
- e) The decision of the Union Executive Board is final.

14.12 All members are required to exhaust the remedies provided in this Article before commencing proceedings in a court or administrative tribunal.

ARTICLE 15: RIGHT TO RECALL

15.01 A Resident Officer or any member of the Union Executive Board of the Union Council will be subject to a recall referendum at any time by a petition of at least twenty-five percent (25%) of the membership of all the Chartered Local Unions of the Union Council, and endorsed by at least twenty-five percent (25%) of the chartered Local Unions. To be endorsed by an affiliated Local Union, the said question must be passed by a two-thirds ($\frac{2}{3}$) majority at a special-called meeting. The Union Council shall have ballots printed and circulated by registered mail to all affiliated Local Unions for a referendum ballot within thirty-one (31) days of the receipt of said petition by the Union Council Secretary Treasurer. In the case of the Secretary Treasurer's position being challenged, the President shall be authorized to do so.

15.02 The referendum vote shall be conducted by the Local Unions in accordance with the Union Council Constitution within forty (40) days of the receipt of the ballots. If a Local Union does not

conduct the referendum ballot, then the Union Council will have the right to conduct the referendum ballot. All costs incurred by the Union Council to conduct the said referendum shall be borne by the Local Union(s) that did not conduct the referendum, and will constitute a preferred claim, payable prior to their per capita tax or any other payments by the Local Union.

- 15.03** A two-thirds ($\frac{2}{3}$) majority of the votes, cast at special-called meetings, shall be necessary to recall the union official. All votes cast shall be counted within five (5) days of the last balloting.
- 15.04** Entitlement to voting will be based on the Link membership list or other appropriate Local Union database acceptable to the Union Executive Board.
- 15.05** Any member who has worked in the previous twelve (12) months is eligible to vote.
- 15.06** A vacancy as a result of recall in the position shall be filled within thirty (30) days by the Union Executive Board, until an election for the vacated position is held. Elections shall be conducted at the next Convention.
- 15.07** An Officer, Union Executive Board member, or Business Representative of a Local Union will be subject to a recall referendum at any time a petition of at least twenty-five percent (25%) of the Local Union's membership is endorsed by the Local Union's Executive Board. A two-thirds ($\frac{2}{3}$) majority of the votes cast at a special-called meeting shall be necessary to recall the Officer, Union Executive Board member, or Business Representative.

15.08 Only eligible members in good standing as per Article 3.06 of this Constitution may vote in recall balloting.

15.09 A vacancy as a result of recall in the positions named above shall be filled by the Union Executive Board within thirty (30) days of the counting of the ballots until an election for the vacated position is held. Elections shall be conducted through a special-called meeting or mail-out ballot within three (3) months of the position becoming vacant.

ARTICLE 16: REFERENDA

16.01 The Union may conduct referendum votes of its membership on any question approved by the Union Executive Board.

16.02 A referendum vote shall be conducted in accordance with the following principles.

- a) Only members in good standing are entitled to vote.
- b) The vote shall be conducted by mail ballot or at a Special Called meeting.
- c) Twenty-one (21) days' notice of the meeting must be given, or if a mail ballot is conducted twenty-one (21) days must elapse between the mailing of the ballots and the counting of the vote.
- d) Results of the vote will be calculated and released on a province-wide basis.

ARTICLE 17: AMENDMENTS TO THE CONSTITUTION

- 17.01** This Constitution may be amended at Convention. Any proposed amendments may be introduced by the Union Executive Board or a Local Union, or by a petition containing the proposed amendment that has been signed by a least ten percent (10%) of the Union's members in good standing as of December 31 of the preceding year. Any such petition must be received by the Secretary Treasurer at least thirty (30) days prior to the Convention.
- 17.02** Amendments to the Constitution will be effective at the close of the Convention, and only if the following procedures have been complied with:
- a) Notice of the proposed amendment(s) was given by ordinary mail to the delegates or their Local Union fifteen (15) days prior to the Convention.
 - b) Two-thirds ($\frac{2}{3}$) of the delegates voting on the proposed amendment(s) are in favour of the amendment(s).
- 17.03** The delegates may, by majority vote, refer any supported Constitutional amendment to a referendum vote of the membership. That referendum vote must be held within four (4) months following the Convention, and requires a majority vote to be passed.

**CONSTRUCTION, MAINTENANCE
AND ALLIED WORKERS CANADA**

BYLAWS

ARTICLE 1: LOCAL UNION BYLAWS

A Local Union may adopt bylaws providing that an Officer or Representative duly nominated and elected in accordance with the Union Constitution and Bylaws shall, by virtue of the office, be a delegate to the Convention of United or any other subordinate body with which the Local Union is affiliated.

In the event of a dispute between the Union Bylaws and that of the Local Union Bylaws, Union Bylaws will take precedence.

In the event of a contradiction between the Union Bylaws or the Local Union Bylaws and the Union Constitution, the Union Constitution will take precedence.

All Elections Committee members/Local Union Officers shall be given a copy of these Bylaws prior to the commencement of any election and be instructed to comply with these Bylaws.

These Bylaws, upon request, shall be provided by the Local Union to any member of the Local Union.

Notwithstanding any provision in these Bylaws, the Local Union or member may apply to the Union Executive Board for dispensation for any/all portions contained within.

Any member, Officer, or Local Union who is in contravention of these Bylaws may be subject to charges as prescribed by the Union Constitution.

Local Unions may enter into Joint Servicing Agreements with other Local Unions to enable the administration of the business of the Locals.

ARTICLE 2: DUTIES OF LOCAL UNION OFFICERS

Where there are two (2) or more Business Representatives representing a Local Union, provision shall be made for the designation of one elected Business Representative, who shall be responsible for, and have authority over, personnel of the Local Union except when working under a full-time Executive Officer of the Local Union.

All Business Representatives shall be required to participate in any training program for Business Representatives which shall be established by the Union Executive Board. The costs of such training shall be borne by the Union.

Organizers shall be required to participate in any training programs for Organizers that may be designated by the Union Executive Board. The costs of such training shall be borne by the Union.

All Local Unions shall notify the Union by letter with an accurate and current listing of their Officers and Representatives immediately following their election or appointment, and shall notify the Union by letter of any interim changes.

ARTICLE 3: LOCAL UNION ELECTIONS

A) Local Union Executive Board

The Executive Board of a Local Union shall be: President, Vice President, Recording Secretary, Secretary Treasurer, Conductor, Warden, and up to three (3) members at Large. The Local Union,

by majority vote, may combine the positions of Financial Secretary and Treasurer at a specially-called meeting.

Business Representatives and Assistant Business Representatives may be elected or appointed by Local Unions.

The qualifications of Business Representative and Assistant Business Representative of a subordinate body, whether elected or appointed, shall be governed by the provisions of this Article.

The President, Treasurer, Financial Secretary, or the Recording Secretary cannot act as a Local Union Trustee.

The three (3) trustees shall not be members of the Executive Board.

A quorum of any Executive Board meeting shall be established when fifty percent plus one (50% + 1) of the officers are present. Once quorum is established, the meeting shall continue until adjournment.

B) Elections Committee

- a) All elections shall be conducted by an Elections Committee consisting of a minimum of three (3) members.
- b) The Elections Committee shall be appointed by the President of the Local Union.
- c) The Elections Committee is to establish a fair and reasonably accessible method for members to participate in the election. This includes, but is not limited to, the following

election methods: election meetings, mobile election polling, referendum, etc.

- d) The Elections Committee shall remain neutral in all elections and shall not engage in any candidates campaigns.
- e) Any member of the Elections Committee shall not be eligible to stand for election.

C) Terms of Office

The regular terms of elected Officers, Business Representatives, and Assistant Business Representatives or Trustees shall be four (4) years in Local Unions.

All elected positions in Local Unions, including Representatives/Trustees to provincial plans and committees, shall be declared vacant at the end of the four (4) year term.

If an election is not held within the prescribed time, the Union Executive Board shall have the authority to make pro tem appointments to fill all such vacancies. The term of such pro tem appointments shall not exceed six (6) months.

The Union Executive Board will ensure that elections are held within the six (6) month period.

Where an election is not held in a Local Union for any position in a Local Union and the Union Executive Board must conduct an election, all costs incurred by the Union to conduct such elections shall be borne by the Local Union involved, and will constitute a preferred claim, payable prior to their per capita tax.

The installation of Officers shall take place on, or before, the first (1st) meeting in July. In the case that an officer does not appear for installation within two (2) regular meetings thereafter, the office must be declared vacant.

The term of an appointed Business Representative or Assistant Business Representative shall be at the discretion of the Local Union unless a specific term is established at the time of appointment or by the Local Union.

The term for which an Officer or Representative is elected or appointed may be reduced or terminated, or the compensation reduced, for valid economic reasons, subject to the approval of the President of the Union whose decision may be appealed to the Union Executive Board.

D) Election Rules

- a) The election of Officers, delegates and representatives shall be by majority vote of the votes cast in a secret ballot at a secure polling place.
- b) A qualified candidate for office shall be permitted to examine the membership list containing the names and addresses of all the members one (1) time within thirty (30) days prior to the election. A Local Union shall honour reasonable requests from candidates to have their campaign literature mailed by the Local Union at the candidates' expense.
- c) When an election is being held to fill vacancies, a member who currently holds an

office must resign said position, in writing, prior to accepting nomination as a candidate for another office in the same subordinate body.

- d) All vacancies created as a result of said election, including unsuccessful candidates who tendered resignations be eligible to accept nomination, shall be filled by the same nomination and election process.
- e) No candidate or member may receive funds or donations in kind for an election campaign, or intended for an election campaign, or for any other related expenses for an election campaign, other than from a member of the Union. Third parties, Associations, Employers, Unions, or funds diverted from these groups or individuals through a member/candidate of the Union are strictly prohibited and may result in the disqualification of the candidate and/or removal from office. Donations of more than \$500.00 must be declared by the candidate, in writing, including the name of the donors, to the Local Union within 30 (thirty) days following any election.

Notwithstanding the above, candidates may spend freely out their own personal funds for any election expenses without having to declare such funds. Local Unions may establish a formula for funding Local Union election campaigns paid for by the Local Unions as long as the rules pertaining to such funds are equitable to all candidates.

Local Unions may establish a spending cap for Local Union candidates.

- f) There shall be no campaigning or distribution of election material in the immediate vicinity of a poll or within 200 meters of the polling station.

E) Notice

Members shall receive not less than fifteen (15) days of notice of nominations or elections, and where a combined notice is used it shall be mailed not less than thirty (30) days prior to the date of the election and not more than sixty (60) days.

Notice shall be sent to the members' last known addresses as reported to the Recording Secretary by mail and shall specify the time, date and place of the nomination meeting and shall specify all offices to be filled.

Notice in newsletters or similar publications shall not constitute proper notice, but may be used as a supplementary notice.

The notice of nominations and election, and the ballot, must advise the members that the candidate elected to the office or position may also be a delegate to the Union Convention or whichever other office or position, or subordinate body, the candidate may be elected to.

F) Eligibility

- a) All members in good standing are eligible to vote.

- b) To be eligible to serve, a member must be in the Local Union and in good standing for at least one (1) year to be eligible to hold office in their Local Union.
- c) A member being three (3) or more months delinquent in any payment to the Local Union shall be deemed to be not in good standing.
- d) Members will be allowed to pay arrears, fines and assessments prior to the actual counting of the ballots or other deadline established by the Local Union Elections Committee, up to and including at the polling station, regardless of the location. Such payments must be recorded and an official Local Union receipt must be given prior to the member casting their vote.
- e) No member may hold more than one (1) office or be a candidate for more than one (1) office in a regular election in the same subordinate body, unless dispensation to combine two (2) or more offices is, or has, been granted by the Union Executive Board.
- f) A member shall not be eligible to hold office unless working for a livelihood in a classification within the autonomy of the Union or in employment which qualifies him or her for membership, or is depending on the trade for a livelihood, or is employed by the organization as a full-time Officer or Representative.

- g) Contracting members are not eligible to hold office, nor shall a member who has been a contracting member until six (6) months have elapsed following notification, in writing, by the member to his/her Local Union that he/she has ceased contracting. A contracting member is anyone who is in direct competition with a Union signatory employer.
- h) The Financial Secretary Treasurer shall be available with all necessary records to establish eligibility of members to be nominated for and to hold office and to vote in any election.

G) Nominations

- a) A member cannot hold office or be nominated for office unless present, or unless the member is out of the room on authorized business, away on official business, prevented by accident, sickness, or a letter has been received by the Local Union from the candidate accepting the nomination, or another reason deemed substantial by the Local Union from being present.
- b) Nomination of Officers, Pension/Benefit Trustees, Local Union Trustees, elected Business Representatives and Assistant Business Representatives shall take place in May, and the election process must be complete by the end of July. If Local Unions choose to elect Convention delegates for the duration of the elected term of office, those

elections shall be held in conjunction with Local Union Elections.

H) Balloting

- a) All balloting for Local Union be made by Mail-In-Ballot using the double blind method.
- b) Ballots shall be prepared in advance, listing the names of all candidates nominated for election.
- c) Any other method of conducting a Local Union Ballot will require Dispensation from the Union Executive Board. Application for said Dispensation must be submitted sixty (60) days prior to the ballot.
- d) If Elections are held at a fixed central location, the hours of the poll shall be from 8:00am to 8:00pm.
- e) Each member in good standing shall have the opportunity to vote, by Mail-In Ballot, for their Local Union Executives and Pension Plan Trustees; and are entitled to one (1) vote per position being filled.
- f) Any candidate may have an observer at the polls and at the counting of the ballots. More than one observer may be appointed by each candidate, as needed to adequately observe the polls and tabulation. Observers must be members in good standing. The Elections Committee shall determine the number of observers permitted in each election.

- g) If more than one polling place is used, a list of eligible members shall be available at each location.
- h) When voting machines are used, the Elections Committee shall examine the machines before the start of the voting to see that they are properly set.
- i) A candidate, or his or her observer, also may examine the machines in conjunction with the Elections Committee.

I) Tabulation of Ballots

- a) The nominees receiving a plurality of votes shall be declared elected.
- b) After the polls have closed, the Elections Committee shall review the result of the election, fill out and sign the Official Election Result sheets, giving the names of the candidates and total votes received by each; the sheets are to be held in safekeeping by the Recording Secretary. The Recording Secretary shall preserve all ballots, used and unused, and all records pertaining to the election for one (1) year following the date of the election.
- c) The Chairperson of the Elections Committee shall declare the result of the balloting and announce the name of the elected candidate.

J) Election Disputes/Challenges

- a) In cases of an election complaint, the complaining member or candidate shall

submit the complaint, in writing, to the Recording Secretary within two (2) business days after the election results have been announced. The Recording Secretary will then forward the complaint to the Chair of the Elections Committee within two (2) business days.

- b) Such complaint shall be heard and determined promptly within fourteen (14) days by the Elections Committee.
- c) A new election may be ordered only if it is determined that the matter complained of might reasonably have changed the results of the election.
- d) If the complainant is not satisfied with the decision of the Local Union's Elections Committee, the matter can be appealed to the Union Executive Board within thirty (30) days and the decision of the Union Executive Board will be final and binding.

K) Reimbursement/Compensation

- a) The Local Union shall properly remunerate the Elections Committee members for their lost wages and expenses.

L) Rival Unions

- a) Job Stewards: No member is eligible to hold the position of job steward if he/she holds membership in a rival trade union without the express written permission of the member's home Local Union and/or the Union Executive Board. (Union Executive Board Meeting November 30, 2010)

- b) Dispatch Board: No member is eligible to be on any Local Union out of work list if he/she is employed or working under a collective agreement with a rival trade union without the express written permission of the member's home Local Union and/or the Union Executive Board. (Union Executive Board Meeting November 30, 2010)
- c) No member shall hold a seat on any Local Union or Provincial Union Executive Board if he/she holds membership in a rival trade union without the express written permission of the member's home Local Union and/or the Union Executive Board. (Union Executive Board Meeting November 30, 2010).



CONSTRUCTION MAINTENANCE AND ALLIED WORKERS CANADA



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