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REPUBLIC OF SOUTH AFRICA

NATIONAL SPORT AND RECREATION AMENDMENT BILL

(As presented by the Portfolio Committee on Sport and Recreation) (The English text is the official text of the Bill)

(MINISTER OF SPORT AND RECREATION)

[B 17B—2006]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Sport and Recreation Act, 1998 (Act No 110 of 1998) so as to delete and insert certain definitions; to substitute the Sport Confederation and Sport and Recreation South Africa, where applicable, for the South African Sports Commission; to provide for the Minister to intervene in certain sports disputes; to provide for the issuing of guidelines for the promotion of equity, representivity and redress in sport and recreation; and to provide for matters connected therewith

PREAMBLE

WHEREAS government has a constitutional obligation to ensure good and responsible governance of sport and recreation in the Republic;

AND WHEREAS the administration of sport and recreation in the Republic has been entrusted to sport and recreation bodies;

AND WHEREAS sport and recreation belongs to the nation over which government with its elected representatives have an overall responsibility;

AND WHEREAS recorded malpractices and poor governance in sport has resulted in disputes over the past few years necessitate intervention by government;

AND IN ORDER to redress the inequalities in sport and recreation by optimizing the participation, involvement and ownership of previously disadvantaged communities in the playing, administration, management and support of sport and recreation in the Republic.

BE IT THEREFOR ENACTED by the Parliament of the Republic as follows:—

Amendment of section 1 of Act 110 of 1998

1. Section 1 of the National Sport and Recreation Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by—
 - (a) the deletion of the definition of “**General Assembly**”;
 - (b) the insertion after the definition of “**General Assembly**” of the following definition:

“ 'high performance sport' means the high level participation in major, international sporting events including but not limited to

world championships and other international multi-sport events such as the Olympic Games, Commonwealth Games, Paralympic Games and All Africa Games;”;

(c) the substitution for the definition of “**Minister**” of the following definition

“ **'Minister'** means the Minister responsible for Sport and Recreation in South Africa;”;

(d) the deletion of the definition of “**NAPCOSA**”;

(e) the substitution for the definition of “**national federation**” of the following definition:

“ **'national federation'** means a national governing body of a code of sport or recreational activity in the Republic recognised by the relevant international controlling body as the only authority for the administration and control of the relative code of sport or recreational activity in the Republic;”;

(f) the deletion of the definition of “**NOCSA**”;

(g) the deletion of the definition of “**provincial department of sport and recreation**”;

(h) the deletion of the definition of “**Recreation Movement**”;

(i) the deletion of the definition of “**SANREC**”;

(j) the deletion of the definition of “**SISA**”;

(k) the insertion of the following definition after the definition of “**SISA**”:

“ **'Sport and Recreation South Africa'** means the National Department of Sport and Recreation;”;

- (l) the substitution for the definition of “**sport or recreation body**” of the following definition:

“ ‘**sport or recreation body**’ means any national federation, agency or body, including a trust or registered company of such a national federation, agency or body, involved in the administration of sport or recreation at national level;”;

- (m) the deletion of the definition of “**Sports Commission**”;
- (n) the insertion of the following definition after the definition of “sport or recreation body”:

“ ‘**Sports Confederation**’ means the Confederation recognised by the Minister in terms of section 2 which is representative of sport or recreation bodies including Olympic national federations;”

- (o) deletion of the definition of “**Sports Movement**”; and
- (p) the deletion of the definition of “**WASSA**”.

Amendment of section 2 of Act 110 of 1998

2. Section 2 of the principal Act is hereby amended by—
- (a) the substitution for subsection (1) of the following subsection:

“(1) The Minister must recognise in writing a Sports Confederation which will be the national co-ordinating macro body for the promotion and development of high performance sport in the Republic.”;

(b) the substitution for subsection (2) of the following subsection:

“(2) **[The Sports Commission]** The Sports Confederation may, from time to time, develop guidelines for the promotion and development of high performance sport [and recreation].”;

(c) the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) In relation to high performance sport, a government ministry, department, province or local authority referred to in paragraph (a) may consult with the Sports Confederation.”;

(d) the substitution for subsection (4) of the following subsection:

“(4) **[All sports and recreation bodies must consult and co-ordinate with the Sports Commission on any matter that has been prescribed by regulation.]** The Sports Confederation must co-ordinate all activities relating to high performance sport including team preparations and must consult with all the relevant sport bodies in that regard.”.

(e) the insertion of the following subsections after subsection (4):

“(5) All national federations must develop its sports or recreational activity at club level in accordance with –
 (a) the service level agreement referred to in section 3A;

- (b) the development programmes referred to in section 10(3);
and
(c) the guidelines issued by the Minister in terms of section 13A,
and submit the progress on such development to Sport and
Recreation South Africa and Parliament on an annual basis.

(6) The Minister must advise the Minister of
Finance if a national federation fails to develop its sports or
recreational activity as contemplated in subsection (5), to be dealt
with in accordance with an Act of Parliament administered by that
Minister.”.

Deletion of section 3 of Act 110 of 1998

3. Section 3 of the principal Act is hereby deleted.

Insertion of section 3A of Act 110 of 1998

4. The following section is hereby inserted in the principal Act, after section 3:

"Service level agreement

3A. The Sports Confederation and national federations must, in the prescribed manner, enter into a service level agreement with Sport and Recreation South Africa in respect of any function assigned to them by this Act."

Amendment of section 4 of Act 110 of 1998

5. Section 4 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Minister may, after consultation with[,] or after consideration of proposals made by[, **the Sports Commission and NOCSA, in respect of the Olympic Games,**] the Sports Confederation in so far as high performance sport is concerned, from time to time, determine the general policy to be pursued with regard to sport and recreation.”; and

(b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) providing funds annually for the creation and upgrading of basic multipurpose sport and recreation facilities subject to the provisions of section 10 and according to priorities as

determined, from time to time, by [**Sports Commission**]
Sport and Recreation South Africa in consultation with
 provincial [,] and local government and relevant sport [**and**]
or recreation bodies;”.

(c) the substitution for subsection (3) of the following subsection:

“(3) The policy as determined by the Minister binds
 all [**sports and**] sport or recreation bodies.”.

Deletion of section 5 of Act 110 of 1998

6. Section 5 of the principal Act is hereby deleted.

Amendment of section 6 of Act 110 of 1998

7. Section 6 of the principal Act is hereby amended—

(a) by the substitution for a heading of the following heading:

“**National [and recreation] federations**”

(b) by the substitution for subsection (1) of the following subsection:

“(1) [**The national and recreation**] National

federations must assume full responsibility for the safety issues
 within their sport and recreation disciplines.”;

(c) by the substitution for subsection (2) of the following subsection:

“(2) **[The national and recreation]** National federations must actively participate in and support programmes and services of [the Sports Commission] Sport and Recreation South Africa and the Sports Confederation, in so far as high performance sport is concerned.”;

(d) by the insertion of the following subsections after subsection (2):

“(3) National federations must—

- (a) before recruiting a foreign sport person to participate in sport in the Republic, satisfy themselves that there are no other persons in the Republic suitable to participate in such a sport.
- (b) ensure that such a recruited sports person complies with all the relevant criteria pertaining to entry into the Republic as contemplated in the Immigration Act, 2002 (Act No 13 of 2002); and
- (c) advise the Minister in writing of the full names and countries of origin of all such persons recruited for such purposes and confirm that there are no other suitable persons in the Republic as contemplated in paragraph (a).
- (d) ensure that the recruitment conforms to the guidelines issued by the Minister in terms of section 13A .

(4) For the purposes of this section, “foreign sports person” means any person recruited in terms subsection (3) to

participate in sport in the Republic including administrators or support staff."

Substitution of section 7 of Act 110 of 1998

8. The following section is hereby substituted for section 7 of the principal Act:

"Training of sport and recreation leaders

- 7.** (1) The Sports Confederation may, in order to address the education and training needs in high performance sport:
- (a) provide support in organising and presenting training workshops, courses and seminars for high performance sport leaders, managers, administrators, sport coaches and technical officials in cooperation with the relevant national federations and other macro-bodies;
 - (b) take steps to ensure that the training material is standardised in compliance with the unit standards as developed by the Standard Generating Bodies for Sport, Recreation and Fitness;
 - (c) maintain a database of trained high performance sport leaders, managers, administrators, sport coaches and technical officials

referred to in paragraph (a) in cooperation with the relevant national federations and macro-bodies; and

(d) develop and continuously update a strategic framework for education and training.

(2) Sport and Recreation South Africa may, in order to address the education and training needs in sport and recreation:

(a) provide support in organising and presenting training workshops, courses and seminars for sport and recreation leaders, managers, administrators, sport coaches and technical officials in cooperation with the relevant national federations and other macro-bodies;

(b) take steps to ensure that the training material is standardised in compliance with the unit standards as developed by the Standard Generating Bodies for Sport, Recreation and Fitness;

(c) maintain a database of trained sport and recreation leaders, managers, administrators, sport coaches and technical officials referred to in paragraph (a) in cooperation with the relevant national federations and macro-bodies; and

(d) develop and continuously update a strategic framework for education and training.”.

Amendment of section 8 of Act 110 of 1998

9. Section 8 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) **[The Sports Commission will]** Sport and Recreation South Africa must, in accordance with its funding policy and **[the provisions of]** section 10, provide physical facilities for sport and recreation **[at national level]** nationally, as prescribed, depending on the availability of funds.”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) **[The Sports Commission will]** Sport and Recreation South Africa must when planning such facilities, ensure that special consideration is given to the accessibility of such facilities to sports people and spectators with disabilities.”.

Amendment of section 9 of Act 110 of 1998

10. Section 9 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) **[The Sports Commission]** Sport and Recreation South Africa must organize programmes aimed at mobilizing the nation to play.”;

(b) by the substitution in subsection (2) for the words preceding (a) of the following words:

“**[The Sports Commission]**, Sport and Recreation South Africa must—”;

- (c) by the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) encourage the provincial sport and recreation departments to employ the programmes of **[the Sports Commission] Sport and Recreation South Africa**”.

Amendment of section 10 of Act 110 of 1998

11. Section 10 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“**[The Sports Commission] Sport and Recreation South Africa** must, in accordance with its funding policy—”;

- (b) by the substitution for subsection (2) of the following subsection:

“(2) (a) **[The Sports Commission] Sport and Recreation South Africa** must, in allocating funds to the national **[and recreation]** federations, determine the proportion of funding that must be used towards development.

(b) National federations must annually indicate to Sport and Recreation South Africa in writing, the names of the specific clubs under its respective control and the proportion of funding that these clubs have received during the specific year for development purposes from funding provided to these clubs by—

- (i) the national federations out of the funds received from Sport and Recreation South Africa;
 - (ii) the national federations out of its own funds; and
 - (iii) the national federations out of the funds received from other persons or bodies.";
- (c) by the substitution for subsection (3) of the following subsection:

“(3) (a) No funding will be provided and no recognition as prescribed will be given by Sport and Recreation South Africa to national **[or recreation]** federations where—

- (i) no development programmes exist;
- (ii) **[or where]** federations exclude persons from the disadvantaged groups, particularly women and people with disabilities, from participating at top level of sport; or
- (iii) national federations have misused the funding referred to in subsection (2)

(b) Where Sport and Recreation South Africa has decided not to provide funding or give recognition to the national federations as contemplated in paragraph (a), the Minister may publish such decision in the *Gazette*."

Amendment of section 11 of Act 110 of 1998

12. Section 11 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) **[The Sports Commission]** The Sports Confederation must, with the concurrence of the Minister, establish a national colours board which will consider all applications for the awarding of national colours.”;

- (b) by the substitution for subsection (3) of the following subsection:

“(3) **[The Sports Commission]** The Sports Confederation may, from time to time, provide incentives for high performance sports achievers and **[recreation]** practitioners.”.

Amendment of section 13 of Act 110 of 1998

13. Section 13 of the principal Act is hereby amended by—

- (a) the substitution for subsection (1) of the following subsection:

“(1) (a) Every sport **[and]** or recreation body **[will]** must, in accordance with its internal procedure and remedies provided for in its constitution, resolve any dispute arising among its members or with its governing body.

(b) The sport or recreation body must notify the Minister in writing of any dispute contemplated in paragraph (a) as soon it become aware of such dispute.”;

- (b) the substitution for subsection (2) of the following subsection:

"(2) (a) Where the dispute cannot be resolved in terms of subsection (1), any member of the sport or recreation body in question who feels aggrieved, or the sport or recreation body itself, may submit the dispute to **[the Sports Commission]** the Sports Confederation.

(b) The Sports Confederation must notify the Minister in writing of any dispute submitted to it in terms of paragraph (a)”;

(c) the substitution for subsection (3) of the following subsection:

“(3) **[The Sports Commission]** The Sports Confederation must, **[give a decision]** in relation to any dispute referred to in subsection (1) or (2),—

(a) notify the relevant parties of the allegations;

(b) invite the parties to make representations to it;

(c) convene where necessary an inquiry into the dispute; and

(d) in accordance with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), notify the parties of the decision **[that best serves the interests of the sports or recreation body in question]**.”;

(d) the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“(4) **[The Sports Commission]** The Sports Confederation may, at any time, of its own accord, cause an

investigation to be undertaken to ascertain the truth within a sport or recreation body, where allegations of—; and

- (e) the substitution in subsection (4) for paragraph (b) of the following paragraph:

"(b) any serious or disruptive divisions between factions of the membership of the **[sports]** sport or recreation body;"

- (f) the addition of the following subsections:

“(5) (a) Subject to paragraph (b), the Minister may, after consultation with the relevant MEC if applicable, intervene—

(i) in any dispute, alleged mismanagement, or any other related matter in sport or recreation that is likely to bring a sport or recreational activity into disrepute; or

(ii) in any non compliance with guidelines or policies issued in terms of section 13A or any measures taken to protect or advance persons or categories of persons, disadvantaged by unfair discrimination as contemplated in section 9(2) of the Constitution,

by referring the matter for mediation or issuing a directive, as the case may be.

(b) The Minister may not—

(i) intervene if the dispute or mismanagement in question has been referred to the Sports Confederation for resolution,

unless the Sports Confederation fails to resolve such dispute within a reasonable time; and

(ii) interfere in matters relating to the selection of teams, administration of sport and appointment of, or termination of the service of, the executive members of the sport or recreation body.

(c) If a national federation fails to adhere to a decision of the mediator or directive issued by the Minister as referred to paragraph (a), the Minister may—

(i) direct Sport and Recreation South Africa to refrain from funding such federation;

(ii) notify the national federation in writing that it will not be recognised by Sport and Recreation South Africa; and

(iii) publish his or her decision as contemplated in subparagraphs (i) and (ii) in the *Gazette*.

(6) Before issuing a directive under subsection 5(a) the Minister must, by written notice —

(a) notify the relevant parties of the allegations and of his or her intention to issue a directive; and

(b) give the parties a reasonable opportunity to respond to the notice.

(7) The Sports Confederation must, on request by the Minister, submit its recommendations for the resolution of the problem contemplated in subsection (5)(a).

(8) Subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and without derogating from the rights of the affected parties, a decision taken in terms of subsection (5) shall be binding on the parties.”.

Insertion of section 13A, 13B and 13 C in Act 110 of 1998

14. The following sections are hereby inserted after section 13 of the principal Act:

“Guidelines or policies for the promotion of equity, representivity and redress in sport and recreation

13A. The Minister must issue guidelines or policies to promote equity, representivity and redress in sport and recreation.

Submission of membership statistics by all sport or recreation bodies

13B. Every sport or recreation body must before 1 April of each year submit to Sport and Recreation South Africa in writing membership statistics as may be prescribed.

Reporting by sport or recreation bodies

13C. Every sport or recreation body must annually submit to Sport and Recreation South Africa and Parliament a-

- (a) written report relating to progress on the issues referred to in section 13A; and
- (b) copy of its Constitution and a written confirmation as to whether the Constitution conforms to the Constitution of the Republic.”.

Substitution of section 14 of Act 110 of 1998

15. The following section is hereby substituted for section 14 of the principal Act:

“Regulations

14. The Minister may, after consultation with **[the Sports Commission,]** the Sports Confederation in so far as high performance sport is concerned, make regulations—

- (a) as to any matter which by this Act is required or permitted to be prescribed;
- (b) as to the implementation of various programmes for sport and recreation;

- (c) as to the training of sport and recreation leaders;
- (d) relating to mass participation in sport and recreation;
- (e) providing for resources for sport and recreation;
- (f) providing for a sport support services;
- (g) providing for recreation support services;
- (h) as to the programmes to promote engagement in sport and recreation;
- (i) as to the funding of sport and recreation;
- (j) relating to the incentives for high performance sport achievers and recreation practitioners[, and] ;
- (jA) for kickboxing, boxing, karate, wrestling, taekwando, judo and any other form of combat sport;
- (jB) to minimize the chances of injury in any sport or recreational activity other than boxing, kickboxing, karate, wrestling, taekwando, judo and any other form of combat sport;
- (jC) as to hosting of and bidding for major international sports events;
- (jD) as to the awarding of national colours;
- (jE) as to the recognition of sport or recreation bodies;
- (jF) as to the control of foreign sports persons in South Africa;
- (jG) as to the fitness industry;
- (jH) as to dangerous sports and recreational activities;
- (jI) as to the procedure for negotiating a service level agreement and other matters to be dealt with in such an agreement; and

- (k) generally, as to any other matter in respect of which the Minister may deem it necessary or expedient to make regulations in order to achieve the objects of this Act.”.

Deletion of section 15 of Act 110 of 1998

16. Section 15 of the principal Act is hereby deleted.

Substitution of the long title of Act 110 of 1998

17. The long title of the principal Act is hereby substituted by the following long title:

“ACT

To provide for the promotion and development of sport and recreation and the co-ordination of the relationships between **[the Sports Commission,] Sport and Recreation South Africa and the Sports Confederation,** national **[and recreation]** federations and other agencies; to provide for measures aimed at correcting imbalances in sport and recreation; **[to promote equity and democracy in sport and recreation;]** to provide for dispute resolution mechanisms in sport and recreation; to empower the Minister to make regulations; and to provide for matters connected therewith.”.

Short title

18. This Act is called the National Sport and Recreation Amendment Act, 2007.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL SPORT AND RECREATION AMENDMENT BILL, 2007

1. OBJECTS OF BILL

This Bill seeks to-

- amend the National Sport and Recreation Act, 1998 (Act No 110 of 1998) so as to delete and insert certain definitions;
- substitute the Sports Confederation and Sport and Recreation South Africa, where applicable, for the South African Sports Commission;
- provide for the Minister to intervene in certain sports disputes;
- provide for the issuing of guidelines for the promotion of equity, representivity and redress in sport and recreation.

2. CONSULTATION

The following bodies have been consulted:

- The former South African Sports Commission (SASC);
- South African Sports Confederation and Olympic Committee (SASCOC);
- All national government Departments;
- All the provincial departments of sport and recreation;
- The National Olympic Committee of South Africa (NOCSA);
- Disability South Africa (DISSA);
- The South African School Sports Union (SASSU);
- The United School Sports Association of South Africa (USSASA);

- The Commonwealth Games Association; and
- All the national sport and recreation federations.

3. FINANCIAL IMPLICATIONS FOR STATE

None.

4. PARLIAMENTARY PROCEDURE

4.1 The State Law Advisers and the Department of Sport and Recreation are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

4.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.