

BRIEFING NOTES FOR MEDIA CONFERENCE ON FRIDAY, 7 DECEMBER 2018: (a) DECISION TAKEN BY MINISTER IN PRINCIPLE; AND (b) ACTIONS TO BE TAKEN, IMPLEMENTED AND EXECUTED BY SASCOC IN RELATION TO FINAL REPORT OF SASCOC COMMITTEE OF INQUIRY ON ITS INVESTIGATION INTO AFFAIRS OF SASCOC

Role of Sport and Recreation South Africa as opposed to SASCOC

In terms of the provisions of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998 as amended) the Minister of Sport and Recreation must, amongst others, ensure that the sufficient and effective promotion and development of sport and recreation in Republic take place and are properly administered and governed to the benefit of the citizens of this country.

In order to conform to this requirement, the Minister of Sport and Recreation has decided to recognise SASCOC as the Sports Confederation contemplated in the said Act which will be the national coordinating macro body for the promotion and development of high-performance sport in the Republic.

In terms of the mentioned Act, SASCOC 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, which they did.

It has, amongst others, therefore, due to –

- the contraventions of some of these assigned powers in terms of the Act;
- the breach of certain provisions of the said service level agreement; and
- the general requirement to safeguard, nurture and instil good governance in sport

become imperative to investigate the alleged irregularities or malpractices in the governance and management of SASCOC.

Appointment of the Committee

- On 20 October 2017, my predecessor, Minister Nxesi, appointed a Committee to conduct an investigation into alleged irregularities or malpractices in the governance and management of SASCOC. The Committee comprised of Judge Ralph Zulman, a retired Judge, as Chairperson, Ms. Shamima Gaibie, a practicing attorney as a member and Dr. Ali Bacher as the other member (**“the Committee”**).

During this time, SASCOC was in the media on the daily basis for all the wrong reasons. Government was grossly concerned about the state of affairs and the apparent and alleged paralysis of the internal divisions. There was an important task at hand of having to deliver Team South Africa at the Commonwealth Games to be held in Gold Coast, Australia. The perceived divisions within SASCOC were seen to at the level of the Board and within the Senior Management of SASCOC. There were National Federations that had written to the Minister of Sport and Recreation indicating their concerns about the state of affairs, indicating their reservations about the ability of SASCOC to extricate itself from the morass it had dug itself in. More

importantly, these members of SASCOC, had declared disputes with SASCOC and were now asking for the intervention of the Minister. The impetus to this, was given by the fact that SASCOC itself had not been able to resolve disputes in such Federations such Fitness, Karate, Chess and Basketball at the time. SASCOC itself had referred the Fitness dispute to the Minister and displayed perceived reluctance to implement recommendations of its own appointed investigation led by Adv. Pullinger. Having duly considered these key and other matters, the Minister of Sport and Recreation, then appointed a Ministerial Committee of Inquiry into the Governance Affairs of SASCOC.

The investigation

- Pursuant to the investigations, numerous individuals and organisations provided the Committee with submissions, documents, information, memoranda, affidavits and statements and or oral testimony.
- These individuals and entities included:
 - o representatives of national federations, associations, provincial structures and entities involved in sport;
 - o members of the SASCOC Board;
 - o third parties or interested individuals; and
 - o employees and members of the management of SASCOC.

The Ministerial Committee of Inquiry was open to all South African citizens and any other interested parties that could assist it in the pursuit of the objects of the Terms of Reference. Accordingly, we appreciated and valued all those who responded to the clarion call of participating in an open, transparent, legitimate and legal process to assist the Minister and the government and the people of South Africa in safe guarding the national asset SASCOC is.

THE COMMITTEE'S RECOMMENDATIONS

Today I have the duty to release this report to the South African public. I have duly noted the contents of the report, the findings of the Committee and the recommendations that are being made in this regard. I do not intend to deal with all the recommendations contained in the report one by one. I however intend to highlight the key ones and also my decisions based on these recommendations and the representations I have received from all those affected by the report. My preoccupation is with SASCOC as a delivery agent of my department and as a Recognised Sports Confederation of our country in line with the provisions of the National Sports and Recreation Act and hence my focus on the SASCOC governance specific recommendations.

The Committee of Inquiry recommended that:

- The National Sport and Recreation Act, 1998 (Act No. 110 of 1998 as amended) should be amended to include:

- o the details of a revised structure of SASCOC, which is set out below;
- o clarity about the roles of the Department, SASCOC and the entities that fall into the definition of a 'sport and recreation body', as well as their respective oversight roles;
- o SASCOC's powers and duties, and its obligations to the Department, and to each and every *sport and recreation body*;
- o an external and independent dispute resolution body in terms of *the Act*, for disputes: between sport and recreation bodies and between the latter and SASCOC; and
- o the details of what should be contained in SASCOC's Constitution, including: criteria for the eligibility of members to the Board; a prohibition on the receipt of commissions from other entities in prescribed circumstances, as well as other issues relevant to the principle of 'conflict of interest'.

- SASCOC, the revised structure and mode of operation:

The Board

- o The Board must be representative of sport and recreation bodies, and must include specialists in the field of corporate governance; company and commercial law; sports law; finance, accountancy and auditing, amongst others (**the specialist members**'). In particular:
 - the following three positions on the Board must be occupied by persons who are independent and who have no affiliation to any sport and recreation body:
 - ❖ the President of SASCOC;
 - ❖ an accountant; and
 - ❖ a commercial lawyer.
 - the *independent and specialist members* of the Board should:
 - ❖ be appointed by an independent committee, pursuant to a fair and transparent process;
 - ❖ be persons of high stature and impeccable reputation; with appropriate experience and qualifications; and should demonstrate a passion or a love of sport;
 - ❖ be representative of the different genders and peoples of the country;
 - members of the Board who are appointed in consequence of their membership or affiliation with any *sport and recreation body*, must relinquish such membership or affiliation upon their appointment;
 - members of the Board must serve no more than two 4-year terms in their respective posts on the Board; and

- the President of the Board, because of the expected increase in responsibility should be paid a monthly retainer, and all other members of the Board should be paid for meetings that they attend, including Board and subcommittee meetings.

The Management Structure

o The management structure of SASCO, should consist of, amongst other things: a CEO, a CFO, a COO and a Director of Communications. In particular –

- each of these posts must be advertised and must be filled pursuant to a fair and equitable recruitment process by an independent committee;
- the appointees must not have any links with a *sport or recreation body*, or must relinquish such links, if any, upon appointment; and
- the appointments must be confirmed in a contract of employment, on a fixed term basis and subject to a probationary period, job description and key performance areas;

CEO (Chief Executive Officer)

- the CEO must be subject to the direction and control of the President of the Board and the chairperson of the Finance Committee;

CFO (Chief Financial Officer)

- the CFO must be subject to the direction and control of the CEO and the chairperson of the Finance Committee;

COO

- the COO must report to the CEO; and

Director of Communications

- the Director of Communications must report to the President of the Board and to the CEO.

Interim measures to be taken by the current Board

o At the first meeting of the Board –

- a process for the revision of all policies and procedures must be determined; and
- travel benefits and allowances for the President, the members of the Board and the CEO should be discussed, and a process for the determination of such benefits should be decided, subject to the approval of an independent external auditor.

o Administrative matters related to the operation of the Board, including the holding of meetings, agendas, the distribution of minutes and matters ancillary to the functioning of the Board should be determined on an urgent basis.

• Pending the implementation of the above recommendations, the following further recommendations are made:

o SASCOC must, pending the process set out above:

- read and consider the Pullinger Report, and any other Reports received pursuant to investigations conducted at its behest, and determine the appropriateness and the rationality of implementing some or all of its recommendations;
- appoint a National Colours Board in terms of *the Act*, its Constitution and internal regulations, for the purposes of determining any and all issues relevant to the awarding of national colours to athletes. For this purpose, the Minister has deemed the National Colours Board to have been in existence and will publish her decision to this effect in the Government Gazette in due course. She has also directed that SASCOC regularises the National Colours Board in line with the existing legal provisions. As a long-term solution, the National Sport and Recreation Act Amendment Bill has been tabled in Parliament to provide a lasting legal remedy to this matter.
- ensure that there is complete transparency, accountability and consultation in relation to all decision-making processes;
- ensure that international travel is limited and in line with a revised interim policy, and that the procurement of services is approved by a sub-committee of members of the Board specially constituted for this purpose;
- undertake a complete and thorough audit of its financial transactions for at least the last five years, including travel and other benefits and the procurement of services, and that any irregular or wasteful and fruitless expenditure is dealt with, and if possible, recovered;
- investigate the payments made to SS Griffin; and
- ensure that all members of the Board, who receive commissions payable to them from other entities, declare the details thereof to the Board for further investigation.

REPRESENTATIONS RECEIVED

I have perused and scrutinized the contents and viewpoints expressed by way of representations received from all role players in relation to the report and Executive Summary of the SASCOC Committee of Inquiry thoroughly and weighed it against the recommendations of the Committee cautiously.

These role players are SASCOC, Mr. Tubby Reddy, the International Olympic Committee

("IOC") and the International Paralympic Committee ("IPC").

Insofar as the representations of SASCOC are concerned:

In general, it is apparent that whilst SASCOC agrees with some of the Committee's recommendations, it does not agree with other substantive recommendations that are in the Committee's view fundamental to the governance of sport in the Republic of South Africa. In essence, it is apparent from SASCOC's response to the

Committee's recommendations that SASCOC is opposed to any external or independent oversight of their roles, functions, and the use of public monies.

In essence, SASCOC's representations reflect, amongst others, that SASCOC has–

- commended the work done by the said Committee of Inquiry; and
- subsequently fully endorsed all the recommendations of the Committee in principle save for the following reservations insofar as the Executive Summary is concerned:

Par. 41: SASCOC concurs that the National Sport and Recreation Act, 1998 (Act No. 110 of 1998 as amended) (hereinafter referred to as "**the Act**") must be amended as proposed by the Committee: Provided that such amendments must in essence be in harmony with the IOC, IPC, the Commonwealth Games Federation, the Association of Olympic Committees and the World Games Association:

DECISION REGARDING AMENDMENTS TO ACT AFFECTING CONSTITUTION OF SASCOC, IOC AND IPC

SASCOC's representation in this regard is approved as motivated later in this document in relation to the IOC and IPC.

Par. 42.2.1.1: Although the Committee recommended that **the President of SASCOC** must, amongst others, –

- be a person who is independent;
- be appointed by an independent committee; and
- be a person who has no affiliation to any sport and recreation body,

SASCOC is of the view that the President must be elected by the General Assembly and may not serve in any National Executive of SASCOC Members as per the SASCOC Constitution.

DECISION REGARDING APPOINTMENT OF PRESIDENT OF SASCOC

SASCOC's representation in this regard is disapproved. I am of the view that SASCOC's counter proposal effectively retains the current system of appointment and requires that the appointment of the President must be done through the General Assembly process **and not by an independent committee.**

The General Assembly of SASCOC will be at liberty to designate the positions of Deputy President and Vice-President respectively. It will be prudent that SACOC should streamline its functions as a Sports Confederation and also those that it plays as a National Olympic Committee. To this extent, the SASCOC Constitutional Review process should take this into account and perhaps delineate these two workstreams under the leadership of the President being supported by the Deputy President on the one side and the Vice-President on the other side.

Par. 42.2.1.2: SASCOC is of the opinion that **the accountant** must be appointed through Labour Law and HR policy and that such an appointed accountant must be an **ex officio** member of the SASCOC Board.

DECISION REGARDING APPOINTMENT OF ACCOUNTANT AS EX OFFICIO BOARD MEMBER

SASCOC's representation in this regard is approved subject to –

- the principles of good cooperative governance as contemplated in the KING IV Report; and
 - such an appointment of an accountant be spearheaded and considered by an independent committee as contemplated and motivated in par. 42.2.1.1 above.
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Par. 42.2.1.3: SASCOC is of the view that **the commercial lawyer** must be selected by way of a nomination process and must thereafter be duly appointed by a Nomination Committee as opposed to an independent committee as recommended by the SASCOC Committee of Inquiry.

DECISION REGARDING APPOINTMENT OF COMMERCIAL LAWYER

SASCOC's representation in this regard is disapproved based on the same grounds applicable the appointment of the President of SASCOC and the accountant as an **ex officio** Board member as referred to above.

Par. 42.2.3: **Despite the recommendations by the Committee** that members of the Board who are appointed in consequence of their membership or affiliation with any sport and recreation body, must relinquish such membership or affiliation upon their appointment, SASCOC has an opposite viewpoint in this regard. SASCOC is of the opinion that **all SASCOC Board members** (not only the President, accountant and the commercial lawyer) should **not be compelled** to

relinquish their membership or affiliation from sport and recreation bodies.

DECISION REGARDING RELINQUISHING BY PRESIDENT AND BOARD MEMBERS OF SASCOC OF THEIR MEMBERSHIP AND AFFILIATION

SASCOC's representation is disapproved. I am of the view that SASCOC's representation is totally at loggerheads with good governance as the said SASCOC Board members (inclusive of the President, accountant and the commercial lawyer) must indeed relinquish such membership and affiliation as contemplated and motivated in par. 42.2.1 and 42.2.3 of the recommendations of the Committee. I am further of the view that SASCOC's recommendation retains the *status quo* despite the numerous issues of conflicts and commissions which plagues its Board.

However, I will make **one exception** to my above-mentioned decision in order to cater for special circumstances which warrant that a person, namely the President or a Board member of SASCOC, will **not have to relinquish** his or her membership or affiliation to a sport or recreation body where such a person **has been co-opted** (by invitation, inherently, automatically or otherwise) **to serve on an international sport or recreation controlling body** of which SASCOC is a member of or affiliated to. The finer detail of this exception will be canvassed in greater detail with SASCOC soon.

Par. 42.2.4: SASCOC recommends that term of office of SASCOC Board members must be regulated in accordance with the current SASCOC Constitution instead of the Committee's proposed term of 4 years for SASCOC Board members so as to maximise consistency of a period of 2 terms.

DECISION REGARDING TERM OF OFFICE OF SASCOC BOARD MEMBERS

SASCOC's representation in this regard is disapproved as it is more preferable to align the terms of office of SASCOC Board members with a period of two 4-year terms at the most. The assertion that "consistency" is achieved in 3 terms and not 2 terms is incorrect. Two 4-year terms amount to 8 years which will in any event create consistency advantages.

Par. 42.2.5: Whereas the Committee recommended that the President of the SASCOC Board, because of the expected increase in his or her responsibility, should be paid a monthly retainer, and all

other members of the Board should be paid for meetings that they attend, including Board and subcommittee meetings, SASCOC is of the view that –

- the retainer for the President must be based on international trends; and
- the current policy for attendance of meetings by SASCOC Board members, etc. should remain in place as approved by the General Assembly.

DECISION REGARDING RETAINER AND MEETING POLICY

SASCOC's representation in this regard is approved subject to–

- such a retainer being compliant with the approved travel benefit and allowances policy as overseen by an independent accountant;
- such a retainer be benchmarked with similar institutions in the Republic (e.g. State-owned enterprises, etc.); and
- the current attendance policy of meetings be reviewed on an annual basis.

Par. 42.3.7: Although the Committee recommended that the CEO, CFO, COO and Director: Communication appointees must NOT have any links with a sport or recreation body, or must relinquish such links, if any, upon appointment, SASCOC is of the view that such appointees should **not be compelled** to relinquish their membership or affiliation from sport and recreation bodies.

DECISION REGARDING RELINQUISHMENT BY CEO, CFO, COO AND DIRECTOR: COMMUNICATIONS OF SASCOC OF THEIR MEMBERSHIP AND AFFILIATION

SASCOC's representation in this regard is disapproved. To reiterate, SASCOC's recommendation retains the ***status quo*** without any justification at all and is totally at logger heads with the consistent recommendations provided by the Committee in the above regard which align with and conform to good governance as projected in the KING IV Report.

Par. 42.4.2: The SASCOC Committee of Inquiry recommended that the travel benefits and allowances for the President, the members of the SASCOC Board and the CEO should be discussed, and a process for the determination of such benefits should be decided, subject to the **approval of an independent external auditor**.

By contrast, however, SASCOC is of the opinion that the travel benefits and allowances policy of SASCOC must annually be **reviewed and approved by the Remuneration Committee**.

DECISION REGARDING REVIEWAL OF TRAVEL POLICY

SASCOC's representation in this regard can be approved subject to a final approval **of an independent auditor** of any decision taken by the Remuneration Committee based on the principles of reasonableness and affordability.

Par. 43.3.7: Although the Committee has recommended that SASCOC must ensure that all members of the Board, who receive commissions payable to them from other entities, declare the detail thereof to the Board for further investigation, SASCOC is of the view that they will only need to do so insofar as it relates **to sport and recreation matters**.

DECISION REGARDING DECLARATION OF INTEREST

SASCOC's representation is disapproved. SASCOC is aware that a substantial number of incidences that came to the attention of the Committee at its public hearings that also had an impact on or related to money payable from other entities. Hence forth a declaration by Board members with an expansion effect to cover ALL commissions (including any other favour or advantage granted in return for something in kind for that matter) payable is therefore absolutely necessitated as it conforms to section 75 of the Companies Act.

With regard to the Pullinger Report and the execution and implementation thereof (par. 42.2.5 of the Executive Summary):

DECISION REGARDING PULLINGER REPORT

I concur with the view of the Committee that SASCOC must conform to the recommendations of the Committee in this regard **with immediate effect** and must furnish me with regular updated progress reports and the eventual outcome report insofar as the execution and implementation of the recommendations of the Pullinger Report in accordance with time lines as set out hereunder are concerned.

With regard to the limitation of international travel in accordance with a revised interim policy (par. 43.1.4), SASCOC states that its Board

agrees with the recommendation of the Committee and that such a policy is being implemented.

DECISION REGARDING LIMITATION OF INTERNATIONAL TRAVEL

I am of the view that SASCOC's confirmation in this regard can reasonably be accepted as the implementation of the travel benefits and allowances policy is administered by the Remuneration Committee subject to a final approval of an independent auditor of any decision taken by the Remuneration Committee based on the principles of reasonableness and affordability.

DECISION REGARDING THE SASCOC REPORT AND ITS EXECUTIVE SUMMARY

In order to give significant substance and purpose to the final report with its recommendations following the consultation process recently executed with SASCOC in the above regard, I have in essence now decided to –

- **approve the final report and its Executive Summary** which contains the recommendations of the SASCOC Committee of Inquiry formally and fully save for the few instances referred to above which allow for minor deviations where applicable;
- require of SASCOC with immediate effect to action and implement all the recommendations (subject to the minor divergences referred to above where the representations of SASCOC have been approved) of the SASCOC Committee of Inquiry in accordance with the time lines mentioned hereunder;
- grant SASCOC **as from the effective date until 30 April 2019** to execute, implement and fulfil all the said recommendations in the above regard: Provided that SASCOC must provide -

(a) me with an updated monthly report at the end of each month on its progress to execute, implement and fulfil the said recommendations in writing; and

(b) a **suitable independent, external and neutral person(s)** (e.g. *an auditor, private lawyer, etc.*) to be appointed by SRSA specifically in this regard with such monthly reports as well in order for him or her to champion and oversee the proper fulfilment, adherence and compliance by SASCOC with the implementation and execution of all the recommendations of the Committee as contained in its Report and Executive Summary. It is envisaged that such an Administrator who will serve as a key liaison person with SASCOC on the

implementation of these recommendations and Ministerial Directives, will be appointed and commence with these functions in Mid January 2019.

DECISION REGARDING TIME LINES

With regard to the said time lines, I expect SASCOC to comply with the said recommendations as follows:

- Insofar as all recommendations pertaining to the SASCOC Board and its management structure are concerned, **by the end of April 2019;**
- Insofar as matters that require immediate attention by a newly constituted Board are concerned, all recommendations should be implemented **from the first meeting of the newly constituted Board**, and thereafter by the process agreed by that Board; and
- Insofar as any interim measures to be taken by the current Board per the recommendations of the Committee, these recommendations must be **implemented immediately.**

Should I, however, not be totally satisfied with the execution, implementation and fulfilling of the recommendations of the Committee by SASCOC, alternatively with the time lines and the speed with which SASCOC executes, implements and fulfils its mandate in the above regard, I hereby reserve my following right, namely:

To issue a directive in terms of section 13 (5) (a) of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998 as amended) in terms of which I will action and implement the necessary intervention measures as provided for in the Act in the best interests of sport and the public as a whole in this country.

DECISION REGARDING REPRESENTATIONS OF MR. TUBBY REDDY

I have taken note and considered the representations received from Mr. Reddy where relevant, necessary and deemed appropriate. With regard to the termination of his services at SASCOC, I am in terms of section 13 (5) (b) (ii) of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998 as amended) debarred to interfere or to get involved in this matter as it relates to the termination of the services of an executive member of a sports body which in any event is a labour matter. **I urge SASCOC that, if indeed, it has found misuse of funds on the part of Mr. Tubby Reddy, to actually do all in its power and authority, within feasible and reasonable limits to recover such funds.**

DECISION REGARDING ALLEGATIONS OF FINANCIAL IMPROPRIETY AND MISMANAGEMENT

I have decided, owing to the fact that the Ministerial Committee of Inquiry has not delved deeper into the Financial Affairs of SASCOC and also having noted the mooted and suggested course of action, tasked and mandated the Director General of the Department of Sport and Recreation South Africa to refer any matters, where there is *prima facie* case to be answered to the appropriate and relevant Law Enforcement Agencies of country to further pursue those matters within the framework of our criminal and civil law. **Such referrals, if any, should be done by January 2019.**

DECISION REGARDING REPRESENTATIONS OF IOC AND IPC

In essence, the IOC and IPC advised that it in essence needs to be consulted relative to any substantial amendments of the SASCOC Constitution based on the following, amongst others:

- The implementation of the final report and Executive Summary of the SASCOC Committee of Inquiry would require that SASCOC will have to consider a revision of its current Constitution; and
- Such a revision will also require prior consultation and coordination with the IOC and IPC to ensure full compliance of the proposed amendments with the Olympic Charter or IPC rules and regulations and the basic principles of good governance, amongst others.

I am therefore of the view that the responses of the IOC and the IPC in this regard should be noted, respected and accommodated accordingly.

I am very glad to inform you that Mr. Gideon Sam has, after discussions with him earlier this morning regarding my stance in relation to SASCOC's counter proposals as referred to above, advised me that SASCOC will align itself totally with my stance and will ensure the necessary steps are taken with immediate effect to address these issues in accordance with my stance.

For this, Mr. Sam and the SASCOC Board must be applauded as it will go a long way to bring sufficient and effective closure in relation to management and governance issues that the Committee and SASCOC for that matter have been embroiled and embattled with.

[ENDS]