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GENERAL NOTICE Notice 2096 of 2000

The South African Sports Commission Third Amendment Bill, 2000

The above-mentioned Bill is hereby published for public comments. Comments should be submitted in writing to:

The Legal Section: Department of Sport and Recreation
Attention: Mr G Boshoff
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PRETORIA
0001

Comments may also be faxed to (012) 3216187

Comments must be received by not later than 16 June 2000.

REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN SPORTS COMMISSION THIRD AMENDMENT BILL

(As introduced by the National Assembly as a section 76 Bill. explanatory summary of Bill published
in Government Gazette No. of) (The English text is the official text of the Bill)

(MINISTER OF SPORT AND RECREATION)

[B - 99]

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 South African Sports Commission Act, 1998, so as to provide for the revision of responsibilities and membership of the Board of the Commission; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:

Amendment of section 1 of Act 109 of 1998

1. Section 1 of the South African Sports Commission Act, 1998 is amended by -
 - a. the deletion of the definition of "**Chairperson**" in par (ii);
 - b. the deletion of the definition of "**Deputy Chairperson**" in par (v); t
 - c. the substitution for paragraph (vi) of the following paragraph:

"(vi) **General Assembly**" means a duly constituted assembly of representatives of National Federations, Multi-Coded Sports Organisation and such other parties contemplated in this Act, convened by the Chief Executive Officer **[Chairperson]** of the Commission or a person designated by him or her. in terms of this Acts

- d. the deletion of the definition of "**Olympic Committee**" as contemplated in paragraph (xi); and
- e. the deletion of the definition of "**SANREC**" in paragraph (xiv).

Amendment of section 2 of Act 109 of 1998

2. Section 2 is amended by the substitution of the following section:

"2. The Commission must fulfil all its functions as contemplated in this Act under the authority **[guidance]** of the Minister."

Amendment of section 4 of Act 109 of 1998

3. Section 4 is amended by -
 - a. the substitution for subsection (1) of the following subsection:

"4 (l) The Commission will consist of a board which includes the following persons:

[(a) the Chairperson;]

[(b) the Deputy Chairperson;]

(a) [(c)] six [nine] members elected by the General Assembly on the ground of their knowledge, skill, experience in sport, policy and management matters and international relations; and

[(d) two members elected by the National-Olympic Committee of South Africa (NOCSA);]

(b) [(e)] six [seven] members appointed by the Minister on the ground of their knowledge, skill or experience in sport, policy and management matters and international relations, of which [at least one member shall represent SANREC and SISA, respectively,] one [two] member[s] shall focus on [represent] women [WASSA] and [at least] one member shall focus on rural sport development and one member, preferably a person with a disability, shall focus on sport for disabled persons.

[(f) one member, preferably a person with a disability, elected by the National Paralympic Committee of South Africa (NAPCOSA);]

[(g) one member from each provincial department of sport and recreation who, ex officio, will be members of the Commission.];" and

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

"(2) **[(a) The Chairperson and the Deputy Chairperson must be appointed by the Minister and will serve on a part time basis.]**

[(b) The Minister may appoint an interim Chairperson to convene the General Assembly for the purpose of electing the nine members mentioned in subsection (l)(c) who will serve the initial period mentioned in section 5.]

[(c)] All **[other]** members of the Commission will serve on a part-time basis. .

Amendment of section 5 of Act 109 of 1998

4. Section 5 is amended by the substitution of the following section:

"5. The members of the Commission will serve for a period not exceeding [of] three [five] years and will be eligible for election for not more than two terms of office."

Amendment of section 7 of Act 109 of 1998

5. Section 7 is amended by the substitution of the following subsection:

"7. A member of the Commission may resign by giving written notice of at least three months to the Minister, [Chairperson,] but the Minister, [Chairperson] may accept a shorter notice period."

Amendment of section 9 of Act 109 of 1998

6. Section 9 is amended by -

- a. the deletion of subsection (1);
- b. the deletion of subsection (2); and
- c. the substitution of subsection (3) of the following subsection:

["(3)] The Minister **[Chairperson]** may **[-]**

[(a) grant to the Deputy Chairperson leave of absence, other than vacation leave, on such terms and conditions as the Chairperson determines; and]

[(b)] grant to a **[part-time]** member of the Commission, leave to be absent from a meeting or meetings of the Commission."

Amendment of section 10 of Act 109 of 1998

7. Section 10 is amended by -

- a. the deletion of subsection (1); and
- b. the substitution for subsection (2) of the following section:

["(2)] A member of the Commission **[appointed on a part-time basis]** will not engage in any paid employment that, in the opinion of the Minister, conflicts with the proper performance of the functions of the member."

Amendment of section 13 of Act 109 of 1998

8. Section 13 is amended by -

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

"(1) The Commission may. in [after] consultation with the Minister **[and the General Assembly]** -

- a. render financial support to National Federations and other institutions involved in sport;
- b. set a policy on how funding and resources should be channelled;
- c. investigate and determine the need of supporting any person, organisation or institution involved in sport.";

- b. the addition of the following paragraph after paragraph (c) of subsection (2):

"(d) submit all its decisions to the Minister for approval before the implementation thereof.";

- c. insertion of the following paragraph after paragraph (d)(i) of subsection (3):

"(ii) enter into more than one agreement with the same person, organisation or institution per financial year if the total financial amount involved in the agreements between the Commission and the said person, organisation or institution exceeds the amount of R1 million per year; and";

d. by the substitution for paragraph (d)(ii) of subsection 3 of the following paragraph:

"(iii) **[ii]** enter into a lease of land for a period of not more than 10 years .

Amendment of section 14 of Act 109 of 1998

9. Section 14 is amended by the substitution for subsection (1) of the following subsection:

"(1) Persons elected annually amongst the Commission's own number as Chairperson and Deputy Chairperson for the meetings of the Commission, **[The Chairperson]** must decide where and when the Commission meets."

Amendment of section 17 of Act 109 of 1998

10. Section 17 is amended by the substitution for subsection (1) of the following section:

"(1) The Minister **[Commission]** must, after **[in]** consultation with the Commission **[Minister]** and after consultation with the Cabinet, appoint a suitably qualified person as its Chief Executive Officer."

Amendment of section 19 of Act 109 of 1998

11. Section 19 is amended by -

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

"(1) The Minister **[Commission]** may after consultation with the Commission. as a result of a vacancy in the office of the Chief Executive Officer, appoint any person as Acting Chief Executive Officer who will serve for a period of **[exceeding]** six months which may be renewed at the expire thereof."; and

b. the deletion of subsection (2).

Amendment of section 21 of Act 109 of 1998

12. Section 21 is amended by -

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

"(1) The Commission may with the approval of the Minister, employ persons having suitable qualifications and experience as consultants to the Commission only when it is absolutely necessary."; and

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

"(2) The terms and conditions of the employment. will be determined by the Commission in accordance with its own tender **[the State Tender Board]** prescripts.

Amendment of section 22 of Act 109 of 1998

13. Section 22 is amended by, the addition of the following paragraph after paragraph (b):

"(c) may not incur any expenditure as contemplated in paragraphs (a) and (b) unless such expenditure has been budgeted for and approved by the Minister."

Amendment of section 23 of Act 109 of 1998

14. Section 23 is amended by -

a. the substitution for subsection (l) of the following subsection:

"(2) The Commission will cause proper records to be kept of all moneys received or expended by it, of all its assets and liabilities and of all financial transactions entered into by it and must as soon as possible but not later than two **[six]** months after the end of each financial year, cause statements of account and a balance sheet to be prepared showing, with all appropriate particulars, the moneys received and the expenditure incurred by it during, and its assets and liabilities as at the end of, that financial year."; and

b. the substitution for subsection (5) of the following subsection:

"(5) The Chief Executive Officer must as soon as possible but not later than five **[six]** months after the end of the financial year submit audited financial statements to the Minister for tabling by him or her in Parliament, if necessary."

Amendment of section 26 of Act 109 of 1998

15. Section 26 is amended by the substitution of the following section:

"26. The accounts and financial records of the Commission must be audited by a registered firm of auditors or **[and]** the Auditor-General."

Amendment of section 27 of Act 109 of 1998

16. Section 27 is amended by the substitution of the following subsection:

"27. The Commission must within five **[four]** months after the end of each financial year submit a full report to the Minister, on its activities during that financial year. and the Minister will table that report in Parliament."

Short title

17. This Act is called the South African Sports Commission Third Amendment Bill, 2000.

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN SPORTS COMMISSION THIRD AMENDMENT BILL, 2000

The Bill was drafted to provide for the revision of the responsibilities and membership of the Commission and to provide for matters connected therewith.

This Bill amongst others provides for the deletion of the definitions of **Chairperson, Deputy Chairperson, Olympic Committee and SANREC** (Clause 1). The Bill further ensures that the Minister will play a more meaningful role in sport and recreation matters, especially now that the Chairperson and Deputy Chairperson of the Commission have been deleted (Clause 2).

The Bill provides for a reduction in the number of the members of the Commission (which will now consist of 12 members as opposed to 30 in the current Act). The Chairperson and Deputy Chairperson, the 3 members of the General Assembly, 2 members of NOCSA, one member of SANREC and SISA respectively and the 9 members of the provincial departments of sport and recreation (in total 18 members) have been deleted (Clause 3).

The Commission shall now consist of 12 members of which 6 members will be appointed by the Minister, namely:

- 3 members for their knowledge, skill or expertise in sport policy and management matters and international relations;
- 1 member appointed to focus on the interests of women in sport;
- 1 member appointed to focus on the interests of sports persons with a disability; and
- 1 member appointed for rural sport development.

The remaining 6 members will be elected by the General Assembly on the grounds of their knowledge, skills or expertise in sport, policy and management makers and international relations.

The basis for these amendments are as follows:

- The original Act was written against the backdrop of assumptions that there would be no independent Ministry of Sport and Recreation;
- The Commission is too big and needs to be reduced in number;
- The CEO of the Commission will perform the main thrust of the functions of the Commission. The roles of the Chairperson and Deputy Chairperson have, therefore, become superfluous.

Clause 4 makes provision for the reduction in the number of the years of the terms of office of the members of the Commission to 3 years.

Clause 5 now provides for a member to give notice of his/her resignation to the Minister (and not to the Chairperson).

Clauses 6 and 7 provide for amendments so as to address the impact which Clause 3 has on the Bill. The Minister may now grant to a member of the Commission, leave to be absent from a meeting of the Commission.

Clause 8 makes provision for the Minister to play a more active role in sport and recreation matters as the Commission must now obtain the approval of the Minister regarding certain matters and all decisions of the Commission must now be approved by the Minister.

Clause 8 also makes provision that the Commission, in the event of it entering into more than one agreement with the same person, organisation or institution per financial year and the total amount in the said agreements exceeds R1 million per year, must obtain the approval of the Minister before hand.

The Bill further provides for persons to be elected annually amongst the Commission's own number as Chairperson or Deputy Chairperson for the meetings of the Commission, who must decide where and when the Commission meets (Clause 9). (These persons will not be the Chairperson or Deputy Chairperson of the Commission but only the Chairperson and Deputy Chairperson of the meetings of the Commission). The Chairperson and Deputy Chairperson of the Commission have been done away with as referred to in Clause 1 above.

Clause 10 provides for the appointment of the CEO of the Commission by the Minister after consultation with the Commission and the Cabinet. The Minister now also has the power to appoint an Acting CEO after consultation with the Commission (Clause 11).

The Commission may only appoint consultants after obtaining the approval of the Minister but their terms and conditions of employment will be determined in terms of the Commissions' own tender prescripts (Clause 12).

Clause 13 provides that the CEO of the Commission may not incur any expenditure unless it has been budgeted for and approved by the Minister.

Clause 14 makes provision for the Commission to prepare statements of account and a balance sheet to be prepared not later than two (instead of six) months after the end of the financial year. The Clause further provides for the submission of audited financial statements to the Minister by the CEO not later than five months after the end of the financial year.

Clause 15 makes provision for the auditing of the Commission's books by the Auditor-General or registered auditors (instead of the Auditor-General and a registered firm of auditors as contained in the current Act).

Clause 16 provides for the submission of a report by the Commission to the Minister within five (as opposed to four) months after the end of the financial year, on its activities during that year.

Clause 17 contains the short title.

IMPLICATIONS FOR PROVINCES

The provinces will forfeit their representation in the Commission on the grounds referred to above.

IMPLICATIONS FOR LOCAL GOVERNMENT

None.

BODIES CONSULTED

The following bodies/departments have been consulted:

- The provincial departments of Sport and Recreation;
- The National Olympic Committee of South Africa (NOCSA);
- The South African National Recreation Council(SANREC); .
- Women and Sport South Africa (WASSA);
- The Departments of -
 - Finance; and
 - Public Service and Administration.

FINANCIAL IMPLICATIONS FOR THE STATE

instead of providing for the remuneration of 30 members the State will now only have to cater for the remuneration of 12 members of the Commission.

PARLIAMENTARY PROCEDURE

The Department and the State Law adviser are of the opinion that this Bill should be dealt with in terms of section 75 of the Constitution as the procedure set out in section 75 does apply.