



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 480 Pretoria 28 June 2005 **No. 27728**



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GENERAL NOTICE

NOTICE 1044 OF 2005



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

ICASA SPORTS BROADCASTING RIGHTS REGULATIONS, 2003

The Independent Communications Authority of South Africa has in terms of section 30(7) of the Broadcasting Act, (Act No.4 of 1999) read with section 78 (1) of the Independent Broadcasting Authority Act, 1993 (Act No.153 of 1993) made the regulations in the Schedule.

SCHEDULE

1. Preamble

The objectives of these regulations are to identify and list national sporting events and to regulate the broadcasting of national sporting events in South Africa. The regulations formally list sporting events which:

- 1.1 have been identified as national sporting events;
- 1.2 cannot be acquired exclusively for broadcasting by subscription television broadcasting licensees; and
- 1.3 must be broadcast live or delayed live or delayed by free-to-air television broadcasting licensees.

2. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act **153** of **1993**) and the Broadcasting Act (**No.4** of **1999**) shall have that meaning unless the context indicates otherwise.

- 2.1 "CAF" means the Confederation of African Football;
- 2.2 "FIFA" means the Federation of International Football Associations;
- 2.3 "delayed" means broadcasting the full sporting event not more than **two** hours after the completion of the event;
- 2.4 "delayed live" means commencing broadcasting the full sporting event halfway through the completion of that event;
- 2.5 "free-to-air television broadcasting licensee" means a licensee who, at all times, provides a television broadcasting service capable of being received without payment of subscription fees;
- 2.6 "the ICC" means the International Cricket Council;
- 2.7 "the IRB" means the International Rugby Board;
- 2.8 "the list" means the list of national sporting events set out under regulation **4**;
- 2.9 "live" means broadcasting the sporting event as it happens and in full;
- 2.10 "national sporting events" means listed sporting events as identified in the public interest from time to time by the Authority in consultation with the Minister of Communications and the Minister of Sport and in accordance with the regulations determined by the Authority through a public process;
- 2.11 "subscription television broadcasting licensee" means a licensee who provides a broadcasting service to an end user upon the payment of a fee;
- 2.12 "the Broadcasting Act" means the Broadcasting Act, **1999** (Act **No.4** of **1999**);
- 2.13 "the IBA Act" means the Independent Broadcasting Authority Act, **1993** (Act **No.153** of **1993**)

3. **Criteria for Determining National Sporting Events**

3.1 The Authority has used the following criteria in determining sports events that are national sporting events:

- (i) the event must involve the South African national senior team; or
- (ii) the event must be the final of a national knockout competition; or
- (iii) where the event does not involve the South African national senior team it and it is not the final of a South African national knock out competition, it must be the Comrades Marathon and the Two Oceans Marathon; or
- (iii) the event must be the final of an international knockout competition featuring a South African team; and
- (iv) the event must be played in South Africa (except for the FIFA World Cup, IRB Rugby World Cup, ICC Cricket World Cup, the African Cup of Nations, the Commonwealth Games, the Olympic Games, the All Africa Games, the CAF Champions League Final and the Confederations Cup Final [if a South African team is involved] and the Rugby Super 12 final [if a South African team is involved]).

3.2 An event that satisfies the above essential criteria may be considered for listing, but listing of such an event is not automatic. The event must be appropriate to list, given its structure, duration and the impact of listing on the sport and the broadcasting markets.

4. **National Sporting Events**

In terms of section 30(7) of the Broadcasting Act, the following sporting events are hereby declared national sporting events:

- 4.1 the Summer Olympic Games;
- 4.2 Commonwealth Games;
- 4.3 All Africa Games;
- 4.4 With regard to the FIFA World Cup, the African Cup of Nations, the IRB Rugby World Cup, and the ICC Cricket World Cup:

- (i) All South African team matches;
 - (ii) Opening match
 - (iii) Two quarter finals;
 - (iv) One semi-final;
 - (v) Final match; and
 - (vi) Opening and closing ceremonies.
- 4.5** Finals of the following national knockout competitions:
- (i) ABSA Cup (soccer);
 - (ii) Coca Cola Cup (soccer);
 - (iii) SAA Super Eight Cup (soccer);
 - (iv) Currie Cup (rugby); and
 - (v) Standard Bank Cup (cricket).
- 4.6** Finals of the following international knockout competitions (if a South African team is involved):
- (i) CAF Champions League (soccer);
 - (ii) CAF Confederations Cup (soccer); and
 - (iii) The Super 12 (rugby).
- 4.7** International Events
- (i) Soccer: all international matches played in South Africa involving the senior South African national team;
 - (ii) Rugby: all international matches played in South Africa involving the senior South African national team;
 - (iii) Cricket: all one day international matches played in South Africa involving the senior South African national team;
 - (vi) Netball: all international matches played in South Africa involving the senior South African national team.
- 4.8** Athletics
- (i) The Comrades Marathon; and
 - (ii) The Two Oceans Marathon,

Provided that these regulations will continue to apply irrespective of any name or sponsor changes to the listed events.

5. Requirements for Listed Events

- 5.1** Listed events shall be broadcast live or delayed live or delayed by a free-to-air television broadcasting licensee: and
- 5.2** In the case of an event which consists of defined separate parts which overlap in time (for example, the Olympic Games, the Commonwealth Games and the All Africa Games) and cannot therefore be televised simultaneously live or delayed live or delayed, the Authority shall take into account the extent of live coverage or delayed live coverage or delayed coverage of those events involving South African teams and individuals representing South Africa.

6. Removal and Addition of Event(s)

- 6.1** Listed events may be removed from the list by the Authority after a successful application by an interested party.
- 6.2** After the publication of a monitoring report in terms of regulation 7 the Authority may also, by notice in the Gazette, announce its intention to remove an event or events from the list;
- 6.3** All applications to remove an event or events from the list shall be made in a form and according to a procedure to be determined by the Authority by notice in the Gazette.
- 6.4** In deciding whether to remove an event or events from the list, the Authority shall consider:
- (i)** whether the event was broadcast live or delayed live or delayed;
 - (ii)** whether the matches involving the senior South African national team in a multi-match event were broadcast live or delayed live or delayed;
 - (iii)** whether some matches in a multi-match event, not involving the senior South African team, were broadcast live or delayed live or delayed;
 - (iv)** submissions from all interested parties, including the Minister of Communications and the Minister of Sport and Recreation; and
 - (v)** any other factors that the Authority may consider relevant when taking into account public interest objectives, including those set out in the IBA Act and the Broadcasting Act.

- 6.5** Applications for the removal of an event or events from the list may only be made once a year by an interested party during a specified 'window period' to be determined by the Authority by notice in the Gazette.
- 6.6** The 'window period' referred to in regulation **6.5** will also apply to any notice issued by the Authority when the Authority intends to remove an event or events from the list.
- 6.7** No party may apply to have an event added to the list until the review of these regulations as contemplated in regulation 9.

7. Monitoring Compliance with the Regulations

- 7.1** The Authority shall monitor broadcasting licensees' compliance with the regulations.
- 7.2** The Authority shall issue annual reports on:
- (i) the extent to which events on the list have been acquired by free-to-air television broadcasting licensees;
 - (ii) the extent to which those events for which the rights have been acquired or offered have been televised by free-to-air television broadcasting licensees; and
 - (iii) whether there are grounds for the Authority to remove events from the list.

8. Records

- 8.1** Free-to-air television broadcasting licensees and subscription television broadcasting licensees must keep and maintain logs, statistical forms and programme records in a format to be determined by the Authority. These logs, forms and records shall include:
- (i) full particulars of all listed national sporting events broadcast during each quarter by the licensee; and
 - (ii) the extent (live and in full, delayed live and in full or delayed and in full) to which those listed events, for which the rights have been acquired, have been broadcast by the licensee.

- 8.2** Subscription television broadcasting licensees must keep and maintain **logs**, statistical forms and programme records in a format to be determined by the Authority. These logs, forms and records shall include full particulars of the rights to listed national sporting events offered to free-to-air television broadcasting licensees by subscription television broadcasting licensees and the extent to which the rights were acquired.

9. Review of Regulations

- 9.1** The Authority may, every successive four years after these regulations have come into effect, hold an inquiry to review these regulations in terms of section 28 of the IBA Act and section 30(7) of the Broadcasting Act.
- 9.2** The Authority shall consider submissions made by licensees, sports bodies and any interested person and may make any amendment to the regulations it considers to be in accordance with the public interest as enunciated in the IBA Act and the Broadcasting Act. Such amendments shall be made after consultation with the Minister of Communications and the Minister of Sport and Recreation.

10. Effective Date

The effective date of these regulations shall be the date of publication in the Gazette.

11. Application

These regulations shall only apply to broadcasting rights that have been acquired after the effective date.

12. Short Title

These regulations will be called the Sports Broadcasting Rights Regulations, 2003.