

REPUBLIC OF SOUTH AFRICA

2010 FIFA WORLD CUP SOUTH AFRICA SPECIAL MEASURES BILL

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No. 28593 of 10 March 2006)
(The English text is the official text of the Bill)*

(MINISTER OF SPORT AND RECREATION)

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BILL

To give effect to the Organising Association Agreement between FIFA and SAFA and to the guarantees issued by the Government to FIFA for the hosting and staging of the 2010 FIFA World Cup South Africa; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Fédération Internationale de Football Association (FIFA) is the world governing body for the sport of football and is responsible for promoting football around the world through education and development programmes and through promoting and supervising international matches;

AND WHEREAS FIFA invited the African Member Associations affiliated to FIFA to bid for the right to serve as host for the final competition of the 2010 FIFA World Cup and provided interested national associations with a List of Requirements regarding the staging and hosting of the final competition of the 2010 FIFA World Cup;

AND WHEREAS the South African Football Association (SAFA) confirmed its bid for the right to serve as host of the final competition of the 2010 FIFA World Cup by submitting the bid documentation to FIFA;

AND WHEREAS the Government of the Republic of South Africa confirmed its support for SAFA's bid to host the 2010 FIFA World Cup by issuing a Declaration in terms of which it undertook to issue all guarantees requested in the List of Requirements to ensure the success of the 2010 FIFA World Cup and to take all measures necessary in order to comply with such guarantees and shall perform its obligations with due co-operation;

AND WHEREAS FIFA has appointed SAFA as host of the 2010 FIFA World Cup South Africa in accordance with the Organising Association Agreement;

AND WHEREAS it is necessary to enact legislation to give effect to the Declaration and the guarantees referred to above,

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**2010 FIFA World Cup South Africa**” means the FIFA World Cup football tournament to be staged in and hosted by the Republic in 2010 in terms of the Organising Association Agreement, and includes the 2009 FIFA Confederations Cup to be staged in the Republic in 2009; 5
 - “**accreditation card**” means any card issued in terms of section 10(3);
 - “**accredited foreign medical contingent**” means a foreign medical contingent whose members have been accredited in terms of section 8(1); 10

“commercial affiliate” means any person designated as such in terms of section 6(1);
“designated area” means an area designated in terms of section 10(1);
“duration of the 2010 FIFA World Cup South Africa”, in respect of a Government Guarantee, means the period commencing on the date of the conclusion of the Organising Association Agreement and ending on the date determined in the Government Guarantee in question;
“FIFA” means the Fédération Internationale de Football Association;
“final competition” means the final tournament of the 2010 FIFA World Cup South Africa which shall be contested in the year 2010 in the Republic by 32 teams and which shall be deemed to last for the period stipulated by the Minister by notice in the *Gazette*;
“liquor” bears the meaning assigned to it in section 1 of the Liquor Act, 2003 (Act No. 59 of 2003);
“LOC” means the 2010 FIFA World Cup Organising Committee South Africa (an association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973));
“match” means a football match in its entirety (including overtime and penalty kick phases) played as part of the 2010 FIFA World Cup South Africa, and includes any training session or exhibition by a participating team or delayed or deferred matches and replays;
“Minister” means the Minister responsible for sport and recreation at national level in the Republic;
“Organising Association Agreement” means the Organising Association Agreement, including its annexes, entered into between FIFA and SAFA;
“peace officer” means a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and includes a member of a municipal police service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
“permitted medical device” means any medical device approved by the Minister of Health in terms of section 8(3)(a);
“permitted medicine and Scheduled substance” means any medicine and Scheduled substance approved by the Minister of Health in terms of section 8(3)(a);
“prescribed” means prescribed by regulation;
“regulation” means any regulation made in terms of section 14;
“SAFA” means the South African Football Association or its successors-in-title;
“stadium” means a stadium contemplated in section 3;
“team” means the 23 football players and the 27 persons accompanying such football players representing a national association affiliated with FIFA, which national association has qualified to participate in the 2010 FIFA World Cup South Africa;
“traffic-free zone” means a public road or area contemplated in section 12(1)(b);
“venue” means any area or place contemplated in section 3.

Extension of Minister of Trade and Industry’s power under Merchandise Marks Act, 1941

2. If the Minister of Trade and Industry declares the 2010 FIFA World Cup South Africa a protected event in terms of section 15A(1) of the Merchandise Marks Act, 1941 (Act No. 17 of 1941), he or she may, notwithstanding section 15A(1)(a)(ii) of that Act, stipulate by notice in the *Gazette* a date later than one month after the completion or termination of the final competition as the date on which the protection afforded by such a declaration ends.

Declaration as stadium or venue

3. (1) The Minister must by notice in the *Gazette* declare a stadium or venue as a stadium or venue recognised for the purposes of this Act upon written confirmation by the LOC that such—
 (a) stadium has been identified and selected to host one or more matches under the auspices of the 2010 FIFA World Cup South Africa; and

(b) venue has been identified and selected.

(2) For the purposes of subsection (1), “venue” means any area or place, other than a stadium, which—

- (a) is demarcated by an enclosed or semi-enclosed temporary or permanent building structure where one or more matches are to be hosted under the auspices of the 2010 FIFA World Cup South Africa; and 5
- (b) may consist, amongst other things, of seating for spectators, attendees or an audience, a field of play, a permanent or temporary podium and any other recreational area required for hosting the 2010 FIFA World Cup South Africa.

National anthems and flags 10

4. In accordance with the Government guarantee issued by the Minister of Foreign Affairs on 14 July 2003, no person may prevent—

- (a) the playing of the national anthem of any country represented by a team during any match or other official event of the 2010 FIFA World Cup South Africa; and 15
- (b) the flying of the national flag of any country represented by a team during any match or other official event of the 2010 FIFA World Cup South Africa.

Visas and work permits

5. (1) Subject to sections 29 and 30 of the Immigration Act, 2002 (Act No. 13 of 2002), the— 20

- (a) Minister of Home Affairs must issue a visa in terms of section 10A(3)(a) of that Act to a person from a country that is not exempt from complying with visa requirements to attend the 2010 FIFA World Cup South Africa as a spectator if that person lodges an application for a visa with the Minister of Home Affairs at least 14 days before departing for the Republic; and 25
- (b) Director-General of Home Affairs must issue a visitor’s permit in terms of section 11(1) of that Act to a person from a country that is exempt from complying with visa requirements upon entry into the Republic in order to attend the 2010 FIFA World Cup South Africa as a spectator.

(2) Any person contemplated in subsection (1) who wishes to work in the Republic in connection with and for the duration of the 2010 FIFA World Cup South Africa must submit a letter to the Minister of Home Affairs from FIFA approving the work to be conducted in order to qualify for an authorisation in terms of section 11(2) of the Immigration Act, 2002 (Act No. 13 of 2002). 30

(3) Subsection (2) does not apply to a team. 35

(4) The Minister of Home Affairs may allow dignitaries identified as such by FIFA to be admitted to and sojourn in the Republic for the duration of the 2010 FIFA World Cup South Africa in terms of section 31(2)(a) of the Immigration Act, 2002 (Act No. 13 of 2002), if a list containing the personal particulars of the dignitaries prepared by FIFA is received by the Minister of Home Affairs at least 30 days before the dignitaries intend to depart for the Republic. 40

Suspension of restrictions regarding marketing, distribution and consumption of liquor in respect of 2010 FIFA World Cup South Africa

6. (1) The Minister must, by notice in the *Gazette*, designate as a commercial affiliate every person whose name has been submitted to him or her in writing by FIFA. 45

(2) (a) Notwithstanding any law referred to in paragraph (b) and for the duration of the 2010 FIFA World Cup South Africa, a commercial affiliate—

- (i) may at any stadium and venue exercise such marketing rights as may be granted to it in writing by FIFA; and
- (ii) must comply with any other applicable laws and the terms and conditions agreed to with FIFA. 50

(b) The laws contemplated in paragraph (a) are sections 12 and 13 of the Liquor Act, 2003 (Act No. 59 of 2003), in respect of registration requirements for the distribution of liquor within the Republic and any other restrictive provisions contained in national or provincial legislation pertaining to the— 55

- (i) marketing of liquor at a stadium or venue;
- (ii) distribution of liquor at a stadium or venue;

- (iii) consumption of liquor at a stadium or venue; and
- (iv) advertisement of liquor during the 2010 FIFA World Cup South Africa.
- (3) FIFA must submit to the Minister of Trade and Industry—
 - (a) details of the nature, type, quantity and manufacturer of liquor for distribution and consumption at any stadium or venue during the 2010 FIFA World Cup South Africa; and
 - (b) such other information as may be prescribed in respect of liquor to be marketed, distributed or consumed at any stadium or venue during the 2010 FIFA World Cup South Africa.

Suspension of prohibition on sale of unregistered medicines, registration of and community service for certain health care providers

7. (1) (a) Notwithstanding any law referred to in paragraph (c) but subject to section 8, any member of an accredited foreign medical contingent may—
- (i) possess, compound and dispense permitted medicines and Scheduled substances; and
 - (ii) import permitted medical devices.
- (b) The possession, compounding and dispensing of permitted medicines and Scheduled substances and the import and export of such permitted medical devices contemplated in paragraph (a) may be undertaken solely for the purposes of rendering such health services as may be required by members of the team in respect of which the foreign medical contingent is accredited to render health services.
- (c) The laws contemplated in paragraph (a) are—
- (i) section 14 of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), in so far as it pertains to the prohibition on the sale of medicines which are subject to registration and are not registered;
 - (ii) section 19 of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), in so far as it pertains to the prohibition on the sale of medicines which do not comply with requirements prescribed in terms of that Act;
 - (iii) section 22A of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), in so far as it pertains to the prohibition on the sale, possession and manufacture of any medicine or Scheduled substance; and
 - (iv) section 22A of the Medicines and Related Substances Act 1965 (Act No. 101 of 1965), in so far as it pertains to the prohibition on the compounding and dispensing of medicines and the import and export of medical devices without a licence.
- (2) (a) Notwithstanding any law referred to in paragraph (b), any member of an accredited foreign medical contingent may render any health service to a member of the team in respect of which the foreign medical contingent has been accredited without being registered or having rendered community service as is contemplated in those laws.
- (b) The laws contemplated in paragraph (a) are—
- (i) sections 13, 14(c) and 14A of the Pharmacy Act, 1974 (Act No. 53 of 1974), in so far as they pertain to the registration of and the performance of community service by pharmacists;
 - (ii) sections 17 and 24A of the Health Professions Act, 1974 (Act No. 56 of 1974), in so far as they pertain to the registration of any profession registrable in terms of that Act and the performance of community service by persons registering for the first time for a profession listed in the regulations in terms of that Act;
 - (iii) section 16 of the Nursing Act, 1978 (Act No. 50 of 1978), in so far as it pertains to the registration or enrolment, as the case may be, of a nurse, midwife, nursing auxiliary, student nurse, student midwife, pupil nurse or pupil nursing auxiliary in terms of that Act; and
 - (iv) any other national legislation pertaining to the registration of or the performance of community service by any health care provider as defined in section 1 of the National Health Act, 2003 (Act No. 61 of 2003), other than those contemplated in subparagraph (i), (ii) or (iii).

Accreditation of foreign medical contingents and approval of medicines, Scheduled substances and medical devices

- 8.** (1) (a) The Minister of Health must accredit every member of a foreign medical contingent to render health services if the Minister of Health receives an application by FIFA for such accreditation. 5
- (b) An application contemplated in paragraph (a) must state—
- (i) the full name and the passport number of every member of the foreign medical contingent concerned;
 - (ii) the country of origin of the team in respect of which the members may render health services; 10
 - (iii) the period during the 2010 FIFA World Cup South Africa for which accreditation is required;
 - (iv) the name of each member of the team to whom the members of the foreign medical contingent may render health services; and
 - (v) such further information in respect of the accreditation as may be prescribed. 15
- (2) The accreditation granted by the Minister of Health contemplated in subsection (1) must be in writing and must specify—
- (a) the full names of all accredited members of the foreign medical contingent;
 - (b) the period for which the accreditation is granted; and
 - (c) any condition in respect of the accreditation that may be necessary. 20
- (3) (a) The Minister of Health must approve in writing all medicines, Scheduled substances and medical devices that may be used by an accredited foreign medical contingent if the Minister of Health receives a written request for such use by FIFA on behalf of an accredited foreign medical contingent.
- (b) A request contemplated in paragraph (a) must state— 25
- (i) the name and manufacturer of the medicine, Scheduled substance and medical device in question;
 - (ii) the quantity of each medicine and Scheduled substance and the number of each type of medical device required by the accredited foreign medical contingent; and 30
 - (iii) such other information as may be prescribed.

Scope of authority of accredited foreign medical contingent

9. An accredited foreign medical contingent may only render health services for the period and in respect of the team contemplated in section 8(1)(b)(ii) and (iii).

Designated areas 35

- 10.** (1) (a) The LOC, after consultation with the National Commissioner of the South African Police Service and all other stakeholders, may designate any area in a site as a designated area that may only be entered by a person in possession of an accreditation card.
- (b) For the purposes of paragraph (a), “site” means any— 40
- (i) stadium or venue;
 - (ii) public viewing place identified by the LOC;
 - (iii) other place or facility related to the 2010 FIFA World Cup South Africa that the LOC may determine to be a place or facility which may only be entered by a person in possession of an accreditation card; and 45
 - (iv) zone surrounding or adjacent to a stadium, venue, place or facility that the LOC identifies as an exclusion zone in which prescribed commercial activities by any person other than persons identified by the LOC are prohibited.
- (2) The LOC must ensure that every entry point of a designated area is clearly identified and must indicate on a notice at such entry point that access to that area is limited to persons specifically accredited to enter that area. 50
- (3) The LOC, after consultation with the National Commissioner of the South African Police Service and all other stakeholders, may issue accreditation cards to persons who, in accordance with the Organising Association Agreement, are entitled to enter a specific designated area. 55

Access control measures

- 11.** (1) No person may enter a designated area unless he or she is in possession of an accreditation card allowing him or her to enter and be in that area.
- (2) A peace officer may—
- (a) request any person who wishes to enter or is found in a designated area to produce an accreditation card authorising such person to enter and be in that area; 5
 - (b) refuse a person permission to enter a designated area unless such person produces an accreditation card authorising him or her to enter and be in that area; and 10
 - (c) remove any person from a designated area if such person is found in that area and, upon the request of the peace officer, refuses or fails to produce an accreditation card authorising him or her to enter and be in that area.
- (3) A peace officer may use such force as may be reasonably necessary in and proportional to the circumstances in order to exercise any power in terms of subsection (2). 15
- (4) Any person who—
- (a) contravenes or fails to comply with this section; or
 - (b) obstructs or hinders any peace officer in the exercise of his or her powers under this section, 20
- is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment.

Traffic-free zones

- 12.** (1) (a) No person may drive a vehicle into or in a traffic-free zone or park such vehicle in that zone unless a prescribed notice authorising the presence of the vehicle in that zone is displayed on the vehicle in the prescribed manner. 25
- (b) For the purposes of paragraph (a), a traffic-free zone is any public road or area that is—
- (i) identified by the National Commissioner of the South African Police Service as a traffic-free zone; and 30
 - (ii) clearly marked in the prescribed manner as a traffic-free zone.
- (2) A peace officer may refuse a person permission to drive a vehicle into a traffic-free zone unless a notice contemplated in subsection (1)(a) is displayed on such vehicle.
- (3) A peace officer who finds a vehicle parked or being driven in a traffic-free zone without displaying a notice contemplated in subsection (1)(a) may— 35
- (a) direct the person who is driving the vehicle to leave that zone immediately;
 - (b) if the owner or person who parked the vehicle is readily available, order such owner or person to remove the vehicle from that zone; or
 - (c) if the owner or person who parked the vehicle is not readily available, remove the vehicle from that zone and impound the vehicle. 40
- (4) For the purposes of subsection (3)(c), regulation 305(6) of the National Road Traffic Regulations, 2000, applies with the necessary changes.
- (5) Any person who—
- (a) contravenes or fails to comply with this section; or
 - (b) obstructs or hinders any peace officer in the exercise of his or her powers under this section, 45
- is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment.

Search and seizure

- 13.** (1) A peace officer may search any person intending to enter a designated area or found inside such area and may search any vehicle or container in the possession or under the control of such person or any vehicle being driven into or found in a traffic-free zone for any prescribed object and may seize such an object found on such person, in or on such vehicle or in or on such container and deal with the seized object in the prescribed manner. 50 55

(2) A peace officer who may lawfully search a person, vehicle or container referred to in subsection (1) may use such force as may be reasonably necessary in and proportional to the circumstances to overcome any resistance to the search or seizure, including breaking open the vehicle or container.

Regulations

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14. (1) The Minister may, in consultation with the Minister of Trade and Industry, the Minister for Agriculture and Land Affairs or the Minister of Health, as the case may be, make regulations regarding—

- (a) any matter that may or must be prescribed, except a matter contemplated in section 12 or 13; 10
- (b) the exercise of marketing rights by a commercial affiliate in respect of the marketing, distribution and consumption of liquor in order to give effect to the Organising Association Agreement;
- (c) the suspension of the prohibition on the possession, compounding and dispensing of permitted medicines and Scheduled substances and permitted medical devices and the registration of and the performance of community service by health care providers, in order to give effect to the Organising Association Agreement; and 15
- (d) subject to subsection (2), any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act. 20

(2) The Minister of Safety and Security may make regulations regarding—

- (a) any matter which may or must be prescribed in terms of section 12 or 13;
- (b) powers of peace officers in respect of security arrangements at any site contemplated in section 10(1)(b), including powers in respect of access control and search for and seizure of dangerous and commercial objects in order to give effect to the Organising Association Agreement; and 25
- (c) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of sections 10, 11, 12 and 13. 30

(3) Any regulation made under subsection (2) may declare a contravention thereof or failure to comply therewith to be an offence and that a person convicted of such an offence may be sentenced to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Short title

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15. This Act is called the 2010 FIFA World Cup South Africa Special Measures Act, 2006.

MEMORANDUM ON THE OBJECTS OF THE 2010 FIFA WORLD CUP SOUTH AFRICA SPECIAL MEASURES BILL, 2006

1. INTRODUCTION

The Bill has been drafted to facilitate the hosting and staging of the 2010 FIFA World Cup South Africa in accordance with the Organising Association Agreement between FIFA and SAFA and the guarantees issued by the Government of the Republic to FIFA.

2. OBJECTS OF BILL

The objects of the Bill are to—

- (a) empower the Minister of Trade and Industry to stipulate a date later than one month after the completion or termination of the 2010 FIFA World Cup South Africa as the date on which the protection of the 2010 FIFA World Cup South Africa as a protected event in terms of section 15A(1) of the Merchandise Marks Act, 1941 (Act No. 17 of 1941), ends;
- (b) empower the Minister of Sport and Recreation to declare by notice in the *Gazette* certain stadiums and venues as stadiums and venues that have been identified and selected to host matches under the auspices of the 2010 FIFA World Cup South Africa;
- (c) ensure that all national anthems and flags of the countries represented by a team at the 2010 FIFA World Cup South Africa may be played and flown;
- (d) facilitate the issuing of visas and work permits by the Department of Home Affairs to FIFA's delegates, its personnel and commercial affiliates;
- (e) suspend certain restrictions regarding marketing, distribution and consumption of liquor for the duration of the 2010 FIFA World Cup South Africa;
- (f) suspend certain restrictions and prohibitions on the sale of unregistered medicines and on, registration of and community service by certain health care providers in connection with the 2010 FIFA World Cup South Africa;
- (g) facilitate the accreditation of foreign medical contingents and the approval of permitted medicines, Scheduled substances and permitted medical devices for the purposes of the 2010 FIFA World Cup South Africa;
- (h) set out the scope of authority of an accredited foreign medical contingent;
- (i) provide for access control measures and traffic-free zones at stadiums and venues; and
- (j) provide for the promulgation of regulations by the Minister of Sport and Recreation and the Minister of Safety and Security.

3. CONSULTATION

The following bodies were consulted:

- The South African Sports Confederation and Olympic Committee
- All national government departments
- All the provincial departments of sport and recreation
- All the national sport and recreation federations.

4. FINANCIAL IMPLICATIONS FOR STATE

None.

5. PARLIAMENTARY PROCEDURE

- 5.1 As was stated in paragraph 1 the object of this Bill is to facilitate the hosting and staging of the 2010 FIFA World Cup South Africa. This object is achieved by ensuring that the laws of the country will allow the guarantees given by the National Government to be carried out. The changes brought about by this Bill serve a limited purpose and for a limited duration, i.e. the duration of the 2010 FIFA World Cup South Africa. 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.

- 5.2 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.