

REPUBLIC OF SOUTH AFRICA

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# NATIONAL SPORT AND RECREATION AMENDMENT BILL

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*(As introduced in the National Assembly (proposed section 75); explanatory summary of  
Bill published in Government Gazette No. 27787 of 22 July 2005)  
(The English text is the official text of the Bill)*

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(MINISTER OF SPORT AND RECREATION)

[B 17—2006]

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**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.

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## **BILL**

**To amend the National Sport and Recreation Act, 1998, so as to delete and insert certain definitions; to substitute SASCOC for the Sports Commission; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, 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 substitution for the definition of “**Minister**” of the following definition:  
    “ ‘**Minister**’ means the Minister responsible for Sport and Recreation South Africa;”;
  - (c) the deletion of the definition of “**NAPCOSA**”;
  - (d) 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;”;
  - (d) the deletion of the definition of “**NOCSA**”;
  - (e) the deletion of the definition of “**provincial department of sport and recreation**”;
  - (f) the deletion of the definition of “**Recreation Movement**”;
  - (g) the deletion of the definition of “**SANREC**”;
  - (h) the deletion of the definition of “**SISA**”;
  - (i) the insertion of the following definitions before the definition of “**sports or recreation body**”:  
    “ ‘**SASCOC**’ means the South African Sports Confederation and Olympic Committee, a non-governmental sports body consisting of the following constituent components:  
    (a) Olympic national federations;  
    (b) Commonwealth national federations;  
    (c) schools sport in so far as it is represented on SASCOC’s board in accordance with its articles of association;

- (d) sport at tertiary institutions (including further education and training colleges);
- (e) national federations catering for athletes with disabilities;
- (f) All Africa Games national federations; and
- (g) other national federations;
- 5 **‘Sport and Recreation South Africa’** means the national department of Sport and Recreation;”;
- (j) the substitution for the definition of **“sports or recreation body”** of the following definition:
- 10 **“‘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;”;
- (k) the deletion of the definition of **“Sports Commission”**;
- (l) the deletion of the definition of **“Sports Movement”**; and
- 15 (m) 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:
- 20 **“(1) [The Sports Commission] SASCOC** will be the **[overall] only recognised national co-ordinating macro** body for the promotion and development of **high performance** sport and recreation in the Republic[, save **NOCSA**].”;
- (b) the substitution for subsection (2) of the following subsection:
- 25 **“(2) [The Sports Commission] SASCOC** 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:
- 30 **“(b) [The Sports Commission] SASCOC** may, in writing, require a government ministry, department, province or local authority to consult with it in relation to the activities referred to in **[subparagraph] paragraph (a)**.”; and
- (d) the substitution for subsection (4) of the following subsection:
- 35 **“(4) All sports and recreation bodies must consult and co-ordinate with [the Sports Commission] SASCOC** on any matter that has been prescribed by regulation.”.

#### **Repeal of section 3 of Act 110 of 1998**

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

#### **Insertion of section 3A in Act 110 of 1998**

4. The following section is hereby inserted in the principal Act after section 3: 40

##### **“Service level agreement**

**3A. (1) Sport and Recreation South Africa** must enter into a service level agreement with SASCOC in respect of any function assigned to SASCOC by this Act.

(2) The Minister must, after consultation with SASCOC, make regulations concerning—

- (a) the procedure for negotiating a service level agreement, including a period within which negotiations must be concluded;
- (b) the matters which may be dealt with in a service level agreement and which may include standards, criteria and targets for measuring and evaluating SASCOC’s performance of its functions in terms of this Act.”. 50

**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: 5  
 “(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,]** SASCOC 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: 10  
 “(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 **[the Sports Commission]** SASCOC in consultation with provincial[, ] and local government and relevant sport and recreation bodies;”. 15

**Repeal of section 5 of Act 110 of 1998**

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

**Amendment of section 6 of Act 110 of 1998**

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

- (a) by the substitution for the heading of the following heading: 20  
 “**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.”; and 25
- (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]** SASCOC.”.

**Substitution of section 7 of Act 110 of 1998** 30

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

**“Training of sport and recreation leaders**

- 7.** SASCOC 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; 35
- (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; 40
- (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 45
- (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: 5  
 “(1) [The Sports Commission will] SASCOC must, in accordance with its funding policy and [the provisions of] section 10, provide physical facilities for sport and recreation at national level, depending on the availability of funds.”; and
- (b) by the substitution for subsection (3) of the following subsection: 10  
 “(3) [The Sports Commission will] SASCOC 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: 15  
 “(1) [The Sports Commission] SASCOC must organize programmes aimed at mobilizing the nation to play.”;
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 20  
 “[The Sports Commission] SASCOC must—”; and
- (c) by the substitution in subsection (2) for paragraph (c) of the following paragraph: 20  
 “(c) encourage the provincial sport and recreation departments to employ the programmes of [the Sports Commission] SASCOC.”.

**Amendment of section 10 of Act 110 of 1998** 25

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: 30  
 “[The Sports Commission] SASCOC must, in accordance with its funding policy—”; and
- (b) by the substitution for subsection (2) of the following subsection: 30  
 “(2) [The Sports Commission] SASCOC must, in allocating funds to the national [and recreation] federations, determine the proportion of funding that must be used towards development.”.

**Amendment of section 11 of Act 110 of 1998** 35

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

- (a) by the substitution for subsection (1) of the following subsection: 40  
 “(1) [The Sports Commission] SASCOC must establish a national colours board which will consider all applications for the awarding of national colours.”; and
- (b) by the substitution for subsection (3) of the following subsection: 40  
 “(3) [The Sports Commission] SASCOC may, from time to time, provide incentives for 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— 45

- (a) the substitution for subsection (2) of the following subsection: 45  
 “(2) 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] SASCOC.”; 50
- (b) the substitution for subsection (3) of the following subsection: 50  
 “(3) [The Sports Commission] SASCOC must give a decision, in relation to any dispute referred to in subsection (1) or (2), that best serves the interests of the sports or recreation body in question.”;

- (c) the substitution in subsection (4) for the words preceding paragraph (a) of the following words:  
 “[**The Sports Commission**] SASCOC 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
- (d) the addition of the following subsections:  
 “(5) Notwithstanding subsection (4), the Minister may intervene in any dispute or alleged mismanagement, or any other related matter in sport or recreation which is likely to bring a sport or recreational activity into disrepute.  
 (6) Notwithstanding the provisions of subsection (5), the Minister may not intervene in matters relating to the selection of teams.  
 (7) In intervening in terms of subsection (5), the Minister may—  
 (a) refer the matter for mediation; or  
 (b) issue a directive.  
 (8) Before issuing a directive under subsection (7)(b), the Minister must, by written notice served on the relevant parties—  
 (a) notify the relevant parties of the allegations and of his or her intention to issue a directive; and  
 (b) give the parties the opportunity to respond within 30 days.  
 (9) SASCOC may, for the purposes of subsection (7), submit its recommendations for the resolution of the problem to the Minister.  
 (10) Without derogating from the rights of the affected parties, a decision taken in terms of subsection (7) shall be binding on the parties.”.

#### **Insertion of sections 13A and 13B in Act 110 of 1998**

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

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

13A. (a) The Minister may issue guidelines or policies to promote equity, representivity and redress in sport and recreation.

(b) Such guidelines or policies must be consistent with international protocols, agreements and covenants.

##### **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 such statistics as may be prescribed.”.

#### **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**] SASCOC, 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 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 sport achievers and recreation practitioners, **and**;
- (jA) for kickboxing, boxing, karate, wrestling, taekwando, judo and any other form of combat sport; 5
- (jB) to minimize the chances of injury in any sport or recreational activity other than kickboxing, boxing, karate, wrestling, taekwando, judo and any other form of combat sport;
- (jC) as to hosting of and bidding for major international sports events; 10
- (jD) as to the awarding of national colours;
- (jE) as to the recognition of sport and 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; 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.”. 15

#### **Repeal of section 15 of Act 110 of 1998**

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

#### **Substitution of long title of Act 110 of 1998** 20

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

##### **“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 SASCOG**, 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.”. 25 30

#### **Short title**

18. This Act is called the National Sport and Recreation Amendment Act, 2006.

## **MEMORANDUM ON THE OBJECTS OF THE NATIONAL SPORT AND RECREATION AMENDMENT BILL, 2006**

### **1. BACKGROUND**

This Bill seeks to amend the National Sport and Recreation Act, 1998 (Act No. 110 of 1998) (hereinafter referred to as the principal Act), so as to delete, insert or amend certain definitions and to substitute the South African Sports Confederation and Olympic Committee (SASCOC) for the Sports Commission wherever it appears in the Act.

### **2. OBJECTS OF BILL**

The Bill makes provision for—

- a service level agreement which must be entered into by the Department and SASCOC in order to create a legal relationship between the Department and SASCOC (Clause 4);
- training of sport and recreation leaders (Clause 8);
- the Minister to intervene in his or her discretion in any dispute or alleged mismanagement, or any other related matter, in sport or recreation save for matters relating to the selection of teams (Clause 13);
- the submission by every sport or recreation body of such membership statistics as may be prescribed (Clause 14).

The Bill also seeks to empower the Minister to issue guidelines or policies to promote the values of equity, representivity and redress in sport and recreation (Clause 14).

### **3. 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 national sport and recreation federations.

### **4. FINANCIAL IMPLICATIONS FOR STATE**

None.

### **5. PARLIAMENTARY PROCEDURE**

5.1 The State Law Advisers and Sport and Recreation South Africa 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.