

REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN SPORTS COMMISSION AMENDMENT BILL

(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill published in Government Gazette No 21549 of 15 September 2000) (The English text is the official text of the Bill)

(MINISTER OF SPORT AND RECREATION)

[B 2—2001]

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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.

BILL

To amend the South African Sports Commission Act, 1998, so as to amend a certain definition and to delete others; to further regulate the composition of the South African Sports Commission and its functions; and to further regulate the appointment of a Chief Executive Officer 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 (hereinafter referred to as the principal Act), is amended by— 5

(a) the substitution for the definition of “**Chairperson**” of the following definition;

“ ‘**Chairperson**’ means the person elected and appointed as Chairperson of the Commission in terms of section 14(1)(a);”;

(b) the deletion of the definition of “**Deputy Chairperson**”; 10

(c) the deletion of the definition of “**Olympic Committee**”; and

(d) the deletion of the definition of “**SANREC**”.

Substitution of section 2 of Act 109 of 1998

2. The following section is substituted for section 2 of the principal Act:

“Administration of sport and recreation, and functions of Commission 15

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

Substitution of section 4 of Act 109 of 1998, as amended by section 1 of Act 33 of 1999

3. The following section is substituted for section 4 of the principal Act: 20

“Composition of Commission

4. (1) The Commission will consist of—

- (a) **[the Chairperson;**
- (b) **the Deputy Chairperson;**
- (c) **nine]** six members elected by the General Assembly on the ground of their knowledge of or skill or experience in sport, policy and management matters and international relations; and 5
- [(d) **two members elected by the National Olympic Committee of South Africa (NOCSA);**
- (e)](b) **[seven]** six members appointed by the Minister on the ground of their knowledge of or skill or experience in sport, policy and management matters and international relations, of **[which at least one member shall represent SANREC and SISA, respectively, two members]** whom one member **[shall]** must **[represent WASSA]** focus on women and **[at least]** one member **[shall]** must focus on rural sport development and one member, preferably a person with a disability, must focus on sport for disabled persons. 10 15
- [(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.]** 20
- (2) [(a) **The Chairperson and the Deputy Chairperson must be appointed by the Minister and will serve on a part time basis.** 25
- (b) **The Minister may appoint an interim Chairperson to convene the General Assembly for the purpose of electing the nine members mentioned in subsection (1)(c) who will serve the initial period mentioned in section 5.** 25
- (c)] All **[other]** members of the Commission will serve on a part-time basis.”.

Substitution of section 5 of Act 109 of 1998

4. The following section is substituted for section 5 of the principal Act:

“Term of office 30

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

Substitution of section 7 of Act 109 of 1998

5. The following section is substituted for section 7 of the principal Act: 35

“Resignation

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

(2) The member contemplated in subsection (1) must submit the written notice to the Chairperson, who must forward the notice to the Minister without delay.”. 40

Amendment of section 9 of Act 109 of 1998

6. Section 9 of the principal Act is amended by— 45
- (a) the deletion of subsections (1) and (2); and
 - (b) the substitution for subsection (3) of the following subsection:
 - “(3) The 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** 50
 - (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 of the principal Act is amended by the—
- (a) deletion of subsection (1); and
 - (b) substitution for subsection (2) of the following subsection:

“(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 of the principal Act is amended by the—
- (a) substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Commission may, **[after]** in consultation with the Minister **[and the General Assembly]**—”; and
 - (b) deletion in subsection (3)(d) of the word “or” at the end of subparagraph (i) and the insertion in that subsection after subparagraph (i) of the following subparagraph:

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

Amendment of section 14 of Act 109 of 1998

9. Section 14 of the principal Act is amended by the substitution for subsection (1) of the following subsection:
- “(1) (a) Subject to paragraph (b), the members of the Commission must at the first meeting in a new year, elect and appoint a member of the Commission as Chairperson of the Commission for that year after obtaining the approval of the Minister.
 - (b) A member may not be re-elected as Chairperson unless the Minister approves.
 - (c) The Chairperson must designate a member of the Commission to act as chairperson in his or her absence.
 - (d) The Chairperson decides where and when the Commission meets.”.

Amendment of section 17 of Act 109 of 1998, as amended by section 1 of Act 57 of 1999

10. Section 17 of the principal Act is amended by the substitution for subsection (1) of the following subsection:
- “(1) The **[Commissioner]** Minister must, **[in]** after consultation with the **[Minister]** Commission and **[after consultation]** with Cabinet, appoint a suitably qualified person as **[its]** Chief Executive Officer of the Commission.”.

Amendment of section 19 of Act 109 of 1998

11. Section 19 of the principal Act is amended by the—
- (a) substitution for subsection (1) of the following subsection:

“(1) The **[Commission]** Minister may, as a result of a vacancy in the office of the Chief Executive Officer, after consultation with the Commission, appoint any person as Acting Chief Executive Officer who will **[not]** serve for a period **[exceeding]** of six months, which may be renewed at the expiry thereof.”; and
 - (b) deletion of subsection (2).

Substitution of section 21 of Act 109 of 1998

12. The following section is substituted for section 21 of the principal Act:

“Consultants

21. (1) The Commission may employ persons having suitable qualifications and experience as consultants to the Commission only when it is absolutely necessary, but must obtain the approval of the Minister if a consultant is appointed for a period exceeding 12 months.

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

Amendment of section 22 of Act 109 of 1998

13. Section 22 of the principal Act is amended by—

- (a) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“For the purpose of subsection (1) the **[Chief Executive Officer] Commission—**”; and

- (b) the deletion in subsection (2) of the word “and” at the end of paragraph (a), the insertion of the word “and” at the end of paragraph (b) and the addition of the following paragraph to the said subsection:

“(c) may not incur any expenditure unless such expenditure has been budgeted for and has been approved by the Minister.”.

Amendment of section 23 of Act 109 of 1998

14. Section 23 of the principal Act is amended by—

- (a) the substitution for subsection (2) 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 **[six]** two 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 **[six]** five 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 25 of Act 109 of 1998

15. Section 25 of the principal Act is amended by the substitution for paragraph (a) of the following paragraph:

“(a) subject to the **[Exchequer Act, 1975 (Act No. 66 of 1975)] Public Finance Management Act, 1999 (Act No. 1 of 1999)**, be charged with the responsibility of accounting for money received from whatever source or paid out by or on account of the Commission;”.

Substitution of section 26 of Act 109 of 1998

16. The following section is substituted for section 26 of the principal Act:

“Auditing

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

(2) The Commission must consult the Auditor-General on the appointment of auditors contemplated in subsection (1).”.

Substitution of section 27 of Act 109 of 1998

17. The following section is substituted for section 27 of the principal Act:

“Reporting

27. The Commission must within [**four**] five 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**] must table that report in Parliament.”. 5

Short title

18. This Act is called the South African Sports Commission Amendment Act, 2001.

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN SPORTS COMMISSION AMENDMENT BILL, 2001

1. The Bill seeks to amend the South African Sports Commission Act, 1998 (Act No. 109 of 1998) ("the Act"). The basis for the proposed amendments is as follows:

- The Act was originally written against the backdrop of an assumption that there would be no independent Ministry of Sport and Recreation.
- The South African Sports Commission ("the Commission") is too big and its membership needs to be reduced.
- The Chief Executive Officer of the Commission can perform the main functions of the Commission. The roles of the Chairperson and Deputy Chairperson will therefore become less important.

2. The Bill provides for a reduction in the number of the members of the Commission (which would then consist of 12 members as opposed to the 30 provided for in the Act). It is proposed that the Commission must consist of 12 members of whom 6 will be appointed by the Minister, namely—

- 3 members for their knowledge of or 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 of or skill or expertise in sport, policy and management matters and international relations.

3. The other amendments proposed are as follows:

- (a) The reduction of the terms of office of the members of the Commission to 3 years.
- (b) A member must give notice of his or her resignation to the Minister (and not to the Chairperson).
- (c) In the event of the Commission entering into more than one agreement for goods and services with the same person, organisation or institution per financial year and if the total amount in the said agreements exceeds R1 million per year, the Commission must obtain the approval of the Minister.
- (d) The Commission must elect a member as Chairperson annually.
- (e) The Minister, after consultation with the Commission and the Cabinet, must appoint a Chief Executive Officer for the Commission. The Minister also appoints an Acting Chief Executive Officer after consultation with the Commission.
- (f) The Commission may only appoint consultants for a period exceeding 12 months after obtaining the approval of the Minister, and the terms and conditions of employment must be determined in terms of the Commissions' own tender prescripts.
- (g) The Chief Executive Officer of the Commission may not incur any expenditure unless it has been budgeted for and has been approved by the Minister.
- (h) The Commission must prepare statements of account and a balance sheet not later than two (instead of six) months after the end of the financial year. It is also proposed that the Chief Executive Officer must, not later than five (instead of six) months after the end of the financial year, submit audited financial statements to the Minister.
- (i) It is proposed that the books of the Commission must be audited by the Auditor-General or any registered auditors (instead of the Auditor-General and a registered auditor).
- (j) 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.

4. IMPLICATIONS FOR PROVINCES

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

5. IMPLICATIONS FOR LOCAL GOVERNMENT

None.

6. CONSULTATION

The following bodies or departments were 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.

7. FINANCIAL IMPLICATIONS FOR 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.

8. PARLIAMENTARY PROCEDURE

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.