

NATIONAL SPORT AND RECREATION AMENDMENT BILL, 2020



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REPUBLIC OF SOUTH AFRICA

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BACKGROUND



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THE NATIONAL SPORT AND RECREATION ACT, 1998 (ACT 110 OF 1998)

THE NATIONAL SPORT AND RECREATION ACT, 1998 (ACT 110 OF 1998)



The National Sport and Recreation Act, 1998 (Act 110 of 1998) was first promulgated and assented to by the president on 4 day of December 1998 to:

- Provide for the promotion and development of sport and recreation and the co-ordination of the relationship Sports Commission, national and recreation federations and other agencies;
- Provide for measures aimed at correcting imbalances in sport and recreation;
- Promote equity and democracy in sport and recreation;
- Provide for dispute resolution mechanism in sport and recreation;
- Empower the Minister to make regulations; and
- Provide for matters connected therewith.

THE NATIONAL SPORT AND RECREATION AMENDMENT BILL, 2020

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What the Bill seek to achieve:

To provide for the improvement of the regulation of sport and recreation industry,

To provide for the establishment of the Sport Arbitration Tribunal,

To appoint the inspectors to carry out routine inspections to ensure compliance with the Act,

To empower the Minister to oversee sport and recreation and

To facilitate the improvement of the operations of sport or recreation bodies.



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THE NATIONAL SPORT AND RECREATION AMENDMENT BILL, 2020

The National Sport and Recreation Amendment Bill, 2020 ("the Bill"), seeks to amend the National Sport and Recreation Act, 1998 (Act No. 110 of 1998) ("the Act").

- The Bill recognizes that there is a need for sport in South Africa to create a new dispensation that will govern and regulate the sport and recreation industry for the best interest of all the role players by clarifying of the roles of Sport, Arts and Culture, the Sports Confederation and the national federations respectively.
- The Bill seeks to delete, amend and insert certain definitions, to provide for the promotion and development of sport and recreation; to establish a Sport Arbitration Tribunal to resolve disputes in sport or recreation bodies, to provide for offences and penalties and to provide for matters connected therewith.
- The Bill intends to amend the Act in order to cater for the manner in which the disputes can be finalized and also provides, amongst others, for a penalty clause in the case of any non-compliance with the Act.

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- Furthermore, the Bill provides for the regulation of sport or recreation agents in the performance of their responsibilities and their recognition as agents.
- Currently the Act is silent on the recognition of sport or recreation bodies and only empowers the Minister to create regulations for such purposes. Thus, the lack of empowering provisions in the Act makes it difficult to recognise sports or recreation bodies in terms of regulations only.
- The Bill also intends to provide a framework relative to the development of coaching and also encourages young coaches to be provided with relevant training.
- Lastly, the Bill attempts to ensure that sport and recreation are managed effectively in terms of transformation and accessibility by the community.



CHALLENGES



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CHALLENGES IN IMPLEMENTING THE ACT

In attempting to implement the Act as amended the following shortcomings were experienced

- Challenge with the long title;
- Lack of clarity of certain critical definition;
- Inadequate enabling provisions for the implementation of certain sections of the Amendment Act e.g. National colours regulations and others
- Inadequate clarity of roles and responsibilities of DSAC, Sport Confederation and federations in the acceleration of sport development and promotion;
- Lack of proper alignment of the Act with the National Sport and Recreation plan;
- Minister's powers and functions in the determination of disputes; and
- Minister's powers to intervene in correcting the anomalies in the governance of sport and recreation bodies.



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CLAUSE-BY-CLAUSE ANALYSIS

CLAUSE 1



- Clause 1 of the Bill seeks to amend section 1 of the Act. A definition of "club" is inserted to refer to a club that plays a major role in terms of sport development and to further ensures that such club is accountable to the national federation.
- The definition of "committee" is inserted to clarify the role of the committee in dealing with disputes which the Sports Confederation fails on numerous occasions to resolve as proclaimed in the Act.
- The definition of the “department” is inserted because of the measure with Arts and Culture.
- The definition of the "national colours" is inserted to clarify the prescribed uniform or dress in connection with national team participating in an international event. In this regard this clause also provides for the insertion of a definition of “national colours board” and “national emblem”.
- The definition of "national federation" is amended to clarify that a national governing body of a code of sport in the Republic with affiliate members in all provinces is recognised by Sport and Recreation South Africa as the only authority for the administration and control of the relative code of sport in the Republic.
- This clause also insets a definition for “Director-General”, “MEC”, “recreational activity”, “sport or recreation agent”, and “sport or recreation body”.

CLAUSE 2

- Clause 2 of the Bill seeks to amend section 2 of the Act, which provides for the promotion and development of sport and recreation in the Republic.
- This clause seeks to insert new subsections after subsection (6) in order to provide for the functions of the Sport Confederation which include, amongst other things, the coordination of all activities relating to high performance sport in the Republic, including team preparation for the major international events and to develop and implement guidelines for the promotion and development of high performance sport.



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CLAUSE 3

- Clause 3 of the Bill seeks to amend section 4 of the Act which provides for the determination of sport and recreation policy.
- This clause seeks to amend subsection (3) of the Act to give the Minister in consultation with relevant sports stakeholders the power to publish policy objectives to be achieved by department, the Sports Confederation and sports and recreation bodies.



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CLAUSE 4

- Clause 4 of the Bill seeks to amend section 6 of the Act which provides for national federations by substituting the heading "national federation" to "Sport or recreation bodies. This clause further provides for the Sport and recreation bodies to assume full responsibility for the safety and security of the members, participants, children, spectators who attend sport or recreation events and physical facilities where such events take place within their sport and recreation discipline.
- Clause 4 of the Bill seeks to insert clause (2B) to the Act to give the Sport or recreation bodies power to ensure that selected players comply with any national call to participate in a sport.



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CLAUSE 5

- Clause 5 of the Bill seeks to insert new sections 6A and 6B in the Principal Act. Section 6A provides that a sport or recreation body must recognise a sport or recreation agent in writing, before such an agent may operate in the Republic and further issue a license to a sport or recreation agent as prescribed by the Minister.
- Section 6B provides sufficient and effective empowering provisions for the recognition of a sport or recreation body by the Director-General in the prescribed manner as the only sport and recreation body for a particular code in terms of prescribed criteria, amongst others.



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CLAUSE 6

- Clause 6 of the Bill seeks to amend section 8 of the Act which provides for resources for sport and recreation by substituting the word "must" and insert "may" in subsection (1).
- Clause 6 further inserts the new section 3(A) to provide the Minister with the power to publish norms and standards for the building of the new sport facilities.



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CLAUSE 7

- Clause 7 of the Bill seeks to insert a new section 8A in the principal Act so as to provide sufficient and effective empowering provisions for the appointment of sport and recreation facilities' inspectors, the functions and powers of such inspectors, amongst others.



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CLAUSE 8

- Clause 8 of the Bill seeks to amend section 9 which provides for programmes to promote equity in sport and recreation by inserting after subsection (2), the new subsections (3) and (4) of the Act to empower the Minister to make regulations for the vulnerable community to participate in sport and be protected from any sexual abuse and exploitation.



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CLAUSE 9

- Clause 9 of the Bill seeks to amend section 11 of the Act which provides for national colours and incentives for sports achievers and recreation practitioners by inserting a new subsection (1A) to provide for the appointment of the national colours board to ensure for the participation by the public and sport and recreation bodies in the nomination process to be transparent and open.



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CLAUSE 10

- Clause 10 of the Bill seeks to insert new sections 11A, 11B, 11C and 11D. Section 11A provides for the bidding and hosting of international sport and recreation event.
- Section 11B provides for the prohibition to bid and host an international sport and recreation event in the Republic without the written approval of the Minister. Section 11C regulate combat sport and lists all the measures to be complied with.
- Section 11D regulate Fitness Industry and measures to be complied with.



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CLAUSE 11

- Clause 11 of the Bill seeks to amend section 13 of the Act, which provides for dispute resolution by amending subsection (1) and inserting the new section dealing with appointment of the Ministerial Committee of Inquiry to investigate matters that may bring a sport recreational activity or body into disrepute.



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CLAUSE 12

- Clause 12 of the Bill seeks to insert the new sections 13D to 13O after section 13C which deals, amongst others, the establishment, composition appointment of Sport Arbitration, qualifications of members, term of office of the members, appointment of Chairperson and Deputy Chairperson, Sport Arbitration Tribunal proceedings, conflicts and disclosure of interest by members of Sport Tribunal and staff of Sport Tribunal.
- Sections 13O and 13N of the Bill provide for the offences and delegation of powers.



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CLAUSE 13

- Clause 13 of the Bill seeks to amend section 14 of the Act which provides for the making of regulations, by extending the regulations in the Act to provide for the school sport development programme and the fees for a sport or recreation agent.



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CLAUSE 14 & CLAUSE 15

- Clause 14
- Clause 14 of the Bill seeks to amend the Long title of the Act.
- Clause 15
- Clause 14 of the Bill provides for the short title of the Bill.



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