

REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN SPORTS COMMISSION AMENDMENT BILL

*(As amended by the Portfolio Committee on Sport and Recreation (National Assembly))
(The English text is the official text of the Bill)*

(MINISTER OF SPORT AND RECREATION)

[B 2B—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— 5

- (a) by the insertion after the definition of “**Auditor-General**” of the following definition:

“ **‘board of the Commission’** means the persons elected and appointed as members of the Commission in terms of section 4(1)(a) and (b);”;
- (b) by the substitution for the definition of “**Chairperson**” of the following definition: 10

“ **‘Chairperson’** means the person elected as Chairperson of the Commission in terms of section 14(1)(a);”;
- (c) by the deletion of the definition of “**Deputy Chairperson**”;
- (d) by the deletion of the definition of “**Olympic Committee**”; and 15
- (e) by the deletion of the definition of “**SANREC**”.

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

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

“Composition of Commission” 20

- 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; 25

- [(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; and
- (c) the General Assembly.
- (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.]
- (2) [(a) The Chairperson and the Deputy Chairperson must be appointed by the Minister and will serve on a part time basis.
- (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.
- (c)] All [other] members of the Commission will serve on a part-time basis.”.

Substitution of section 5 of Act 109 of 1998

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

“Term of office

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

Substitution of section 7 of Act 109 of 1998

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

“Resignation

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

(2) Acceptance of a resignation or shorter period contemplated in subsection (1) is subject to the approval of the Minister.

Amendment of section 9 of Act 109 of 1998

5. Section 9 of the principal Act is amended—
- (a) by the deletion of subsections (1) and (2); and
- (b) by 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**
- (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

6. Section 10 of the principal Act is amended—
- (a) by the deletion of subsection (1); and
- (b) by the 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, after consultation with an independent tribunal appointed by the Minister, conflicts with the proper performance of the functions of the member.”.

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Amendment of section 13 of Act 109 of 1998

7. Section 13 of the principal Act is amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 “The board of the Commission may, [after] in consultation with the Minister [and the General Assembly]—”; and
- (b) by the 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 such an amount as may be determined by the Minister from time to time in writing; or”.

Amendment of section 14 of Act 109 of 1998

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8. Section 14 of the principal Act is amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) (a) The board of the Commission must from amongst its own number elect a Chairperson for the Commission for a period not exceeding 12 months.
 (b) A person may not be re-elected as Chairperson for more than two consecutive terms without the approval of the Minister.
 (c) In the absence of the Chairperson the board of the Commission may designate a person from amongst its own number to chair a meeting.
 (d) The Chairperson decides where and when the Commission meets.”; and
- (b) by the deletion of subsection (3).

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

9. 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**] board of the Commission and [**after**] in 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

10. 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 board of the Commission, appoint any person as Acting Chief Executive Officer who will [**not**] serve for a period not exceeding [**six**] 12 months.”; and
- (b) deletion of subsection (2).

Substitution of section 20 of Act 109 of 1998

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

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“Employees of Commission

20. (1)(a) The board of the Commission may in consultation with the Minister and the Minister responsible for the Public Service Commission, request officers of the Public Service to be seconded or transferred to **[it] the Commission** in terms of any law regulating such secondment or transfer. 5

(b) Persons in the Public Service seconded to the Commission perform their duties subject to the control and discipline of the Chief Executive Officer.

(2) The Commission may with the approval of the Minister and the Minister of Finance appoint other persons in its service.”. 10

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. 15

(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.**” 20

Amendment of section 22 of Act 109 of 1998

13. Section 22 of the principal Act is amended—

(a) by 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 25

(b) by 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.” 30

Amendment of section 23 of Act 109 of 1998

14. Section 23 of the principal Act is amended—

(a) by 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 35 40

(b) by 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.” 45

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: 50

“(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

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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

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

“Reporting

27. (1) 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. 15

(2) The Commission must furnish the Minister with such information in relation to its activities as the Minister may require.”.

Substitution of word in Act 109 of 1998

18. The principal Act is amended by the substitution for the word “Commission”, 20 wherever it occurs in sections 6(1) and (2), 11(1), 13(2) and (3), 15(1) and (3), 16(1) and (2), 21(1), 29(2), (3) and (4) and 30(h), of the expression “board of the Commission”.

Short title

19. 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 proposes that the Commission consists of—

- (a) six members elected by the General Assembly;
- (b) six members appointed by the Minister; and
- (c) the General Assembly.

The board of the Commission consists of the members contemplated in paragraphs (a) and (b).

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 Commission's 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.

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