

REPUBLIC OF SOUTH AFRICA

**NATIONAL SPORT AND
RECREATION AMENDMENT BILL**

*(As introduced in the National Assembly (proposed section 76 Bill); explanatory summary
of Bill and prior notice of its introduction published in Government Gazette No. xxxxx of xx
xxxxxxxx 2023)*
(The English text is the official text of the Bill)

(MINISTER OF SPORT, ARTS AND CULTURE)

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 National Sport and Recreation Act, 1998, so as to delete, amend and insert certain definitions; to provide for the promotion and development of sport or recreation; to establish the Sport Arbitration Tribunal; to resolve disputes between sport or recreation bodies; to provide for safety measures in relation to the combat sport and fitness industry; to provide for the procedure in bidding for and hosting of international sports and recreation events; to provide for the delegation of powers; to provide for offences and penalties; 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 110 of 1998, as amended by section 1 of Act 18 of 2007

1. Section 1 of the National Sport and Recreation Act, 1998 (hereinafter referred to as “the principal Act”), is hereby amended— 5
- (a) by the insertion before the definition of “General Assembly” of the following definitions:
- “**‘amateur bout’** means a bout organised by an amateur sport organisation usually for recreational or developmental purposes; 10

‘club’ means an organisation or professional body constituted for a particular code of sport affiliated either to a district, local, provincial or national federation; 15

‘Committee’ means the Ministerial Committee of Inquiry appointed in terms of section 13D; 15

‘Department’ means the national Department of Sport, Arts and Culture; 20

‘Director-General’ means the accounting officer responsible for sport, arts and culture; 20

‘fitness centre’ means a recreational and social facility aimed towards exercise, sports and other physical activities that provides access to, or personal training in, fitness activities, which include, but are not limited to— 25

(a) weight and resistance training;

(b) cross training;

(c) yoga;

(d) spin classes;

(e) aerobics; and

(f) boot camp training;”;

- (b) by the insertion after the definition of “National Coaching and Accreditation Institute” of the following definitions:
 - “**‘national colours’** means a national emblem awarded in terms of section 11 to athletes or teams selected by a national federation to represent the Republic in a mega or major international sporting event; 5
 - ‘national colours board’** means the board established by section 11A; 5
 - ‘national emblem’** means the name, title or designation of ‘King Protea’ or the words ‘King Protea’, used as a badge or emblem or part thereof on formal and informal clothing, including, but not limited to, sports clothing and replicas of sports clothing;” 10
- (c) by 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 which is 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]** for that particular code of sport;” 15
- (d) by the insertion after the definition of “prescribe” of the following definitions:
 - “**‘professional bout’** means a bout organised by a national or international federation; 20
 - ‘recreational activity’** means physical activity that contributes to physical fitness, mental wellbeing and social interaction organised as a non-competitive sport or leisure sport;” 20
- (e) by the deletion of the definition of “recreation service”; 25
- (f) by the insertion after the definition of “regulation” of the following definition:
 - “**‘Safety at Sport and Recreational Events Act’** means the Safety at Sport and Recreational Events Act, 2010 (Act No. 2 of 2010);
 - ‘sport and recreation facilities inspector’** means an official appointed by the Minister in terms of section 8A;” 30
- (g) by the deletion of the definition of “Sport and Recreation South Africa”; 30
- (h) by the insertion after the definition of “Sport and Recreation South Africa” of the following definition:
 - “**‘sport or recreation agent’** means a person, including a juristic person, who represents or negotiates the employment and endorsement of a contract for a sport or recreation person or body as contemplated in section 6A;” 35
- (i) by the substitution for the definition of “sport or recreation body” of the following definition:
 - “**‘sport or recreation body’** means any national federation, agency **[or body]**, club, organisation or fitness centre, including a trust, professional league, or registered company of such a national federation, agency, club or body, involved in the administration of sport or recreation at the district, local, provincial or national level;” and 40
- (j) by the insertion after the definition of “this Act” of the following definition:
 - “**‘Tribunal’** means the Sport Arbitration Tribunal established by section 13E.” 45

Amendment of section 2 of Act 110 of 1998, as amended by section 2 of Act 18 of 2007

- 2. Section 2 of the principal Act is hereby amended— 50
 - (a) by the substitution for subsection (2) of the following subsection:
 - “(2) The Sports Confederation may, after consultation with the Minister, from time to time, develop guidelines for the promotion and development of high performance sport.”; 50
 - (b) by the deletion of subsections (5) and (6); and 55
 - (c) by the addition of the following subsections:
 - “(7) The Sports Confederation contemplated in subsection (1) must perform the following functions: 55
 - (a) Coordinate all activities relating to high performance sport in the Republic, including team preparations for major international events as contemplated in subsection (4); 60

- (b) develop and implement guidelines for the promotion and development of high performance sport as contemplated in subsection (2);
 - (c) provide training to sport and recreation leaders as contemplated in section 7(1);
 - (d) develop an incentive policy for high performance sport achievers in consultation with the Minister; 5
 - (e) provide incentives for high performance sport achievers and practitioners;
 - (f) provide support to team South Africa in relation to major international sport and recreational events; 10
 - (g) comply with guidelines or policies to promote equity, representivity and redress in sport as contemplated in section 13A; and
 - (h) monitor and submit recommendations for the bidding and hosting of events in relation to an application to host international events to the Minister as prescribed. 15
- (8) If the Sports Confederation fails to comply with the provisions of subsection (7), the Minister may, by written compliance notice to the Sports Confederation, insist on compliance within 30 days from the date of that notice.
- (9) If the Sports Confederation fails to comply with the compliance notice contemplated in subsection (8), the Minister may— 20
- (a) intervene in terms of section 13(5); and
 - (b) review the recognition of the Sports Confederation by— 25
 - (i) suspending its recognition wholly or partially; or
 - (ii) withdrawing its funding.
- (10) Before issuing a compliance notice in terms of subsection (8), the Minister must—
- (a) notify the Sports Confederation of his or her intention to issue such compliance notice; and
 - (b) give the Sports Confederation a reasonable opportunity to respond to the compliance notice in writing.”. 30

Amendment of section 4 of Act 110 of 1998, as amended by section 5 of Act 18 of 2007

3. Section 4 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 35
 - “(1) The Minister may, after consultation with the Sports Confederation or after consideration of the proposals made by the Sports Confederation and national federation in so far as **[high performance]** sport is concerned, from time to time, determine the general policy to be pursued with regard to sport **[and recreation]**.”; and 40
 - (b) by the substitution in subsection (2) for paragraph (f) of the following paragraph:
 - “(f) investing in the preparation of sport participants who are **[elected]** selected to represent the Republic in major competitions;”. 45

Amendment of section 6 of Act 110 of 1998, as amended by section 7 of Act 18 of 2007

4. Section 6 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
 - “**[National federations] Sport or recreation bodies**”;
 - (b) by the substitution for subsections (1) and (2) of the following subsections, 50 respectively:
 - “(1) **[National federations] Sport or recreation bodies** must assume full responsibility for the safety **[issues]** and security of their members, participants, children, spectators who attend sport or recreation events and the physical facilities where such events take place, within their sport and recreation disciplines. 55
 - (2) **[National federations] Sport or recreation bodies** must actively participate in and support programmes and services of **[Sport and Recreation South Africa]** the department and the Sports Confederation,

- in so far as the development and promotion of sport **[high performance sport is]** are concerned.”;
- (c) by the insertion after subsection (2) of the following subsections:
- “(2A) A national federation must have affiliate members from no less than five provinces in the Republic. 5

(2B) A national federation must be recognised by the department.

(2C) National federations must fulfil the obligations imposed on them by the relevant international controlling body for their respective codes of sport.

(2D) A national federation must— 10

(a) develop its sports activity at club level in accordance with—

(i) the service level agreement entered into by the parties; and

(ii) the development programmes determined in terms of this section;

(b) comply with guidelines issued by the Minister in terms of section 13A; 15

(c) submit a report on the progress on the development of its sports activity, as contemplated in paragraph (a), to the department and Parliament on an annual basis;

(d) abide by the principles of good governance and ethical practices; 20

(e) comply with the procedures and protocol for the bidding on and hosting of international sport events; and

(f) comply with and support the following key government priorities as communicated by department:

(i) Combating HIV and AIDS; 25

(ii) anti-xenophobia;

(iii) anti-crime;

(iv) promotion of nation building and social cohesion;

(v) promotion of national symbols and heritage;

(vi) disaster management and environmental protection; 30

(vii) educational promotion on issues of sports; and

(viii) health related messages.

(2E) Subject to subsection (2G), if a national federation fails to comply with the provisions of this section, the Minister may, in writing, suspend its funding and recognition, either fully or partially in terms of section 10(3). 35

(2F) The Minister must publish his or her decision as contemplated in subsection (2E) in the *Gazette*.

(2G) Before suspending the funding and recognition under subsection (2E), the Minister must, by notice in writing— 40

(a) inform the relevant parties of their failure to comply with the provisions of this section and of his or her intention to suspend funding or recognition under subsection (2E); and

(b) give the parties a reasonable opportunity to respond to the notice.”; 45

(d) by the substitution in subsection (3) for the phrase preceding paragraph (a) of the following phrase: 45

“**[National federations]** Sport or recreation bodies must—”;

(e) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) before recruiting a foreign sport person to participate in profes- 50
sional sport in the Republic[,]—

(i) satisfy themselves that there are no other persons in the Republic suitable to participate in such a sport; and

(ii) conduct vetting and criminal record verification in the foreign person’s country of origin and in any other country 55
that the sport or recreation body concerned considers necessary.”;

(f) by the deletion in subsection (3) of the word “and” at the end of paragraph (c);

(g) by the deletion in subsection (3) of the full stop at the end of paragraph (d);

(h) by the insertion in subsection (3) of the expression “; and” at the end of paragraph (d); 60

- (i) by the addition in subsection (3) of the following paragraph:
“(e) ensure that the recruited foreign sport person has represented or coached his or her country in the manner as prescribed by the Minister.”; and
- (j) by the insertion after subsection (3) of the following subsections: 5
“(3A) The Minister must, after consultation with the Minister of Home Affairs, publish the procedure and compliance requirements for the recruitment of a foreign sports person in the *Gazette*.
(3B) No foreign person may participate in sport in the Republic, without complying with the procedures as contemplated in subsection (3A). 10
(3C) Any person who assists or allows a foreign sports person to participate in sport in the Republic without fully complying with the provisions of this section, is guilty of an offence and is liable to a fine or imprisonment for a period not exceeding three years, or to both a fine and such imprisonment.”. 15

Insertion of sections 6A and 6B in Act 110 of 1998

5. The following sections are hereby inserted in the principal Act after section 6:

“Sport or recreation agents

- 6A. (1) A sport or recreation body must, in terms of its constitution— 20
 - (a) recognise sport or recreation agents in their own sporting discipline;
 - (b) register all sport or recreation agents; and
 - (c) issue operational licenses to all sport or recreation agents.
- (2) A sport or recreation body must submit the names and details of the registered sport or recreation agents to the department annually. 25

Recognition of sport or recreation body

- 6B. (1) A sport or recreation body may apply in the prescribed manner for recognition as the only sport or recreation body for a particular sport code or recreation activity.
- (2) The Director-General must issue a certificate recognising a sport or recreation body as the only sport or recreation body for a particular sport code or recreational activity— 30
 - (a) on the written recommendation of an advisory committee appointed in the prescribed manner and consisting of such members as may be prescribed; and 35
 - (b) subject to the sport or recreation body—
 - (i) being in compliance with the requirements of this Act; and
 - (ii) meeting the criteria prescribed by the Minister in terms of subsection (3).
- (3) The Minister must prescribe the criteria for the recognition of sport or recreation bodies as the only sport or recreation body for a particular sport code or recreational activity. 40
- (4) The criteria contemplated in subsection (3) may differ for different sport bodies and recreation bodies.
- (5) The Director-General may, upon receipt of a written application by a sport body, exclude in the prescribed manner and by notice in the *Gazette*, that sport body from complying with the criteria contemplated in subsection (3). 45
- (6) The regulations prescribed by the Minister in terms of subsection (3) may provide for the withdrawal by the Director-General of an exclusion granted in terms of subsection (5) on reasonable grounds. 50
- (7) The Director-General must publish a list of recognised sport or recreation bodies in the *Gazette*.”.

Amendment of section 7 of Act 110 of 1998, as amended by section 8 of Act 18 of 2007

6. Section 7 of the principal Act is hereby amended by the substitution in subsection (2) for the phrase preceding paragraph (a) of the following phrase:

“(2) [Sport and Recreation South Africa] The department may, in order to address the education and training needs in sport and recreation:”.

Substitution of section 8 of Act 110 of 1998, as amended by section 9 of Act 18 of 2007

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

“[Resources for sport and recreation] Sport or recreation facilities 10

8. (1) [Sport and Recreation South Africa must] The department must, in accordance with its funding policy and section 10, provide physical facilities for sport and recreation locally, provincially or nationally, as prescribed, [depending on] subject to the availability of funds.

(2) The beneficiary [of the provision] of such facilities must ensure the maintenance of [every] each facility [erected] provided, by way of— 15

- (a) a maintenance agreement; [and]
- (b) the establishment of management structures to [run] operate such facilities [in commercially viable ways] efficiently and effectively; 20
- and

(c) ensuring that sport or recreational activities take precedence over any other activities as far as the use of such sport or recreational facilities concerned.

(3) [Sport and Recreation South Africa] The department must, when planning such facilities, ensure that special consideration is given to the accessibility of such facilities to sports people and spectators with disabilities. 25

(4) New sport or recreation facilities must comply with—

- (a) the provisions of section 9(1) and (2) of the Safety at Sport and Recreational Events Act; 30
- (b) municipal infrastructure;
- (c) sport and recreation norms and standards; and
- (d) the framework for infrastructure delivery and procurement management.

(5) Existing sport or recreation facilities must comply with the provisions of sections 7 and 8 of the Safety at Sport and Recreational Events Act. 35

(6) The facility manager must place a capacity notice at the entrance and exit of a sport or recreation facility.

(7) The department must—

- (a) oversee the efficient and effective governance of any newly established sport or recreation facility that has been allocated to a municipality; and 40
- (b) inspect sport or recreation facilities, including new facilities, for compliance with the provisions of subsection (4).”.

Insertion of section 8A in Act 110 of 1998 45

8. The following section is hereby inserted in the principal Act after section 8:

“Appointment and functions of sport and recreation facilities inspectors

8A. (1) The Minister may appoint any official within the department as a sport and recreation facilities inspector. 50

(2) Any person appointed in terms of subsection (1) must perform his or her functions as sport and recreation facilities inspector subject to the direction and control of the Minister.

- (3) The Minister must provide each sport and recreational facilities inspector with a signed certificate in the prescribed form, stating—
- (a) that the person is appointed as a sport and recreation facilities inspector; and
 - (b) the functions of the sport and recreation facilities inspector as contemplated in subsection (4).
- (4) Subject to subsection (5), a sport and recreation facilities inspector may—
- (a) enter and inspect any sport or recreation facility during business hours;
 - (b) question any person at a sport and recreation facility who the inspector believes to have information relevant to the inspection;
 - (c) require the person in charge of a sport or recreation facility to produce any document or records for purposes of inspection;
 - (d) take samples of any substance or photographs relevant to the inspection; and
 - (e) issue a compliance notice to the owner of a sport or recreational facility, which must contain the information set out in subsection (6), requiring such owner to comply with that compliance notice.
- (5) Any function performed by a sport and recreation facilities inspector as contemplated in subsection (4) must be conducted in a manner with strict regard being given to decency and good order, including—
- (a) the right of a person to dignity;
 - (b) the right of a person to freedom and security; and
 - (c) the right of a person to privacy.
- (6) A compliance notice referred to in subsection (4)(e) must set out—
- (a) the details of the conduct constituting non-compliance;
 - (b) any steps that the person must take and the period within which those steps must be taken;
 - (c) anything which the person may not do, and the period during which the person may not do it; and
 - (d) the procedure to be followed in lodging an objection to the compliance notice with the Minister.”.

Amendment of section 9 of Act 110 of 1998, as amended by section 10 of Act 18 of 2007

9. Section 9 of the principal Act is hereby amended by the addition of the following subsections:

- “(3) The Minister may, by notice in the *Gazette*, make regulations for vulnerable communities to participate in sport and to be protected from any sexual abuse and exploitation.
- (4) For the purpose of subsection (3), “vulnerable communities” means children under the age of 18 years, women and people living with disabilities.”.

Amendment of section 10 of Act 110 of 1998, as amended by section 11 of Act 18 of 2007

10. Section 10 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the phrase preceding paragraph (a) of the following phrase:

“[**Sport and Recreation South Africa**] The department must, in accordance with its funding policy—”;
- (b) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) [**Sport and Recreation South Africa**] The department must, in allocating funds to the national federations, determine the proportion of funding that must be used towards development.”;
- (c) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) National federations must annually indicate to [**Sport and Recreation South Africa**] the department, in writing, the names of the specific clubs under their respective control and the proportion of funding that these clubs have received during the specific year for development purposes from funding provided to these clubs by—”;

- (d) by the substitution in subsection (2)(b) for subparagraph (i) of the following subparagraph:
 - “(i) the national federations out of the funds received from [Sport and Recreation South Africa] the department;”;
- (e) by the substitution in subsection (3) for paragraph (a) of the following paragraph: 5
 - “(a) No funding will be provided and no recognition as prescribed will be given by [Sport and Recreation South Africa] the department to national federations where—”; and
- (f) by the substitution in subsection (3) for paragraph (b) of the following paragraph: 10
 - “(b) Where [Sport and Recreation South Africa] the department has decided not to provide funding or give recognition to the national federations as contemplated in paragraph (a), the Minister may publish such decision in the *Gazette*.”. 15

Amendment of section 11 of Act 110 of 1998, as amended by section 12 of Act 18 of 2007

11. Section 11 of the principal Act is hereby amended by the deletion of subsection (3).

Insertion of sections 11A, 11B, 11C, 11D, 11E, 11F, 11G, 11H, 11I and 11J in Act 110 of 1998 20

12. The following sections are hereby inserted in the principal Act after section 11:

“National colours board

- 11A. (1) The national colours board is hereby established.
- (2) The Minister must appoint the members of the national colours board, in consultation with the Sports Confederation, in the prescribed manner, ensuring— 25
 - (a) participation by the public and sport bodies in the nomination process;
 - (b) transparency and openness; and
 - (c) that a shortlist of candidates for appointment and every appointment of a member are published in the *Gazette*. 30
- (3) the national colours board shall consist of—
 - (a) a chairperson appointed by the Sports Confederation after consultation with the national colours board;
 - (b) no fewer than four, but not more than seven members, which shall include non-elected members appointed by the Sports Confederation; and 35
 - (c) the secretary, who shall be the Chief Executive Officer of the Sports Confederation, or his or her nominee, who shall serve on the national colours board by virtue of his or her office. 40
- (4) A member of the national colours board, excluding the secretary, shall hold office for a period not exceeding three years, but shall be eligible for re-appointment for an additional term not exceeding three years.
- (5) The chairperson and members of the national colours board shall be persons who have achieved distinction in sport or who have special knowledge or experience in relation to the national colours board’s functions. 45
- (6) The chairperson or, in his or her absence, a member of the national colours board elected by the members present, shall preside at any meeting of the national colours board. 50

Meetings of national colours board

- 11B. (1) The meetings of the national colours board shall be held at such times and places as the national colours board may determine.

- (2) The chairperson may at any time call a special meeting of the national colours board, which shall be held at such time and place as he or she may direct.
- (3) The quorum for a meeting of the national colours board shall be 50% plus one of its members present.
- (4) A decision of the national colours board shall be taken by resolution of the majority of the members present at any meeting of the national colours board and, in the event of an equality of votes in respect of any matter, the chairperson or the person presiding at the meeting in question, shall have a casting vote in addition to his or her deliberative vote as a member of the national colours board.
- (5) The decision made in terms of subsection (4) shall be binding on all members.

Delegation of functions and powers

- 11C.** (1) The national colours board may—
- (a) delegate, in writing, to the chairperson, secretary or other employees or members of the national colours board any power conferred upon the national colours board, on such conditions as the national colours board may determine; and
- (b) authorise the chairperson, secretary or any other member or employee of the Sports Confederation to perform any duty assigned to the national colours board by or under this Act
- (2) The secretary of the national colours board may—
- (a) delegate to an employee of the Sports Confederation any power conferred upon the secretary by or under this Act; and
- (b) authorise that employee to perform any duty assigned to the secretary by or under this Act.
- (3) Any delegation under subsection (1)(a) or (2)(a) does not prohibit the exercise of the power in question by the national colours board or the secretary, as the case may be.

Ownership of intellectual property in national colours in sport

- 11D.** (1) The ownership and intellectual property rights in all national colours and national emblems in sport shall vest in the Sports Confederation.
- (2) (a) The Sports Confederation shall make national colours available for use in the public interest.
- (b) The use in the public interest, referred to in paragraph (a), is subject to such conditions and the payment of such fees or royalties as the national colours board may determine, in writing, and is further subject to such arrangements as may be agreed upon, in writing, between the Sports Confederation and the national federations for the payment of such fees and royalties.

Bidding on and hosting of international sport and recreational event

- 11E.** (1) The Minister must approve all applications for the bidding on and hosting of major international sport and recreation events in accordance with the applicable regulations.
- (2) The relevant sport or recreation body must apply, in writing, in the prescribed manner, to the Minister to host a prescribed international event.

Prohibition on hosting of international sport or recreation event

- 11F.** No person may bid on or host an international sport or recreation event in the Republic without—
- (a) submission of a written application to the Sports Confederation;
- (b) written approval by the relevant municipality or metro; and
- (c) approval, in writing, by the Minister.

Combat sport

11G. A combat sport body recognised as a sport or recreation body in terms of section 6B must—

- (a) establish a code of conduct for participants in the events;
- (b) issue permits for the holding of events;
- (c) issue licenses for persons who participate in events;
- (d) ensure that all participants, including officials and promoters, are registered prior to the hosting of the event; and
- (e) ensure that safety and security measures are complied with in terms of the Safety at Sport and Recreational Events Act.

Application for combat sport event permit

11H. (1) An application for a combat sport event permit must be submitted to a combat sport body on the prescribed form within the time prescribed by its constitution.

(2) An application for a combat sport event permit contemplated in subsection (1) must contain the following information:

- (a) The names and surnames of the participants;
- (b) contact details of the participants;
- (c) physical address of the participants;
- (d) the weigh-in details of the participants;
- (e) the details of the medical officers;
- (f) the details of the officials and promoters;
- (g) the event’s venue and its capacity;
- (h) the expected number of people attending; and
- (i) the safety and security plan in terms of the Safety at Sport and Recreational Events Act.

(3) A combat sport body may require an applicant to submit with the application the result of a criminal record check, dated not more than three months before the date of the application.

(4) Subject to subsections (5) and (6), the holder of a combat sport event permit must pay a fee to the combat sport body, which fee amount is determined by multiplying the amount of the gross gate receipts for the event, by the percentage prescribed by its constitution.

(5) The percentage referred to in subsection (4) must not exceed 5%.

(6) The fee referred to in subsection (4) must be paid to the combat sport body within 14 days after the date of the event.

(7) For the purpose of subsection (4), “gross gate receipts” means the revenue derived from the admissions to an event in a combat sport, and revenue derived from the sale of broadcast rights for the event, after the deduction of taxes.

(8) The combat sport body may require the holder of a combat sport event permit to provide it with additional medical information, including the results of medical tests, for a person who intends to participate in an event as contestant.

(9) A combat sport body may refuse to issue a combat sport event permit if—

- (a) the application does not comply with all the prescribed terms and conditions;
- (b) the applicant is acting dishonestly when applying for a combat sport event permit;
- (c) the applicant failed to provide the information referred to in subsection (2), (3) or (8);
- (d) it is in the public interest; or
- (e) the applicant has an irreconcilable criminal record.

(10) A combat sport body may not refuse to issue a combat sport event permit in terms of subsection (9)(a), unless it has issued a notice to the applicant, in writing—

- (a) indicating its intention to refuse the application and the reason for the refusal;
- (b) specifying a period within which the applicant may make representations, in writing, or comply with all the terms and conditions; and

- (c) indicating that if the applicant fails to submit representations or comply with the terms and conditions within the period specified in paragraph (b), the application shall be refused.

Application for combat license

- 11I.** (1) Subject to subsection (4), a combat sport body may issue the following licenses: 5
- (a) A promoter’s license;
 - (b) a contestant’s license;
 - (c) a corner-person’s license;
 - (d) a judge’s license; 10
 - (e) a referee’s license;
 - (f) a room-supervisor’s license; and
 - (g) a timekeeper’s license.
- (2) A contestant’s license authorises the holder to participate in professional bouts or amateur bouts. 15
- (3) No person may participate in any of the following activities, unless the person holds the relevant license as listed in subsection (1):
- (a) Acting as a promoter for an event in a combat sport;
 - (b) participating as a contestant in an event in a combat sport; or
 - (c) acting at an event in a combat sport as— 20
 - (i) a corner-person;
 - (ii) a judge;
 - (iii) a referee;
 - (iv) a room supervisor; or
 - (v) a timekeeper. 25
- (4) An application for a license contemplated in subsection (1) must be submitted in the prescribed manner to the combat sport body.
- (5) The combat sport body may, when issuing a license, or by written notice at any time, impose on the licensee any terms and conditions that the body considers appropriate, and may restrict the license to— 30
- (a) a particular combat sport;
 - (b) a particular skill level within a combat sport;
 - (c) events in which one or more professional bouts take place; or
 - (d) events in which one or more amateur bouts take place.
- (6) A person must have attained the age of 18 years to be eligible to hold a contestant’s license referred to in subsection (1)(b). 35
- (7) Despite subsection (6), if the combat sport body is of the opinion that a person has the skills and experience necessary to participate as a contestant in professional bouts in a combat sport, based on his or her record as a contestant in amateur bouts in a combat sport, the body may issue a license to a person who has not yet attained the age of 18 years. 40

Fitness centres and gyms

- 11J.** (1) A controlling body of fitness centres and gyms, which is recognised as a sport or recreation body in terms of section 6B, must oversee fitness centres and gyms, and ensure a safe environment for them in accordance with the norms and standards established by the Minister from time to time. 45
- (2) A controlling body of fitness centres and gyms must perform the following functions:
- (a) Manage the registration of fitness centres, gyms and fitness professionals; 50
 - (b) ensure that fitness centres and gyms comply with all the prescribed health and safety measures;
 - (c) inspect fitness centres and gyms in compliance with building regulations; 55
 - (d) issue sanctions against non-compliant fitness centres and gyms; and
 - (e) provide dispute resolution mechanisms.

- (3) A controlling body of fitness centres and gyms must award licenses to fitness professionals and accredited fitness centres and gyms in accordance with the prescribed procedures.
- (4) A controlling body of fitness centres and gyms may—
 - (a) on an annual basis determine the subscription fee payable by fitness centres, gyms and fitness professionals in accordance with an appropriate grading system; and
 - (b) issue grading certificates in accordance with the size and capacity of a fitness centre or gym.
- (5) A controlling body of fitness centres and gyms must ensure that all health and safety measures are in place at a fitness centre or gym before issuing a grading certificate.”.

Amendment of section 13 of Act 110 of 1998, as amended by section 13 of Act 18 of 2007

- 13.** Section 13 of the principal Act is hereby amended—
- (a) by the substitution in subsection (4) for the phrase preceding paragraph (a) of the following phrase:

“The **[Sports Confederation]** Minister, after consultation with the Sports Confederation, may, at any time, **[of its]** on his or her own accord, cause an investigation to be undertaken to ascertain the truth within a sport or recreation body, where allegations of—”; and
 - (b) by the substitution in subsection (4) for the phrase that follows after paragraph (c) of the following phrase:

“have been made, and **[may ask the Minister to approach the President of the Republic to appoint a commission of inquiry referred to in section 84(2) of the Constitution]** may appoint a Ministerial Committee of Inquiry in terms of section 13D.”.

Insertion of sections 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K, 13L, 13M, 13N, 13O and 13P in Act 110 of 1998

- 14.** The following sections are hereby inserted in the principal Act after section 13C:
- “Ministerial Committee of Inquiry**

- 13D.** (1) (a) The Minister may from time to time as the need arises, and if he or she considers it necessary, on such terms and conditions as he or she may prescribe, appoint a Ministerial Committee of Inquiry to investigate any matter contemplated in section 13(4)(a), (b) or (c) or section 13(5)(a)(ii) in relation to a directive or any matter that may bring a sport or recreational activity or body into disrepute.
- (b) The Ministerial Committee of Inquiry appointed in terms of paragraph (a) must comprise—
- (i) a retired judge, to serve as a chairperson; and
 - (ii) not less than two, and not more than five members recommended to the Minister by the National Confederation.
- (c) The chairperson of the Ministerial Committee of Inquiry must be a retired judge and be assisted by two persons appointed by the retired judge, in consultation with the Minister.
- (d) The Minister must, in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), Treasury regulations and practice notices, determine the terms of office, remuneration, allowances and other benefits of the members of the Ministerial Committee of Inquiry.
- (2) (a) The Ministerial Committee of Inquiry appointed by the Minister in terms of subsection (1) must investigate, make findings and recommendations and must report its findings and recommendations in writing, to the Minister.
- (b) The report to the Minister, as contemplated in paragraph (a), may include information relating to—

- (i) compliance with all relevant safety and security measures in place for a sport or recreational event in terms of the Safety at Sport and Recreational Events Act;
 - (ii) any failure to comply with the provisions of section 13A of this Act and the Transformation Charter as endorsed and approved by the Minister; and
 - (iii) any failure by a sport or recreation body to comply with the principles of good governance.
- (3) At any time during an investigation being conducted in terms of subsection (1), the Committee may summon, by notice in writing, any person who is believed to be able to furnish any information on the subject of the investigation, or to have possession or control of any book, document or other object that has a bearing on that subject—
- (a) to appear before the Committee to be questioned at a time and place specified in the notice; or
 - (b) to deliver or produce to the Committee any book, document or other object referred to in this subsection at a time and place specified in the notice.
- (4) A notice contemplated in subsection (3)—
- (a) must be signed by the chairperson, or by a member of the Committee designated by the chairperson; and
 - (b) may be served in the same manner as a subpoena in a criminal case issued by the magistrate’s court.
- (5) The chairperson may require a witness, before giving evidence, to take an oath or to make an affirmation which oath or affirmation must be administered by the chairperson or such member of the Committee as the chairperson may designate.
- (6) Any person who has been summoned to appear before the Committee as a witness or who has given evidence before the Committee is entitled to the same witness fees from public funds in the same manner as witnesses in criminal proceedings.
- (7) Any person who—
- (a) willfully interrupts the proceedings of the Committee; or
 - (b) willfully hinders or obstructs the Committee in the performance of its functions,
- is guilty of an offence and may be liable to a fine or imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

Establishment, composition and appointment of Sport Arbitration Tribunal

- 13E.** (1) There is hereby established an independent Tribunal known as the Sport Arbitration Tribunal.
- (2) The Tribunal may hear disputes in the first instance and decide upon decisions made in terms of section 13(3).
- (3) Despite anything to the contrary contained in this Act regarding any dispute procedure, the Minister may participate as a party in any proceedings before the Tribunal, in the prescribed manner.
- (4) The Tribunal consists of at least five members appointed by the Minister.
- (5) The members of the Tribunal must be appointed in a manner ensuring—
- (a) participation by the public in the nomination process; and
 - (b) transparency and openness.
- (6) A shortlist of candidates for appointment must be published in the *Gazette*.
- (7) The appointment of members of the Tribunal must be published in the *Gazette*.
- (8) At least one member of the Tribunal must be a retired judge or a senior advocate with relevant experience in sport matters.

- (9) The members of the Tribunal, when viewed collectively, must comprise sufficient suitably qualified persons who—
- (a) possess special knowledge and expertise relating to sport and legal matters; and

(b) are committed to fairness, openness and accountability on the part of those holding public office.
-

Functions of Tribunal

- 13F. The Tribunal may—
- (a) adjudicate any conduct prohibited in terms of this Act, to determine whether prohibited conduct has occurred and, if so, grant any remedy provided for in this Act;

(b) adjudicate any other matter that may, in terms of this Act, be considered by the Tribunal, and make any order provided for in this Act;

(c) hear appeals from, or review any decision of, a sport or recreation body or Sports Confederation that may, in terms of this Act, be referred to it; and

(d) make any ruling or order necessary or incidental to the performance of its functions in terms of this Act.
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Qualifications of members of Tribunal

- 13G. (1) The chairperson and members of the Tribunal, when viewed collectively, must—
- (a) represent a broad cross-section of the population of the Republic; and

(b) comprise sufficient suitably qualified persons with legal training and experience to satisfy the requirements of section 13E(9).
- (2) Each member of the Tribunal must—
- (a) be a citizen of South Africa, who is ordinarily resident in South Africa;

(b) have suitable qualifications and experience in economics, law, commerce, industry or public affairs; and

(c) be committed to the promotion and development of sport and recreation in the Republic as contemplated in section 2.
- (3) A person may not be a member of the Tribunal if that person—
- (a) is an unrehabilitated insolvent;

(b) is subject to an order of a competent court holding that person to be mentally unfit or disordered; or

(c) has been convicted of an offence committed after the Constitution of the Republic of South Africa, 1996, took effect, and was sentenced to imprisonment without the option of a fine.
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Term of office of members of Tribunal

- 13H. (1) Subject to subsection (2), the chairperson and each other member of the Tribunal serves for a term of five years.
- (2) The Minister may re-appoint a member of the Tribunal at the expiry of that member's term of office, but no member may serve for more than two consecutive terms.
- (3) The chairperson, on giving one month's written notice addressed to the Minister, may—
- (a) resign from the Tribunal; or

(b) resign as the chairperson, but remain as a member of the Tribunal.
- (4) A member of the Tribunal, other than the chairperson, may resign by giving at least one month's written notice to the Minister.
- (5) The Minister, on the recommendation of the Tribunal—
- (a) must remove the chairperson or any other member of the Tribunal from office if that person becomes subject to any of the disqualifications referred to in section 13G; and
-

- (b) other than as provided in paragraph (a), may remove the chairperson or a member from office only for—
 - (i) serious misconduct;
 - (ii) permanent incapacity; or
 - (iii) engaging in any activity that may undermine the integrity of the Tribunal.

Chairperson and deputy chairperson of Tribunal

- 13I.** (1) The Minister must designate the member of the Tribunal referred to section 13E(8) as the chairperson of the Tribunal and another member as the deputy chairperson.
- (2) The deputy chairperson performs the functions of the chairperson whenever—
- (a) the office of chairperson is vacant; or
 - (b) the chairperson is for any other reason temporarily unable to perform the functions of chairperson.

Tribunal proceedings

- 13J.** (1) The chairperson is responsible for managing the caseload of the Tribunal and must assign each matter referred to the Tribunal to a panel composed of any three members of the Tribunal.
- (2) When assigning a matter in terms of subsection (1), the chairperson must—
- (a) ensure that at least one member of the panel is a person who has legal training and experience; and
 - (b) designate a member of the panel to preside over the panel’s proceedings.
- (3) If a member of the panel is unable to complete the proceedings in a matter assigned to that panel because of withdrawal from a hearing in terms of section 13K(2)(b), resignation, illness or death, the chairperson must—
- (a) direct that the hearing of that matter proceeds before any remaining members of the panel, subject to the requirements of subsection (2)(a); or
 - (b) terminate the proceedings before that panel, constitute another panel, which may include any member of the original panel, and direct that panel to conduct a new hearing.
- (4) The decision of a panel on a matter referred to it must be in writing and must include reasons for that decision.
- (5) If the Tribunal decides to extend or reduce a prescribed period in terms of this Act, the chairperson of the Tribunal or another member of the Tribunal assigned by the chairperson, sitting alone, may make an order—
- (a) extending or reducing that period; or
 - (b) condoning late performance of an act that is subject to that period.
- (6) A decision of the chairperson or other person contemplated in subsection (5), or of a majority of the members of a panel in any other matter, is the decision of the Tribunal.

Conflicts and disclosure of interests by members of Tribunal

- 13K.** (1) A member of the Tribunal may not represent any person before a panel of the Tribunal.
- (2) If, during a hearing, it appears to a member of the Tribunal that a matter concerns a financial or other interest of that member, that member must—
- (a) immediately and fully disclose the fact and nature of that interest to the chairperson and to the presiding member at that hearing; and
 - (b) withdraw from any further involvement in that hearing.

Acting by member of Tribunal after expiry of term of office

13L. If, on the expiry of the term of office of a member of the Tribunal, that member is still considering a matter before the Tribunal, that member may continue to act as a member in respect of that matter only.

Remuneration and benefits of members of Tribunal 5

13M. (1) The Minister must determine the remuneration, allowances and other benefits of the chairperson, deputy chairperson and other members of the Tribunal.

(2) The Minister may not during the term of office of a member of the Tribunal, reduce the member’s salary, allowances or benefits. 10

(3) The Minister may determine any other conditions of appointment not provided for in this section.

Appeals

13N. (1) Any person, who is not satisfied with the decision of a sport or recreational body or the Sports Confederation, may appeal against such decision to the Tribunal. 15

(2) The appellant must, within 90 days from the date on which it is notified, in writing, of the decision against which it wishes to appeal, submit to the Tribunal a written notification of appeal on which the grounds for appeal are stipulated. 20

(3) The Tribunal must, within 30 days from receipt of the appeal, communicate receipt of the appeal to the appellant.

(4) The Minister must, within 90 days from receipt of the appeal, notify the appellant of the outcome of the Tribunal.

Offences and penalties 25

13O. (1) Any person who—

(a) contravenes or fails to comply with section 6(3)(a)(i) or (ii) and (e); or (b) contravenes or fails to comply with section 11F or 11I(3), is guilty of an offence.

(2) A person who— 30

(a) manipulates the outcome of a sport or recreational match event; (b) accepts, agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person;

(c) gives, agrees or offers to give any person any gratification, whether for the benefit of another person in return for— 35

(i) engaging in any act which constitutes a threat to undermine the integrity of any sporting event, including in any way, influencing the run of play or outcome of sporting event; or

(ii) not reporting the act contemplated in this section to the authority or to any other person holding a senior position in the sport or recreation body or to the Minister or delegated person or at his or her nearest police station; or 40

(d) gives effect to any scheme which constitutes a threat to or undermine the integrity of any sporting event, including, in any way, influencing the run of play or outcome of a sporting event, is guilty of an offence. 45

(3) A person convicted of an offence in terms of subsection (1) or (2), is liable to a fine or imprisonment for a period not exceeding one year, or to both a fine and such imprisonment. 50

Delegation of powers

13P. (1) The Minister may delegate any power conferred, or assign any duty imposed, by this Act, excluding the power to make regulations, to any

official or employee of department holding the rank of at least a deputy Director-General.

(2) Any delegation or assignment contemplated in subsection (1)—

(a) is subject to such conditions as the Minister may determine;

(b) must be in writing; and

(c) does not divest the Minister of the power so delegated.

(3) The Minister may at any time withdraw a delegation or assignment in writing.

(4) The Director-General may, subject to the conditions that he or she may consider necessary, delegate any power conferred on him or her by this Act, to any officer or employee of the department, but the delegation does not divest the Director-General of the power delegated.”.

Amendment of section 14 of Act 110 of 1998, as amended by section 15 of Act 18 of 2007

15. Section 14 of the principal Act is hereby amended—

(a) by the substitution for the phrase preceding paragraph (a) of the following phrase:

“The Minister may [, **after consultation with the Sports Confederation in so far as high performance sport is concerned,**] make regulations—”;

(b) by the substitution for paragraph (jC) of the following paragraph:

“(jC) as to the procedure for the hosting of and bidding for major international sports events;”;

(c) by the deletion of the word “and” at the end of paragraph (jI) and the insertion after that paragraph of the following paragraphs:

“(jJ) as to the school sport development programme;
(jK) as to the fees for a sport or recreation agent;
(jL) as to the training of sport coaches; and”.

Amendment of arrangement of sections in Act 110 of 1998

16. The arrangement of sections after the long title of the principal Act is hereby amended—

(a) by the insertion after “6. National federations” of the following:

“6A. Sport or recreation agents
6B. Recognition of sport or recreation body”;

(b) by the substitution for “8. Resources for sport and recreation” of the following:

“8. Sport or recreation facilities”;

(c) by the insertion after “8. Resources for sport and recreation” of the following:

“8A. Appointment and functions of sport and recreation facilities inspectors”;

(d) by the insertion after “11. National colours and incentives for sports achievers and recreation practitioners” of the following:

“11A. National colours board
11B. Meetings of national colours board
11C. Delegation of functions and powers
11D. Ownership of intellectual property in national colours in sport
11E. Bidding on and hosting of international sport and recreational event
11F. Prohibition on hosting of international sport or recreation event
11G. Combat sport
11H. Application for combat sport event permit
11I. Application for combat license
11J. Fitness centres and gyms”;

(e) by the insertion after “13C. Reporting by sport or recreation bodies” of the following:

“13D. Ministerial Committee of Inquiry
13E. Establishment, composition and appointment of Sport Arbitration Tribunal
13F. Functions of Tribunal

13G. Qualifications of members of Tribunal	
13H. Term of office of members of Tribunal	
13I. Chairperson and deputy chairperson of Tribunal	
13J. Tribunal proceedings	
13K. Conflicts and disclosure of interests by members of Tribunal	5
13L. Acting by member of Tribunal after expiry of term of office	
13M. Remuneration and benefits of members of Tribunal	
13N. Appeals	
13O. Offences and penalties	
13P. <u>Delegation of powers</u> ”.	10

Amendment of long title of Act 110 of 1998, as amended by Act 18 of 2007

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

“To provide for the promotion and development of sport and recreation and the co-ordination of the relationships between Sport and Recreation South Africa and the Sports Confederation, national federations and other agencies; to provide for sport or recreation agents, registered agents, and the recognition of a sport or recreation body; to provide for measures aimed at correcting imbalances in sport and recreation; to provide for dispute resolution mechanisms in sport and recreation; to provide for the appointment and functions of sport and recreation facilities inspectors; to provide for the procedure in bidding for, and hosting of, international sports and recreation events; to provide for and regulate combat sport and the fitness industry; to provide for the appointment of a Ministerial Committee of Inquiry; to provide for the establishment, appointment and functions of the Sport Arbitration Tribunal; to provide for offences and penalties; to provide for the delegation of powers; and to provide for matters connected therewith.”.

Short title and commencement

18. This Act is called the National Sport and Recreation Amendment Act, 2024, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL SPORT AND RECREATION AMENDMENT BILL, 2024

1. BACKGROUND

- 1.1 The National Sport and Recreation Amendment Bill, 2024 (“the Bill”), seeks to amend the National Sport and Recreation Act, 1998 (Act No. 110 of 1998) (“the Act”). The Bill recognises 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 in the best interests of all the role players by clarifying of the roles of Sport and Recreation South Africa, the Sports Confederation and the national federations respectively.
- 1.2 The Bill seeks to delete, amend and insert certain definitions, to provide for the promotion and development of sport and recreation, to establish the Sport Arbitration Tribunal to resolve disputes in sport or recreation bodies, to provide for offences and penalties and to provide for matters connected therewith.
- 1.3 The Bill seeks to amend the Act in order to provide for the finalisation of disputes and also provides, amongst others, for a penalty clause in the case of any non-compliance with the Act.
- 1.4 The Bill also seeks to clarify the role and responsibilities of the South African Sports Confederation.
- 1.5 Furthermore, the Bill seeks to provide for the regulation of sport or recreation agents, registered agents in the performance of their responsibilities and their recognition as agents.
- 1.6 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 the regulations only.
- 1.7 The Bill provides for the regulation and compliance with safety measures in relation to the combat sport and fitness industry.
- 1.8 The Bill seeks to ensure that sport and recreation are managed effectively in terms of transformation and accessibility by the community.

2. PURPOSE OF BILL

The main purpose of the Bill is 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 inspectors to carry out inspections in terms of this Act and to ensure compliance with the Act, to empower the Minister with an oversight role on matters pertaining to sport and recreation and to facilitate the improvement of the operations of sport or recreation bodies.

3. SUMMARY OF BILL

3.1 Clause 1

- 3.1.1 Clause 1 of the Bill seeks to amend section 1 of the Act. A definition of “amateur bout” is inserted to refer to an organised by an amateur sport organisation usually for recreational or developmental purposes, as well as the definition of “professional bout” to mean a bout organised by a national or international federation.
- 3.1.2 A definition of “club” is inserted to refer to an organisation or professional body that plays a major role in terms of sport

development and to further ensure that such club is accountable to the national federation.

- 3.1.3 The definition of “committee” is inserted to clarify the role of the committee in dealing with disputes.
- 3.1.4 The definition of the “national colours” is inserted to provide for the prescribed uniform or dress code in connection with national team participating in an international event, as well as the definition of the “national colours board” stating the national colours board is established by section 11A.
- 3.1.5 The definition of the “national emblem” is inserted to prescribe the name, title or designation of ‘King Protea’ or the words ‘King Protea’, as used as a badge or emblem or part thereof on formal and informal clothing, including, but not limited to, sports clothing and replicas of sports clothing.
- 3.1.6 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 not less than five provinces is recognised by the national department of Sport, Arts and Culture in concurrence with Sports Confederations as the only authority for the administration and control of the relative code of sport in the Republic.
- 3.1.7 Clause 1 of the Bill also seeks to insert in section 1, the definitions for the terms “department”, “Director-General”, “fitness centre”, “recreational activity”, “Safety at Sports and Recreation Act”, “sport and recreation facilities inspector”, “sport or recreation agent”, “sport or recreation body” and “Tribunal”.

3.2 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 Sports Confederation which includes, amongst others, 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 in line with the recommendations of the Zulman Committee of Inquiry and National Sport and Recreation Plan.

3.3 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. Clause 3 of the Bill seeks to amend subsection 4(1) of the Act to give the Minister powers to determine and publish policy objectives to be achieved by the Department, the Sports Confederation and the sports or recreation bodies upon receipt of inputs from the sport or recreation stakeholders.

3.4 Clause 4

- 3.4.1 Clause 4 of the Bill seeks to amend section 6 of the Act by substituting the heading “National federation” with the heading “Sport or recreation bodies”. Clause 4 of the Bill further provides for the sport or recreation bodies to assume full responsibility for the safety and security of the members, participants, children, spectators who attend sport or recreation events and the physical facilities where such events take place within their respective sport and recreation disciplines.

3.4.2 Clause 4 of the Bill seeks to insert new subsections in section 6 of the Act to provide for the role and obligations of national federations.

3.4.3 Clause 4 of the Bill also provides for the procedure and requirements for recruiting a foreign sport person to participate in formal and professional sport in the Republic.

3.5 **Clause 5**

3.5.1 Clause 5 of the Bill seeks to insert the new sections 6A, 6B and 6C after section 6 in the Act. Section 6A provides for sport or recreation agents and section 6B provides for registered agents.

3.5.2 Section 6C provides the criteria for the recognition of sport or recreation bodies.

3.6 **Clause 6**

Clause 6 of the Bill seeks to amend section 7 of the Act which provides for the training of sport and recreation leaders, by substituting the words “Sport and Recreation South Africa” with “Department” in section 7(2) of the Act.

3.7 **Clause 7**

Clause 7 of the Bill seeks to amend section 8 of the Act.

3.7.1 Clause 7 of the Bill seeks to amend section 8 of the Act by substituting the heading of section 8 of the Act “Resources for sport and recreation” with a new heading “Sport or recreation infrastructure”.

3.7.2 Clause 7 of the Bill further inserts the new subsections to provide for, amongst others, requirements for new facilities.

3.8 **Clause 8**

Clause 8 of the Bill seeks to insert a new section 8A in the Act to provide for the appointment and functions of sport and recreation facilities inspectors, the powers of entry of sport and recreation facilities inspectors, regulations relating to sport and recreation facilities inspectors, powers to question and inspect.

3.9 **Clause 9**

Clause 9 of the Bill seeks to amend section 9 of the Act by inserting the new subsections (3) and (4) into the Act, to empower the Minister to make regulations for vulnerable communities to participate in sport and be protected from any sexual abuse and exploitation.

3.10 **Clause 10**

Clause 10 of the Bill seeks to amend section 10 of the Act, by substituting the name “Sport and Recreation South Africa” with “Department”, wherever it appears.

3.11 **Clause 11**

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

3.12 Clause 12

Clause 12 of the Bill seeks to insert new sections 11A, 11B, 11C, 11D, 11E, 11F, 11G, 11H, 11I and 11J into the Act. Section 11A seeks to provide for the bidding and hosting of international sport and recreation events. Section 11B seeks to provide 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 seeks to provide for combat sport safety measures. Section 11D seeks to provide for a safe environment for fitness centres and gyms.

3.13 Clause 13

Clause 13 of the Bill seeks to amend section 13 of the Act, by inserting new subsection (9) that provides for the appointment of the Ministerial Committee of Inquiry to investigate matters that may bring a sport recreational activity or body into disrepute.

3.14 Clause 14

3.14.1 Clause 14 of the Bill seeks to insert the new sections 13D to 13P after section 13C, which provide for, amongst others, the establishment, composition, manner of appointment of the Sport Arbitration Tribunal, the qualifications of members, the term of office of the members of the Sport Arbitration Tribunal, the appointment of the Chairperson and the Deputy Chairperson, the Sport Arbitration Tribunal proceedings, the conflicts and disclosure of interests by members of the Sport Arbitration Tribunal and the staff of the Sport Arbitration Tribunal and the remuneration and benefits of members of the Sport Arbitration Tribunal. These inserted clauses further provide for appeals, offences and penalties, and delegations.

3.14.2 Clause 14 of the Bill seeks to insert sections 13M and 13N into the Act to provide for offences and the delegation of powers by the Minister.

3.15 Clause 15

Clause 15 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.

3.16 Clause 16

Clause 16 of the Bill provides for the amendment of the arrangement of sections.

3.17 Clause 17

Clause 17 of the Bill seeks to amend the long title of the Act.

3.18 Clause 18

Clause 18 of the Bill provides the short title of the Bill.

4. DEPARTMENTS/BODIES/PERSONS CONSULTED

- All national Departments;
- All provincial Departments;
- The Sports Confederation;
- All national sport and recreation federations;
- SALGA;

- Universities;
- Non-Governmental Organisations;
- Foundations;
- Business sector;
- Individuals and communities; and
- Provincial departments for Sport, Arts and Culture.

5. FINANCIAL IMPLICATIONS FOR STATE

- 5.1 The budget of the Department has been utilised to implement the Bill.
- 5.2 There will be financial implications for the amendments only.
- 5.3 The associated costs relating to the amendments are estimated at R7 million per annum.

6. PARLIAMENTARY PROCEDURE

- 6.1 The Department and the State Law Advisers are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution since it contains no provision to which the procedure set out in section 75 of the Constitution applies.
- 6.2 The Constitution prescribes the classification of Bills, therefore a Bill must be correctly classified otherwise it will be constitutionally out of order.
- 6.3 We have considered the Bill against the provisions of the Constitution relating to the tagging of Bills, and against the functional areas listed in Schedule 4 (functional areas of concurrent national and provincial competence) and Schedule 5 (functional areas of exclusive provincial legislative competence) to the Constitution.
- 6.4 For the purposes of tagging, the constitutional court case of *Tongoane and Others v Minister for Agriculture and Land Affairs and Others* CCT 100/09 [2010] ZACC 10 confirmed the “substantial measure” test indicated in *Ex Parte President of the Republic of South Africa: In re Constitutionality of the Liquor Bill* 12/99 [1999] ZACC 15. The test entails that “any Bill whose provisions in substantial measure” falls within a specific Schedule must be classified in terms of that Schedule.
- 6.5 In terms of section 76(3) of the Constitution, a Bill must be dealt with in accordance with the procedure established by either subsection (1) or (2) if it falls within a functional area listed in Schedule 4 to the Constitution.
- 6.6 The issue to be determined is whether the clauses as contained in the Bill, in a substantial measure, fall within a functional area listed in Schedule 4 to the Constitution.
- 6.7 We have considered all the provisions of the Bill in order to establish the extent to which the provisions substantially affect any of the matters or functional areas listed in Schedule 4 of the Constitution. Schedule 5 of the Constitution lists functional areas of exclusive provincial legislative competence. Further, in terms of Part A of Schedule 5 of the Constitution, “provincial sport” is listed as a functional area of exclusive provincial legislative competence.
- 6.8 In terms of Schedule 5 of the Constitution, “Local sport facilities” is an item listed in Part B of Schedule 5 of the Constitution, which is a local government matter to the extent provided for the provinces in section 155(6)(a) and (7) of the Constitution.

6.9 The Bill provides for sport matters and sports events for the whole Republic, and falls under Part A and Part B of Schedule 5 to the Constitution. Therefore, in our opinion, the Bill is an ordinary Bill affecting the provinces and must be dealt with in accordance with the procedure set out in section 76 of the Constitution.

7. REFERRAL TO NATIONAL HOUSE OF TRADITIONAL AND KHOI-SAN LEADERS

The State Law Advisers are of the opinion that it is not necessary to refer the latest Bill to the National House of Traditional and Khoi-San Leaders in terms of section 18(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), since it does not contain provisions pertaining to traditional or Khoi-San communities or pertaining to customary law or customs of traditional or Khoi-San communities or pertaining to any matter referred to in section 154(2) of the Constitution.

