



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 54

1995

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 7 of 1995: Namibia Sports Act, 1995.

ACT

To establish the National Sports Commission and determine its powers, duties and functions; and to provide for matters incidental thereto.

(Signed by the President on 20 February 1995)

ARRANGEMENT OF SECTIONS

1. Definitions.
2. Establishment of National Sports Commission.
3. Functions of Commission.
4. Members of Commission.
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BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Definitions.

1. In this Act, unless the context indicates otherwise -

“Commission” means the National Sports Commission established by section 2;

“Fund” means the Sport Development Fund established by section 10(1);

“international sports event” means a sports event in which the national teams or national sportspersons of different nations participate;

“Minister” means the Minister of Youth and Sport;

“Ministry” means the Ministry of Youth and Sport;

“national association” means an association of persons affiliated to the Namibia National Sports Council as the official national association in respect of a specified sports code;

“national team” means a team officially representing a country;

“Permanent Secretary” means the Permanent Secretary: Youth and Sport;

“prescribe” means prescribe by regulation, and “prescribed” shall have a corresponding meaning;

“sports code” means a specific sports discipline.

Establishment of National Sports Commission.

2. There is hereby established a commission to be known as the National Sports Commission.

Functions of Commission.

3. The functions of the Commission shall be -

(a) to advise the Minister with regard to -

(i) any matter on which the Minister is required to consult the Commission in terms of this Act;

- (ii) the management and development of sports in Namibia; and
- (iii) any matter which the Minister refers to the Commission for its investigation and advice;
- (b) subject to the provisions of this Act, to administer the Fund;
- (c) to exercise control over the participation of any sportsperson or any national association in any international sports event;
- (d) to exercise control over the awarding of any national sports colours by any person or national association to any sportsperson or team; and
- (e) to exercise control over the arrangement of any international sports event by any person or national association.

Members of Commission.

4. (1) The members of the Commission shall consist of -

- (a) the Permanent Secretary, who shall be the chairperson; and
- (b) thirteen other members appointed by the Minister, of whom -
 - (i) seven shall be persons selected by the Minister from persons nominated by virtue of an invitation made in terms of subsection (2) by sports bodies actively involved in sports in Namibia;
 - (ii) one shall be an officer in the Ministry of Education and Culture, nominated for appointment by the Minister of Education and Culture;
 - (iii) one shall be an officer in the Ministry of Health and Social Services, nominated for appointment by the Minister of Health and Social Services;

- (iv) four shall be persons who in the opinion of the Minister have had experience and shown capacity in any matter relating to sports, and of whom at least three shall be female persons.

(2) For the purposes of the nomination of persons referred to in subsection (1)(b)(i), the Minister shall by notice in the *Gazette* invite any sports body named in that notice to make such nominations as may be specified in such notice within such period as may be so specified.

(3) The Commission, with the approval of the Minister, may appoint any person to advise it on any matter in relation to its functions.

(4) The members of the Commission shall elect one of their number to be the vice-chairperson of the Commission.

(5) Whenever the chairperson is unable to perform his or her duties, the vice-chairperson shall act in his or her stead.

(6) No person shall be appointed under paragraph (b) of subsection (1) as a member of the Commission if he or she -

- (a) is not a Namibian citizen;
- (b) has been convicted of any offence in respect of which he or she was sentenced to a period of imprisonment without the option of a fine, unless the period of such imprisonment has expired at least five years before the date of his or her appointment as a member of the Commission.

Terms of office and vacating of office by members of Commission.

5. (1) A member of the Commission appointed under section 4(1)(b) shall hold office for such period, not exceeding three years, as the Minister may determine at the time of his or her appointment, and such member shall be eligible for re-appointment.

(2) A member of the Commission referred to in subsection (1) shall cease to hold office if he or she -

- (a) becomes subject to any disqualification referred to in section 4(6);

- (b) has been absent from three consecutive meetings of the Commission without its leave;
- (c) by written notice to the Minister resigns as a member of the Commission; or
- (d) is removed from office under subsection (3).

(3) The Minister may at any time remove a member of the Commission from office if such member is unfit or unable to discharge the functions of a member or no longer represents the interests which he or she is required to represent.

(4) Any vacancy on the Commission arising from any circumstance referred to in subsection (2), or caused by the death of any member of the Commission, shall be filled by the appointment of another person in accordance with the provisions of section 4(1), and every member so appointed shall hold office for the unexpired portion of the period of office of the member who has vacated his or her office or who has died, as the case may be.

Meetings of Commission.

6. (1) All meetings of the Commission shall be held at a time and place determined by the chairperson, but which shall not be less than twice a year.

(2) The chairperson shall -

- (a) on request of the Minister; or
- (b) on written request of at least three members of the Commission,

convene a special meeting of the Commission.

(3) A quorum for any meeting of the Commission shall be a majority of its members.

(4) If both the chairperson and the vice-chairperson are absent from a meeting of the Commission, the members present at that meeting shall elect one of their number to preside at that meeting.

(5) The chairperson or any other person who acts as chairperson shall determine the procedure of the meeting over which he or she presides.

(6) The decision of a majority of members of the Commission present at a meeting shall constitute a decision of the Commission and, in the event of an equality of votes on any matter, the person presiding shall have a casting vote in addition to his or her deliberative vote.

(7) Any decision of the Commission or an act performed under the authority of such a decision shall not be rendered invalid merely by reason of a vacancy on the Commission or the fact that a person who is not entitled to sit as a member of the Commission sat as such when the decision was taken, if the decision was taken by a majority of the members of the Commission present and entitled to vote.

(8) The Commission shall cause minutes to be kept of the proceedings of its meetings.

International Games Committee and other committees of Commission.

7. (1) The Commission shall establish a committee to be known as the International Games Committee to -

- (a) assist in arranging Namibia's effective representation at any Olympic, Commonwealth or Pan African Games or any other international sports event of a similar nature; and
- (b) perform such other functions as the Commission may assign to it.

(2) The members of the International Games Committee shall consist of -

- (a) one officer in the Ministry of Youth and Sport designated by the Minister for that purpose; and
- (b) nine persons selected by the Commission by virtue of either expertise or involvement in sport.

(3) A member of the International Games Committee appointed under subsection (2)(b) shall hold office for such period, not exceeding four years, as the Commission may determine at the time of his or her appointment, and such member shall be eligible for re-appointment.

(4) A member referred to in subsection (2)(b) shall cease to be a member of the International Games Committee if he or she -

- (i) has been absent from three consecutive meetings of the International Games Committee without the leave of the chairperson of that Committee;
- (ii) by written notice to the Commission resigns as a member of the International Games Committee;
- (iii) is convicted of any offence in respect of which he or she is sentenced to a period of imprisonment without the option of a fine, unless the period of such imprisonment has expired at least five years before the date of his or her appointment as member of the International Games Committee; or
- (iv) is removed as member of the International Games Committee under subsection (6).

(5) The Commission may at any time remove a person as member of the International Games Committee if such person is unfit to be such a member or unable to discharge the functions of such a member or no longer represents the interests which he or she is required to represent.

(6) Any vacancy on the International Games Committee arising from any circumstances referred to in subsection (5), or caused by the death of any member of that Committee, shall be filled by the appointment of another person in accordance with the provisions of subsection (2) for the unexpired portion of the period of office of the member who has vacated his or her office or who has died, as the case may be.

(7) The Minister in consultation with the Commission shall appoint the chairperson of the International Games Committee.

(8) The members of the International Games Committee shall elect one of their number to be the vice-chairperson of that Committee.

(9) Whenever the chairperson is unable to perform his or her duties, the vice-chairperson shall act in his or her stead.

(10) If both the chairperson and the vice-chairperson are absent from a meeting of the International Games Committee, the members present at that meeting shall elect one of their number to preside at that meeting.

(11) All meetings of the International Games Committee shall be held at a time and place determined by the chairperson.

(12) A quorum for any meeting of the International Games Committee shall be a majority of its members.

(13) The chairperson or any other person who acts as chairperson shall determine the procedure of the meeting over which he or she presides.

(14) The decision of a majority of members of the Committee present at a meeting shall constitute a decision of the International Games Committee and, in the event of an equality of votes on any matter, the person presiding shall have a casting vote in addition to his or her deliberative vote.

(15) The International Games Committee shall cause minutes to be kept of the proceedings of its meetings.

(16) (a) The Commission may from time to time establish such other committees as it may deem necessary, to advise or assist it in the exercise of any of its powers or the performance of any of its duties or functions.

(b) A committee established under paragraph (a) shall have as its members not less than one member of the Commission and such other members of the Commission or other persons as the Commission may appoint to be members of any such committee.

(c) The chairperson of any such committee shall be appointed by the Commission.

Remuneration of members of Commission and other persons.

8. A member of the Commission, and a person appointed as an adviser under section 4(2) or as a member of the International Games Committee or other committee referred to in section 7 or of the appeal committee referred to in section 17, who is not in the full-time employment of the State, a local authority or a body or institution established by or under any law, may, from moneys appropriated by law for that purpose, be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

Administrative work relating to the functions of Commission.

9. All administrative work relating to the functions of the Commission shall be performed by officers in the Ministry, designated for that purpose by the Permanent Secretary.

Sports Development Fund.

10. (1) There is hereby established a fund to be known as the Sports Development Fund, which shall be credited with -

- (a) all moneys appropriated by Parliament for the realization of the objects of the Fund;
- (b) all contributions and levies raised under section (11);
- (c) interest derived from investments made in terms of subsection (3)(b);
- (d) donations or grants made for the benefit of the Fund;
- (e) all other moneys received or made available for the benefit of the Fund.

(2) The Fund shall be managed and controlled by the Commission in accordance with an estimate or a supplementary or revised estimate of revenue and expenditure approved by the Minister in respect of each financial year of the Fund, and no expenditure payable from the Fund may be incurred except in accordance with such approved estimate of expenditure.

(3) The Commission shall in the name of the Fund -

- (a) open and maintain with a commercial bank in Namibia registered under the Banks Act, 1965

(Act 23 of 1965) an account into which shall be deposited all moneys received by the Fund and from which all payments from the Fund shall be effected; and

- (b) in the manner authorized by the Minister of Finance, invest any money standing to the credit of the Fund which is not required for immediate use or for a reasonable balance for current commitments and expenditure.

(4) The moneys available in the Fund shall be utilized for the promotion of sports in general and sports codes in particular, including -

- (a) to assist the development and maintenance of sports facilities;
- (b) the improvement of sports administration;
- (c) the promotion of competitive sports at national and international levels;
- (d) the holding of sports coaching courses;
- (e) research, on request of the Minister or the Commission, by any person, body or institution in respect of any matter relating to sports;
- (f) the promotion of the sports career of, or to enable the participation in any sports event by, any individual sportsperson;
- (g) to grant financial assistance to any referee, umpire, sports administrator, coach or trainer; or
- (h) to enhance the sports of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws and practices.

(5) The Commission may on such conditions as it may determine, either of its own accord or on application made to it, and either by way of donations or loans, render from the Fund financial assistance to any person, body or association for any purpose contemplated in subsection (4).

(6) The Commission may, for the purpose of rendering financial assistance in terms of subsection (5), require from the person, body or association in relation to whom or to which such assistance is being considered, to furnish the Commission with such particulars or information or to submit or make available to it such books, documents, statements or records as it may require.

(7) The Commission may require from a beneficiary of any financial assistance under subsection (5) to furnish it with such particulars and information or to submit or make available to it such documents, statements or records in respect of the appropriation of the moneys paid to such beneficiary under that subsection, as it may require.

(8) Any member of the Commission who has any direct or indirect interest in any financial assistance, which has been or is to be rendered from the Fund under subsection (5), shall declare such interest and full particulars thereof at a meeting of the Commission at which the financial assistance in question is being considered, or at the first meeting of the Commission held thereafter at which it is possible for him or her to do so, and if such assistance is discussed by the Commission during a meeting thereof, such member shall withdraw from that meeting during the discussion and he or she shall not participate in any voting in connection therewith.

(9) The Commission shall cause proper books of account to be kept in respect of moneys received or paid for the benefit of the Fund and payments made from the Fund.

(10) The financial year of the Fund shall end on 31 March of every year.

(11) Any unexpended balance in the Fund at the end of a financial year shall be carried forward as a credit in the Fund to the next financial year.

(12) The Auditor-General shall annually audit the books of account of the Fund.

Powers of Minister to determine contributions or impose levies for benefit of Fund.

11. (1) The Minister may on the recommendation of the Commission, for the benefit of the Fund, by notice in the *Gazette* -

- (a) direct that national associations shall make monetary contributions to the Fund and fix the amount of the contributions to be so paid;
- (b) impose a levy on tickets sold for admission to a sports event in which a national team participates, but any such levy shall not be more than ten percent of the price of admission paid for any such ticket.

(2) A notice in terms of subsection (1) shall state the times when, and the manner in which, contributions or levies fixed or imposed under that subsection shall be paid.

(3) Different contributions may be fixed in terms of paragraph (a) of subsection (1) in respect of the different national associations.

(4) If any national association which has in terms of subsection (1)(a) been directed to make a monetary contribution to the Fund fails to make the contribution within the period stipulated in the notice in question, the Permanent Secretary may take such steps as he or she deems fit to recover the amount due, and any such amount may be recovered together with interest thereon as from the due date at the rate of interest determined in terms of section 35(a) of the State Finance Act, 1991 (Act 31 of 1991) and any costs incurred in connection with such recovery.

National sports emblem.

12. The Minister shall -

- (a) on the recommendation of the Commission, determine a national sports emblem for Namibia; and
- (b) by notice in the *Gazette* make known the national sports emblem determined under paragraph (a).

National sports colours and the awarding thereof.

13. (1) National sports colours in respect of a specific sports code shall consist of the national sports emblem referred to in section 12 used in conjunction with any such ancillary emblem or motif and any such sports-

wear or uniform as the Commission or any other body or institution as the Commission may designate for that purpose, may approve.

(2) Any person or national association desiring to award national sports colours to any sportsperson or team shall apply in the prescribed manner to the Commission for written approval to award such national sports colours.

(3) The Commission may with regard to an application made under subsection (2) -

(a) approve such application if it is satisfied that -

(i) the sportsperson or team, as the case may be, has duly excelled in the sports code in question; or

(ii) a particular sports event is on a national or international level; or

(b) even if being satisfied as contemplated in paragraph (a), refuse such application if -

(i) the information furnished in the application is incorrect or incomplete;

(ii) the prescribed selection criteria and procedures (if any) were not complied with;

(iii) in its opinion, the approval of the application will not be in the interest of sports in general or the sports code in particular; or

(iv) in the case of an individual sportsperson, the person in question is not a Namibian citizen, or, in the case of a national team, the team is not composed exclusively of Namibian citizens.

(4) Any person who -

(a) at any time since the date of the independence of Namibia until the date of commencement of this Act, has been awarded sports colours which at the relevant time was considered and being used as the national colours of Namibia; or

- (b) has been awarded national sports colours under this Act,

may, if any variation in such sports colours occurs by virtue of the provisions of subsection (1), use such new national sports colours.

Powers of Commission in respect of international sports events and participation thereat.

14. (1) No international sports event shall be arranged and presented in Namibia by any person or national association, except with the written approval of the Commission granted on application made to it in the prescribed manner.

(2) No sportsperson, national team or national association shall participate in an international sports event, except with the written approval of the Commission granted on application made to it in the prescribed manner.

(3) The Commission may with regard to an application made under subsection (2) -

- (a) approve such application if it is satisfied that the applicant is duly representing the specific sports code in question in Namibia; or
- (b) even if being satisfied as contemplated in paragraph (a), refuse such application if -
 - (i) the information furnished in such application is incorrect or incomplete,
 - (ii) in its opinion the approval of the application will not be in the interest of promoting sports in general or the sports code in particular;
 - (iii) in the case of an individual sportsperson, the person in question is not a Namibian citizen, or, in the case of a national team, the team is not composed exclusively of Namibian citizens; or
 - (iv) in the case of a national association, any contribution payable by that association for the benefit of the Fund by virtue of the provisions of section 11(1)(a) has not been paid.

(4) The Commission may by written notice sent by registered post prohibit any person who participates in any international sports event, the participation of whom has not been approved under subsection (3), from competing internationally in a specific sports code for such a period as the Commission may determine.

Doping control tests.

15. (1) Any sportsperson who is to participate, or has participated, in any sports event in Namibia or outside Namibia may, at any time before, during or after his or her participation in such sports event, be required by a person, authorized thereto by regulation, to submit himself or herself to a doping control test whether or not such sportsperson is suspected of -

(a) having or, at the time of such participation, to have had in his or her blood or urine -

(i) any substance or residue of a substance declared as a prohibited substance under section 18;

(ii) any substance or residue of a substance declared as a restricted substance under the said section 18, the level of concentration of which exceeds the prescribed maximum level;

(b) having had applied to him or her, or to have used, any procedure or practice declared as a prohibited procedure or practice under section 18,

and such sportsperson shall upon such request submit himself or herself to such a test.

(2) Where a sportsperson refuses to submit himself or herself to a doping control test when requested to do so under subsection (1), the Commission -

(a) may by written notice sent by registered post prohibit such person from competing internationally, whether in a specific sports code or any sports code, for such period as the Commission may determine; and

- (b) shall inform the Namibia National Sports Council and the national association in question, if any, of such sportsperson's refusal to submit himself or herself to a doping control test

Power of Minister to enter into agreements regarding doping control tests.

16. The Minister may upon such terms and conditions as may mutually be agreed upon, enter into an agreement with any person, body or institution, whether inside or outside Namibia, to perform doping control tests or to analyse any substance for the purposes of any such test.

Appeal committee and procedure for appeals against decisions or actions taken by the Commission, the Namibia National Sports Council or a national association.

17. (1) There shall be an appeal committee which shall consist of such number of persons as the Minister may appoint, but including, as chairperson of such committee, a person with at least five years experience as a legal practitioner.

(2) A member of the appeal committee shall hold office for such period, not exceeding three years, as the Minister may determine at the time of his or her appointment, and such member shall be eligible for re-appointment.

(3) The Minister may at any time remove a person as member of the appeal committee if such person is unfit to be such a member or unable to discharge the functions of such a member.

(4) Any person who is aggrieved by any decision or action taken by the Commission, excluding a recommendation made by it in terms of this Act, or a decision or action taken by the Namibia National Sports Council or a national association may, within 30 days from the date on which the decision or action in question was taken, in writing lodge an appeal against such decision or action with the Commission for consideration by the appeal committee, and shall simultaneously submit a copy of that written notification to all parties involved in the matter to which the appeal relates.

(5) A notification referred to in subsection (4) shall contain -

- (a) the names and addresses of the parties involved in the matter to which the appeal relates; and
- (b) the subject matter of the appeal and the facts and circumstances which gave rise to the appeal,

and shall be accompanied by a copy of any relevant document on the matter.

(6) The Commission shall refer an appeal which has been lodged with it under subsection (4) to the appeal committee for investigation and its decision.

(7) The appeal committee shall at least 14 days prior to the commencement of any appeal proceedings notify all parties concerned of the date, time and place and subject matter of the proceedings.

(8) Any person who is a party to an appeal shall be entitled to legal representation at any appeal proceedings.

(9) The procedure at the hearing of the appeal shall be determined by the chairperson, and the chairperson may, for the purpose of the hearing of the appeal -

- (a) summon, in the prescribed manner, any person who, in his or her opinion, may give material information concerning the subject matter of the appeal or who he or she believes has in his or her possession or custody or under his or her control any document which has any bearing upon the subject matter of the appeal, to appear before the appeal committee at a time and place specified in the summons, to be examined or to produce that document, and the chairperson may retain for examination any document so produced;
- (b) administer an oath to, or accept an affirmation from, any person called as a witness at the hearing; and
- (c) call any person present at the hearing as a witness and examine him or her or require him or her to produce any document in his or her possession or custody or under his or her control.

(10) The appeal committee may after investigation of the appeal confirm, set aside or vary the relevant decision or action of the Commission, the Namibia National Sports Council or the national association in question, as the case may be.

(11) The decision of the appeal committee shall be in writing and a copy thereof shall be furnished to the parties to the appeal.

(12) No appeal shall lie against the decision of the appeal committee and each party to the appeal shall abide and comply with such decision in accordance with its terms.

(13) All administrative work relating to the functions of the appeal committee shall be performed by officers in the Ministry, designated for that purpose by the Permanent Secretary.

Regulations.

18. (1) The Minister may, on the recommendation of the Commission, make regulations -

- (a) relating to the form of any application which may be made in terms of this Act, and the particulars to be furnished in connection with any such application;
- (b) relating to the selection criteria and procedures to be applied in the selection of national teams or sportspersons for individual participation in international sports events;
- (c) declaring any procedure or practice to be applied to, or used by, any sportsperson with a view to enhance such sportsperson's performance in any sports event as a prohibited procedure or practice;
- (d) declaring any substance or its metabolites as a prohibited or restricted substance;
- (e) prescribing the maximum level of concentration of a restricted substance or residue thereof which a sportsperson is allowed to have in a specified specimen of his or her blood (taken from any part of his or her body) or in a specified specimen of his or her urine, while participating in a sports event;
- (f) relating to the persons who shall be authorized to demand that sportspersons submit themselves to doping control tests and -

- (i) the procedure for such tests;
- (ii) the procedures to be followed in cases where the results of such tests show the presence of a prohibited or restricted substance or residue of such a substance in contravention of a regulation made under paragraph (d) or (e); and
- (iii) the penalties which may be imposed in cases of such contravention;
- (g) relating to the administration of the Fund;
- (h) relating to any matter required or permitted to be prescribed under this Act,

and generally any matter which the Minister considers necessary or expedient to prescribe in order to achieve the purposes of this Act.

(2) A regulation may prescribe penalties for any contravention of, or failure to comply with, its provisions not exceeding a fine of N\$2 000 or imprisonment for a period not exceeding six months.

Short title.

19. This Act shall be called the Namibia Sports Act, 1995.
