



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 191 2003

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. 12 of 2003: Namibia Sports Act, 2003.

ACT

To provide for the establishment of the Namibia Sports Commission and to provide for its powers and functions; to provide for the establishment of the Sports Development Fund; to provide for the registration and regulation of national sports bodies and national umbrella sports bodies; to provide for the doping control tests; and to provide for incidental matters.

(Signed by the President on 13 August 2003)

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BE IT ENACTED by the Parliament of the Republic of Namibia as follows:

PART 1
PRELIMINARY

Definitions

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

“Chief Administrator” means the person appointed in terms of section 23 as the Chief Administrator of the Commission;

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

“committee” means a committee of the Commission appointed under section 8;

“Fund” means the Sports Development Fund established by section 17;

“member” means a member of the Commission appointed in terms of section 4;

“Minister” means the Minister responsible for sport;

“Ministry” means the Ministry responsible for the administration of sport;

“national sports body” means a registered national sports body having as its principal object the promotion, organisation and controlling of a sports code on a national or international level, and includes a national association, national federation and national union;

“national umbrella sports body” means a registered national umbrella sports body controlling multiples of affiliated sports codes at a national or international level;

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

“prescribed” means prescribed by regulation;

“register” means a register kept in terms of section 26;

“registered” means registered in terms of this Act;

“regulation” means a regulation made under section 38;

“sports club” means a registered group of persons associated together for the purposes of -

- (a) sports activities at local, district, regional, national or international level;
- (b) participating in an organised league for sports activities; or
- (c) any sports activities where members of the public are admitted to the group, whether by way of introduction, sponsorship, payment of a fee, subscription or otherwise;

“sports code” means a specific sport;

“this Act” includes a regulation; and

“uniformed services” means the Namibian Police Force, Prison and Correctional Services and Namibian Defence Force.

PART II

NAMIBIA SPORTS COMMISSION

Establishment of Namibia Sports Commission

2. (1) There is established a commission to be known as the Namibia Sports Commission.

(2) The Commission is a juristic person.

Functions and powers of Commission

3. (1) The functions of the Commission are -

- (a) to accountably, efficiently and properly manage and control the Fund in furtherance of the objects of the Fund;
- (b) to coordinate, control, develop and foster sports activities;
- (c) to ensure the proper administration of national sports bodies and national umbrella sports bodies;
- (d) to promote the highest standards of sportsmanship;
- (e) to ensure that opportunities for sport are made available to all persons throughout Namibia;
- (f) to encourage the production of sports goods;

- (g) to authorize national and international sports activities or events of any individual sportsperson, national sports body or national umbrella sports body;
 - (h) to advise the Minister on the needs of sport;
 - (i) to organize courses for sports, either free of charge or on the payment of a fee;
 - (j) to assist national sports bodies, national umbrella sports bodies, sports clubs, schools and tertiary institutions in the recruitment of coaches and instructors;
 - (k) to undertake, after consultation with the Minister, special projects, including marketing and trading and fundraising activities in furtherance of the purposes of this Act;
 - (l) to coordinate with sports clubs, national sports bodies, national umbrella sports bodies and any other bodies to ensure that sports facilities are fully utilized;
 - (m) to oversee training programmes for sportspersons;
 - (n) to develop, supervise and manage sports facilities under its control;
 - (o) to determine and give national sports awards, including honorary sports awards, to outstanding sportspersons, teams, national sports bodies and sports administrators and any other persons;
 - (p) to ensure that national sport bodies and national umbrella sports bodies are complying with this Act and their constitutions and rules especially on discipline;
 - (q) to oversee the sports activities of sportspersons participating individually in sports codes not affiliated to any national sports body; and
 - (r) to assist the sports bodies for the uniformed services in overseeing their sports activities and events.
- (2) Subject to this Act, the Commission has power, with the approval of the Minister -
- (a) to acquire movable and immovable properties necessary or convenient for the exercise of its functions;
 - (b) to mortgage or pledge any assets or part of any assets, to sell, exchange, let, dispose of, turn to account or otherwise deal with any assets or part of assets which are not required for the exercise of its functions for such consideration as the Commission may determine;
 - (c) to establish pension and provident funds and reserves, and to insure against losses, damages, risks and liabilities which it may incur;
 - (d) to enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of its functions;
 - (e) in agreement with the Minister responsible for finance -

- (i) to obtain loans or borrow money in such amounts and for such purposes and under such conditions as may be approved by the Minister;
- (ii) to effect policies of insurance as the Commission may consider appropriate or necessary for the proper exercise of its functions;
- (f) to provide financial assistance to any person, association, organisation or institution whose activities are such as to be, in the opinion of the Commission, of benefit to sport; and
- (g) to grant such scholarships or bursaries as the Commission considers to be in the interest of sport on such terms and conditions as the Commission may determine in any particular case.

Constitution of Commission

4. (1) The Commission consists of nine members appointed by the Minister of whom -

- (a) one person is nominated by the national umbrella sports body for schools;
- (b) one person is nominated by the national umbrella sports body for tertiary institutions;
- (c) one person is nominated by national sports bodies;
- (d) one person is nominated by the national umbrella sports body for people with disabilities;
- (e) one person is nominated by the national umbrella sports body for women in sport; and
- (f) four persons are nominated by the Ministry.

(2) The persons referred to in subsection (1) must be appointed on the basis of their ability and experience in sport or sport administration or any other related field.

(3) For the purposes of appointment of persons as members, the Minister must invite the bodies referred to in subsection (1) in writing to nominate persons within a specified period.

(4) If a nomination referred to in subsection (3) is not received by the Minister within the period specified in the invitation, the Minister may appoint such persons as the Minister thinks fit.

(5) The Minister must appoint one of the members as the chairperson of the Commission.

(6) The members must elect a vice-chairperson of the Commission from among themselves who may exercise the functions of the chairperson during any period that the chairperson is unable to exercise those functions.

Terms and conditions of office of member

5. (1) Subject to section 7, a member holds office for a term of three years and is eligible for re-appointment at the expiration of that term.

(2) Subject to section 15, the Minister may determine further conditions of office in relation to members generally.

Disqualification for appointment as member

6. A person does not qualify for appointment or to hold office as a member, if the person -

- (a) is not a Namibian citizen;
- (b) is an unrehabilitated insolvent;
- (c) is a member of the National Assembly or of a regional council or local authority council; or
- (d) within the period of 10 years before the date of the proposed appointment, has been convicted of an offence and sentenced to a period of imprisonment without the option of a fine.

Vacation of office and filling of vacancies

7. (1) A member vacates office, if the member -

- (a) resigns from the Commission after giving the Minister 30 days' written notice of the member's intention to resign;
- (b) is convicted of an offence and sentenced to a period of imprisonment without the option of a fine;
- (c) has been absent without the permission of the Commission from three consecutive meetings of the Commission of which the member was given no less than seven days' written notice;
- (d) becomes disqualified in terms of section 6 to hold office as a member; or
- (e) is removed from office by the Minister under subsection (2).

(2) The Minister may remove a member from office, if the member -

- (a) is guilty of misconduct that renders him or her unsuitable to act as a member;
- (b) fails to comply with or contravenes this Act; or
- (c) is by reason of illness or for any other reason incapable of acting as a member.

(3) If a member dies or vacates office, the vacancy must be filled for the unexpired portion of office of the member in the manner and under conditions contemplated in section 4(1) and (2), respectively.

Committee

8. (1) The Commission may appoint any committee as the Commission thinks necessary to exercise such powers and perform such functions as the Commission, under subsection (4), may delegate or assign.

(2) A committee appointed under subsection (1) consists of such members of the Commission, and may include such persons not being members of the Commission and who are not disqualified in terms of section 6, as the Commission may appoint to the committee.

(3) The Commission must appoint a member of the Commission to be the chairperson of a committee.

(4) The Commission may delegate any power or assign any function conferred or imposed upon the Commission by or under this Act to a committee subject to such conditions as the Commission may determine.

(5) The Commission is not divested or relieved of a power or function delegated or assigned under subsection (4).

(6) The Commission, at any time, may vary or set aside any decision made by a committee in the exercise of a power delegated to the committee under subsection (4).

(7) The chairperson of the Commission may convene a meeting of a committee at any time and place.

(8) The Commission may dissolve or reconstitute a committee at any time.

Meetings and decisions of Commission or committee

9. (1) The Commission must hold its first meeting on a date and at a place and time as the Minister may determine and thereafter the Commission, subject to subsection (3), may hold any meeting of the Commission on a date and at a place and time as the Commission may determine.

(2) The Commission must hold no less than six meetings in a year.

(3) The chairperson of the Commission -

(a) may at any time convene a special meeting of the Commission; and

(b) on the written request of the Minister or of no less than two members, must convene a special meeting of the Commission, which meeting must be convened for a date no later than 30 days after the chairperson's receipt of the request.

(4) A written notice of any special meeting convened in terms of subsection (3) must -

(a) be sent to each member at least 48 hours before the meeting; and

(b) specify the business for which the meeting has been convened.

(5) The Commission, at a special meeting convened in terms of subsection (3), may not discuss any business other than the business specified in the written notice of that meeting.

(6) If the chairperson and the vice chairperson are both absent from a meeting of the Commission, the members present, may elect a member to preside at that meeting as chairperson.

(7) The majority of all members or of all members of a committee forms a quorum at any meeting of the Commission or committee.

(8) A decision of the majority of all members or of all members of a committee constitutes a decision of the Commission or committee, and in the event of any equality of votes at any meeting the member presiding has a casting vote in addition to a deliberative vote.

(9) Subject to subsection (10), a proposal circulated among all members and agreed to in writing by the majority of all members -

- (a) has the same effect as a resolution passed at a duly constituted meeting of the Commission; and
- (b) must be incorporated in the minutes of the next meeting of the Commission.

(10) If a member requires that a proposal referred to in subsection (9) be placed before a meeting of the Commission, the proposal must be so placed.

(11) The Commission may make rules of the Commission governing meetings and procedure at meetings of the Commission and committees.

Validity of decisions and acts of Commission or committee

10. A decision of the Commission or a committee or an act done under the authority of the Commission or a committee is not invalid solely on the ground that a disqualified person acted as a member at the time the decision was taken or the act was authorized, if the duly appointed members of the Commission or committee who were present at the meeting constituted a quorum and a decision in terms of subsections (7) and (8) of section 9, respectively.

Disclosure of interest of member of Commission and committee

11. (1) If a member or a member of a committee has any direct or indirect interest in any matter which is the subject of consideration at a meeting of the Commission or a committee, and which may cause a conflict of interests to arise, such member -

- (a) must disclose the nature of the interest to the Commission or committee before or at the commencement of the meeting; and
- (b) may not participate in the meeting, unless the other members or members of the committee, after considering the disclosure made in terms of paragraph (a), direct otherwise.

(2) If at any stage during a meeting of the Commission or a committee it appears that a member or member of a committee has or may have any interest which may cause a conflict of interests to arise, the member must forthwith fully disclose the nature of such interest and leave the meeting to enable the remaining members to consider the disclosure and determine whether the member is excluded from participating in the meeting by reason of a conflict of interests.

(3) A disclosure by a member or a member of a committee in accordance with subsection (1) or (2), and a decision taken by the members or members of the committee in connection with such disclosure must be recorded in the minutes of the meeting concerned.

(4) A decision on a matter taken by the Commission or a committee at a meeting where a member or member of a committee took part in contravention of subsection (1) or (2), must be cancelled and the matter be reconsidered at an ensuing meeting of the Commission or committee.

(5) Despite subsection (4), a member or a member of a committee who contravenes or fails to comply with subsection (1) or (2) commits an offence and is liable to a fine not exceeding N\$8000 or to imprisonment not exceeding a period of two years, or to both such fine and such imprisonment.

Minutes of proceedings of Commission or committee

12. (1) The Commission or a committee must cause minutes of all proceedings of and decisions taken at every meeting of the Commission or committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairperson of the meeting to which the minutes relate or by the chairperson of the ensuing meeting of the Commission or committee must be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

Agreement, contract and instrument of Commission

13. The Commission may generally or specially authorize a person to enter into or implement an agreement or contract or to execute an instrument, on behalf of the Commission.

Minister may give directives to Commission

14. (1) Subject to subsection (2), the Minister may give the Commission such written directives of a general character relating to the exercise of the Commission's functions as appears to the Minister necessary in the public interest.

(2) Before giving the Commission any directive under subsection (1), the Minister must inform the Commission, in writing, of the proposed directive and the Commission must submit in writing to the Minister its views on the proposal, including the possible effects on the finances and other resources of the Commission.

(3) Where the Commission has been given a directive in terms of subsection (1), the Commission must ensure that the directive and any views it has expressed thereon in terms of subsection (2) are set out in its annual report.

Payment of allowances to members and members of committee and appeal committee

15. Members and members of a committee and the appeal committee referred to in section 35 must be paid from the Fund such allowances, including travel and subsistence allowances as the Minister, in agreement with the Minister responsible for finance, may determine.

Preservation of secrecy

16. (1) A person who has confidential information relating to the affairs of the Commission or who obtains or has access to such information by virtue of such person's office or employment or participation in the activities of the Commission in terms of this Act, may not disclose such information to any person, except -

- (a) to a person who of necessity requires it for the performance of any functions or participation in the activities of the Commission in terms of this Act;
- (b) if the person discloses such information in the performance of any functions in terms of this Act;
- (c) if such information is required in terms of any law or as evidence in any court of law; or
- (d) with the prior written approval of the Minister or the chairperson of the Commission or the Chief Administrator granted in respect of any matter

which in the opinion of the Minister, chairperson of the Commission or Chief Administrator, is of a general nature and may be disclosed in the public interest.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding N\$8000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

PART III

FINANCIAL PROVISIONS

Establishment of Sports Development Fund

17 (1) There is established a fund to be known as the Sports Development Fund, which consists of -

- (a) moneys appropriated by Parliament for the purpose of the Fund;
- (b) levies collected under section 22;
- (c) entry fees to and miscellaneous takings at sporting events organised and administered by the Commission;
- (d) donations or grants made for the benefit of the Fund;
- (e) receipts from any trading or marketing activity carried on by the Commission itself or jointly with other persons or organizations;
- (f) all other moneys, including loans, received by or made available to the Commission for the benefit of the Fund; and
- (g) interest and other income derived from the investments of moneys standing to the credit of the Fund.

(2) The Fund is managed and controlled by the Commission in accordance with an estimate of income and expenditure prepared by the Commission and approved by the Minister in respect of each financial year of the Fund.

(3) No expenditure payable from the Fund may be incurred except in accordance with the approved estimate of expenditure referred to in subsection (2).

(4) The Commission must open and maintain a banking account in the name of the Fund with a banking institution or building society registered in terms of the laws governing banking institutions and building societies in Namibia -

- (a) into which must be deposited all moneys accruing to and received by or on behalf of the Commission for the benefit of the Fund in terms of this Act or any other law;
- (b) from which must be paid -
 - (i) all expenditure in connection with the performance of the functions of the Commission; and
 - (ii) any amount with which the Fund is charged in terms of this Act; and

- (c) from which no money may be withdrawn, except by means of a cheque or other instrument signed by such person or persons as may be authorized by the Commission.

(5) The Commission, in the manner approved by the Minister in agreement with the Minister responsible for finance, may invest any money standing to the credit of the Fund which is not required for immediate use.

(6) The moneys of the Fund must be utilized for the realization of the objects of the Fund, which are the funding of the Commission's activities and the promotion and development of sport in general, including -

- (a) the provision, development, maintenance and operation of sports facilities;
- (b) the improvement of sports administration;
- (c) the promotion of competitive sports at regional, 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 sport;
- (f) the promotion of the sports career of, or the participation in any sports event by, any individual sportsperson;
- (g) the granting of financial assistance to any referee, umpire, sports administrator, coach or trainer;
- (h) the improvement of the participation in sport of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws and practices;
- (i) visits and tours, whether inside or outside Namibia, by sportspersons and representatives of any national sports body or sports club;
- (j) the holding of congresses or other functions for or in aid of any sport;
- (k) the payment of wages, salaries, fees, allowances and remuneration of persons employed by or acting for or on behalf of the Commission; and
- (l) the payment of any costs, charges or expenses incurred by the Commission in the exercise of its functions in terms of this Act.

(7) The Commission, on application made to it or of its own accord and on such conditions as it may determine, may give financial assistance from the Fund to any person, sports club, national sports body or national umbrella sports body for any purpose contemplated in subsection (6).

(8) For the purpose of giving financial assistance in terms of subsection (7), the Commission may require from the person, sports club, national sports body or national umbrella sports body in relation to whom or to which such assistance is being considered -

- (a) to furnish the Commission with such particulars and information as the Commission may require; or

- (b) to submit to the Commission such books, documents, statements or records as the Commission may require.

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

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

Financial year, accounts and audit

18. (1) The financial year of the Fund ends on 31 March of each year.

(2) The Commission must cause to be kept proper books of account and financial information relating to all its affairs and activities so as to at all times present fairly and reflect correctly all the financial transactions and the financial position of the Fund.

(3) As soon as practicable after the end of each financial year, the Commission -

(a) must cause to be prepared -

- (i) financial statements in respect of the financial year concerned; and
- (ii) a report on the affairs and activities of the Commission during the financial year concerned; and

(b) must submit all financial accounts and statements to the auditor referred to in subsection (4) for audit.

(4) The Commission must appoint a person who is registered as a public accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), to annually audit the books of accounts and financial statements of the Commission.

(5) The person referred to in subsection (4) must undertake such examinations of the books of accounts and financial statements and transactions of the Commission in relation to the Fund as the Minister or Commission, for the purposes of this Act, may require at any time.

Reports of Commission

19. (1) As soon as practicable but not later than six months after the end of each financial year of the Fund, the Commission must submit to the Minister an annual report on the affairs and activities of the Commission, which must include -

- (a) all financial accounts and statements of the Fund duly audited and certified by the auditor; and
- (b) the report of the auditor relating to the accounts and statements referred to in paragraph (a).

(2) The Commission must submit such other reports and particulars relating to the properties, affairs and activities of the Commission as the Minister may require, or as the Commission may consider necessary, at any time.

(3) The Minister must lay on the Table of the National Assembly the annual report submitted to the Minister in terms of subsection (1), within 30 days from the date of receipt, if the National Assembly is then in ordinary session, or, if the National Assembly is not then in ordinary session, within 14 days after the commencement of its ensuing ordinary session.

(4) After the annual report having been laid on the Table of the National Assembly in terms of subsection (3), its copy must at all times be open to inspection by interested persons at the offices of the Commission.

Exemption from payment of tax, duty and other charges

20. Despite anything to the contrary in any law, the Fund is not liable to pay -

- (a) any tax or charge on its income;
- (b) transfer duty or stamp duty in any transaction for which such duty is payable.

Liquidation of Fund

21. The Fund may not be liquidated except by or under the authority of an Act of Parliament.

Determination of levies

22. (1) The Minister, on the recommendation of the Commission and by notice in the *Gazette*, may determine -

- (a) annual levies to be paid by national sports bodies to the Fund;
- (b) a levy on tickets sold for admission to any sports event to be paid to the Fund, but such levy may not be more than 10 per cent of the price of admission paid for the ticket;
- (c) different annual levies under paragraph (a) in respect of different national sports bodies; or
- (d) different levy on tickets under paragraph (b) in respect of different sports clubs, national sports bodies or national umbrella sports bodies.

(2) The Minister, on the recommendation of the Commission, may exempt -

- (a) any national sports body from paying a levy referred to in subsection (1)(a);
or
- (b) any person, sports club, national sports body or national umbrella sports body from paying the ticket levy referred to in subsection (1)(b).

(3) A notice issued under subsection (1) must specify the time when and manner in which a levy determined under that subsection must be calculated, paid and collected.

(4) If a national sports body fails to pay the annual levy referred to in subsection (1) within the period specified in the notice referred to in that subsection, the Commission may recover the amount due, and such amount may be recovered together with interest and any costs incurred in connection with the recovery.

PART IV

ADMINISTRATION OF COMMISSION

Chief Administrator of Commission

23. (1) The Minister must appoint a person as Chief Administrator of the Commission on the recommendation of the Commission.

(2) Unless the Commission decides otherwise in relation to any matter, the Chief Administrator must attend meetings of the Commission and may participate in discussions on any matter under consideration before the Commission, but has no right to vote on any matter.

(3) Subject to the general control and directions of the Commission, the Chief Administrator is responsible for -

- (a) managing the operation, undertakings and properties of the Commission;
- (b) giving effect to the decisions of the Commission; and
- (c) supervising and controlling the activities of the employees of the Commission in the course of their employment.

(4) The Chief Administrator is the chief accounting officer of the Fund.

(5) The Commission may delegate or assign, either in general or in particular, any power or function conferred or imposed upon the Commission by or under this Act to the Chief Administrator subject to such conditions and restrictions as it may determine.

(6) The Commission is not divested or relieved of a power or function delegated or assigned under subsection (5), and -

- (a) may withdraw or amend such delegation or assignment at any time; or
- (b) without prejudice of rights, may set aside or vary any decision made in the exercise of such power at any time.

(7) The Commission must determine remuneration and other conditions of service of the Chief Administrator in agreement with the Minister.

(8) The Chief Administrator is appointed for a term of five years, subject to a six months probation, and is eligible for re-appointment upon the expiration of that term.

(9) Whenever the office of the Chief Administrator becomes vacant or the Chief Administrator is for any reason unable to perform his or her functions, the Commission must designate any staff member of the Commission, or, if circumstances so require, appoint any person, to act as Chief Administrator, until the vacancy is filled or the Chief Administrator is able to perform his or her functions.

(10) A person designated or appointed in terms of subsection (9) has all the powers and performs all the functions of the Chief Administrator.

Staff of Commission

24. (1) The Commission -

- (a) upon such terms and conditions as the Commission in agreement with the Minister may determine, may employ such persons as the Commission may

consider necessary to perform the functions and conduct the affairs of the Commission;

- (b) may suspend or discharge any person appointed in terms of paragraph (a);
- (c) with the approval of the Minister given after consultation with the Minister responsible for finance, may pay such remuneration and allowances, or grant such leave of absence, to its employees as it may determine.

PART V

NATIONAL SPORTS BODIES AND NATIONAL UMBRELLA SPORTS BODIES

Member of executive organ of national sports body or national umbrella sports body

25. (1) A person may not hold office as a member of the executive organ of a national sports body or national umbrella sports body -

- (a) for a period exceeding 10 years in aggregate;
- (b) if such person -
 - (i) is not a Namibian citizen;
 - (ii) is a member of the National Assembly, a regional council or a local authority council; or
 - (iii) is an unrehabilitated insolvent.

(2) A person may not hold office as a member of the executive organ on more than one national sports body or national umbrella sports body at the same time.

Registration of national sports body and national umbrella sports body

26. (1) A sports body which wishes to register as a national sports body or national umbrella sports body must apply to the Commission for registration in the form and manner as prescribed.

(2) After considering an application made in terms of subsection (1), the Commission may register the applicant and its constitution and rules and any applicable international legal instrument, if the Commission is satisfied that -

- (a) the applicant's constitution and rules and any applicable international instrument that have been submitted are true copies and are not inconsistent with this Act;
- (b) by seeking registration for the applicant, the members of the applicant are acting in good faith;
- (c) the membership of the applicant is open to -
 - (i) all sports clubs involved in the applicant's sports code, in the case of a national sports body; or
 - (ii) all sports codes, in the case of a national umbrella sports body; and

(d) there is a likelihood that the affairs of the applicant will be properly managed.

(3) Where any amendment is made to the constitution or rules of a national sports body or national umbrella sports body, or to any international legal instrument applicable to such body, such body must forthwith give particulars of the amendment to the Commission for registration.

(4) A constitution or rules of a national sports body or national umbrella sports body, or an amendment thereof, or any international legal instrument applicable to such body or an amendment thereof, is not of any effect, unless the constitution or the rules or the legal instrument or the amendment is registered in terms of subsection (2) or (3), respectively.

(5) A national sports body or national umbrella sports body is not entitled to any funding from the Fund, unless the sports body is registered under this Act.

(6) The Commission must keep and maintain a register of national sports bodies and national umbrella sports bodies.

(7) The register is open to inspection by any person at the offices of the Commission free of charge.

Annual reports and estimate of income and expenditure for national sports bodies and national umbrella sports bodies

27. (1) Every national sports body and national umbrella sports body must submit to the Commission within 90 days after the end of its financial year -

- (a) a report on its activities during that financial year; and
- (b) an audited balance sheet and income and expenditure account for that financial year together with the auditor's report.

(2) Every national sports body and national umbrella sports body must submit to the Commission, before the end of its financial year, its estimate of income and expenditure for the next financial year.

(3) If the Chief Administrator considers that any estimates submitted in terms of subsection (2) are not in the best interests of the members of a national sports body or national umbrella sports body that submitted the estimates, the Chief Administrator, after discussing the estimates with the body, may make a report on the estimates to the Commission.

(4) When a report is made to the Commission in terms of subsection (3), the Commission, after hearing the representations of the national sports body or national umbrella sports body concerned, may require the body to amend its estimates.

Discipline of national sports body and national umbrella sports body

28. (1) The Commission must ensure that every national sports body and national umbrella sports body complies with this Act, its constitution and rules and any applicable international legal instruments.

(2) Subject to subsection (3), the Commission may strike off the register the name of a national sports body or national umbrella sports body, if the Commission is satisfied that -

- (a) the body ceases to operate as a national sports body or national umbrella sports body in terms of this Act and its constitution;
 - (b) the body fails to comply with this Act, the body's constitution or rules or any international legal instrument applicable to it; or
 - (c) the body conducts its affairs in a manner which is contrary to the public interest.
- (3) The Commission -
- (a) may not take any action in terms of subsection (2) before the body referred to in that subsection is given an opportunity to make representations in the matter to the Commission, after which the Commission may give any warning or directive;
 - (b) may only take any action in terms of subsection (2) if the national sports body or national umbrella sports body after having been given a warning or directive under paragraph (a) continues with its non-compliance with this Act, its constitution or rules.

PART VI

GENERAL

National sports emblem

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

National sports colours

30. (1) The national sports colours in respect of a specific sports code must consist of the national sports emblem referred to in section 29 used in conjunction with any such ancillary emblem or motif and any such sportswear or uniform as the Commission may approve.

(2) The Commission may grant approval for the award of national sports colours to any person or national team or sports administrator to participate in an international sports event.

(3) A national sports body or national umbrella sports body desiring to award national sports colours to a sportsperson or national team to participate in international sports event may apply in the prescribed manner to the Commission for written approval to award such national sports colours.

(4) The Commission, with regard to an application made under subsection (3), may approve the application if it is satisfied that -

- (a) the sportsperson or national team has duly excelled in the sports code concerned and duly qualifies for the international sports event concerned;
- (b) the information furnished in the application is correct and complete;

- (c) the prescribed selection criteria and procedures were complied with;
- (d) the approval of the application is in the interest of sport in general and the sports code in particular; and
- (e) in the case of an individual sportsperson, the sportsperson is a Namibian citizen, or, in the case of a national team, the team is composed exclusively of Namibian citizens.

Sports awards

31. (1) The Commission may -

- (a) give a national sports award to any person, team, sports administrator or sports body in recognition of excellent performance in sport at any level; or
- (b) give a honorary sports award to any person on the recommendation of a national sports body or national umbrella sports body.

(2) A person, sports club, national sports body or national umbrella sports body may give any sports award other than a national sports award to any person, sports club or sports body.

Registration of sports facilities

32. (1) A person, body or institution who or which owns or possesses sports facilities that is used or intended to be used for the hosting of national or international sports events must apply to the Commission for the registration of such sports facilities in the prescribed manner.

(2) The Minister may prescribe requirements and conditions for registration of sports facilities, including the standard to be complied with.

(3) The Commission may -

- (a) refuse the application for registration referred to in subsection (1), if sports facilities concerned do not comply with the prescribed requirements or conditions for registration; or
- (b) cancel the registration of sports facilities, if -
 - (i) the facilities are not kept to the prescribed standard; or
 - (ii) the prescribed conditions for registration are not being complied with.

(4) The Commission may not authorize sports facilities that are not registered with the Commission to be used for the hosting of any national or international sports event.

Hosting of and participating in international sports event

33. (1) A person, sports club, national sports body or national umbrella sports body may not host an international sports event in Namibia, except with the written approval of the Commission granted on application made to the Commission in the prescribed manner.

(2) A sportsperson, sports club, national sports body or national umbrella sports body may not participate in an international sports event as a representative of Namibia,

except with the written approval of the Commission granted on application made to the Commission in the prescribed manner.

(3) The Commission, with regard to an application made under subsection (2), may approve the application if it is satisfied that -

- (a) the applicant is duly representing a specific sports code in Namibia;
- (b) the information furnished in the application is correct and complete;
- (c) the application is in the interest of promoting sport in general or the sports code in particular;
- (d) in the case of an individual sportsperson, the sportsperson is a Namibian citizen, or, in the case of a national team, the team is composed exclusively of Namibian citizens; or
- (e) in the case of a national sports body, any levy payable by the body for the benefit of the Fund under section 22 has been paid.

(4) If the Commission knows or has reasonable grounds to believe that a sportsperson, sports club, national sports body or national umbrella sports body is participating or about to participate in any international sports event as a representative of Namibia without the approval of the Commission referred to in subsection (3), the Commission, by written notice sent by registered post or delivered by hand to the sportsperson, sports club or sports body, may prohibit the sportsperson, sports club or sports body -

- (a) from continuing with the sports event, if the sportsperson, sports club or sports body is already participating in the sports event; or
- (b) from participating in the sports event, if the sportsperson, sports club or sports body is about to participate in the sports event.

(5) The Commission may mail a copy of the notice referred to in subsection (4) to the organizer of the sports event referred to in that subsection by registered post or by hand delivery at any time before or after the international sports event starts.

(6) If the sportsperson, sports club, national sports body or national umbrella sports body referred to in subsection (2) participates in any international sports event contrary to that subsection or the notice referred to in subsection (4), the Commission, after having given him or her or it an opportunity to be heard, may prohibit him or her or it from participating in any international sports event for that specific sports code for such period as the Commission may determine.

(7) A sportsperson, sports club or sports body, other than a sportsperson, sports club or sports body associated with the uniformed services, who or which is not registered with the Commission may not participate in any international sports event as a representative of Namibia.

(8) If the sportsperson, sports club or sports body referred to in subsection (7) participates in any international sports event contrary to that subsection, subsections (4), (5) and (6) are applicable, unless the sportsperson, sports club or sports body denounces publicly that he or she or it is no longer participating in the international sports event as a representative of Namibia.

Doping control tests

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

- (a) of having or to have had at the time of such participation in his or her blood or urine -
 - (i) any substance or residue of a substance declared as a prohibited substance under a regulation;
 - (ii) any substance or residue of a substance declared as a restricted substance under a regulation, the level of concentration of which exceeds the prescribed maximum level; or
- (b) of having had applied to him or her or to have used, any procedure or practice declared as a prohibited procedure or practice under a regulation.

(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) by written notice sent by registered post, may prohibit the person from competing nationally or internationally, whether in a specific sports code or any sports code, for such period as the Commission may determine; and
- (b) must inform the national association to which the sportsperson belongs, if any, of the sportsperson's refusal to submit himself or herself to a doping control test.

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

Appeal committee and procedure for appeal against decision of the Commission, national sports body or national umbrella sports body

35. (1) There is established an appeal committee consisting of three persons appointed by the Minister, as follows -

- (a) a person with a legal qualification, who must be the chairperson of the appeal committee;
- (b) a person with expertise in sport; and
- (c) a person with experience in administrative matters.

(2) Subject to subsection (3) and section 15, a member of the appeal committee holds office for such term as the Minister may determine at the time of the member's appointment, but not exceeding three years, and is eligible for re-appointment at the expiration of such term.

(3) The Minister may at any time remove a member of the appeal committee from office, if the member becomes unfit to act as a member or is unable to discharge the functions of a member.

(4) A person who is not satisfied with the decision of the Commission, a national sports body or national umbrella sports body, within seven days of the decision, may request the Commission or the body to furnish that person with a copy of the record of proceedings or the minutes of the meeting in which a decision was made together with any documentary evidence and reasons of the decision within seven days of receipt of the request.

(5) After receipt of the copy of the record of proceedings or minutes of the meeting and documentary evidence and reasons of the decision, the person referred to in subsection (4), by notice in writing to the chairperson of the appeal committee, may appeal to the appeal committee against the decision of the Commission, national sports body or national umbrella sports body within 14 days of receipt.

(6) A notice referred to in subsection (5) must -

- (a) contain the names and addresses of the parties involved in the matter, the subject matter of the appeal and the facts and circumstances which gave rise to the appeal; and
- (b) be accompanied by a copy of any relevant document on the matter, if any.

(7) The appeal committee, within 20 days of receipt of the notice of appeal together with the record and all documents referred to in subsection (6), must issue to all parties a notice of set down indicating the date, time and place and subject matter of the appeal, the date of which may not be less than 14 days before the commencement of the appeal proceedings.

(8) Any party to an appeal is entitled to legal representation at any appeal proceedings.

(9) The appeal committee determines the hearing procedure at the appeal proceedings, and for the purpose of the hearing of the appeal, the chairperson may -

- (a) in the prescribed form, summon any person who -
 - (i) in the chairperson's opinion, may give material information concerning the subject matter of the appeal to appear before the appeal committee to give evidence at a time and place specified in the summons; or
 - (ii) the chairperson 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 to produce such document;
- (b) retain for examination any document produced under paragraph (a);
- (c) administer an oath to or accept an affirmation from, any person called as a witness at the hearing; or
- (d) 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 invite any person with expertise in any specific sports code to assist the committee in the investigation of any appeal concerning that code.

(11) The appeal committee may confirm the appeal, set aside or vary the decision of the Commission or a national sports body or national umbrella sports body.

(12) The appeal committee must issue its decision in writing and furnish a copy thereof to every party to the appeal.

(13) The Commission must designate some of its employees to perform all the administrative work of the appeal committee.

Protection of employment of members of national team

36. (1) Despite any provision to the contrary in any law, if a person has been selected to a national team to represent Namibia at a sports event, such person may not suffer any reduction in seniority, leave, salary or other benefits or be discharged from his or her employment or victimized on the ground that such person is required to be away from his or her place of employment for the purposes of such representation.

(2) In addition to the provisions of the Labour Act, 1992 (Act No. 6 of 1992), a person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding N\$8000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.

Indemnity

37. (1) The Commission or a committee is not liable for any loss or damage arising out of any act done or omitted to be done in good faith on the authorization of the Commission or committee under this Act, unless such damage or loss is due to the Commission's or committee's negligence or failure to comply with this Act.

(2) A member, a member of a committee or appeal committee, or a person employed in terms of this Act, is not liable for any loss or damage arising out of any act done or omitted to be done in good faith by that member or that person under this Act, unless such damage or loss is due to that member's or person's misconduct, dishonesty, negligence or failure to comply with this Act.

Regulations

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

- (a) 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) the administration of the Fund;
- (c) the amount, payment and collection of levies imposed under section 22;
- (d) the differentiation or categorization of national sports bodies in respect of payment of annual levies or exemption from such payment under section 22, or of persons, sports clubs or national umbrella sports bodies in respect of payment of levy on tickets for admission at sports events or exemption from such payment under section 22;
- (e) the funding of national and international sports activities and events;
- (f) the determination of and qualifications for national sports colours, and the awarding, handling and wearing of national sports colours;

- (g) the qualifications for and awarding of national sports awards;
- (h) the selection criteria and procedures to be applied in the selection of national teams or individual sportspersons for participation in international sports events;
- (i) the declaration of 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;
- (j) the declaration of any substance or its metabolites as a prohibited or restricted substance;
- (k) the prescription of the maximum level of concentration of a restricted substance or its residue 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 or at any specified time before or after participating in a sports event;
- (l) the persons who may be authorized to demand that sportspersons submit themselves to doping control tests and-
 - (i) the procedure for such tests;
 - (ii) the laboratory reports; and
 - (iii) 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 (j) or (k);
- (m) the registration and duties of national sports bodies and national umbrella sports bodies and the circumstances in which their names may be struck off the register;
- (n) the accounts and other records to be kept by national sports bodies and national umbrella sports bodies and the submission of returns to the Commission;
- (o) the registration of sports facilities, the cancellation of such registration, and rights of access to registered sports facilities;
- (p) the prohibition of the national sports bodies and sports clubs and their members from competing with non-registered sports bodies and sports clubs and their members;
- (q) the conduct and administration of national and international sports activities and events;
- (r) the participation of sportspersons, sports clubs, national sports bodies and national umbrella sports bodies in national and international sports events;
- (s) the carrying on of trading or commercial activities by the Commission, or a national umbrella sports body, national sports body or sports club;
- (t) any matter required or permitted to be prescribed under this Act; and
- (u) generally any matter which the Minister considers necessary or expedient to prescribe in order to achieve the purposes of this Act.

(2) A regulation made under subsection (1) may prescribe a penalty for any contravention of or failure to comply with that regulation not exceeding a fine of N\$2000 or a period of six months imprisonment, or both such fine and such imprisonment.

Savings and transitional provisions

39. (1) The National Sports Commission established by the law repealed by section 40 is deemed to have been established by section 2 under the name Namibia Sports Commission.

(2) The Sports Development Fund established by the law repealed by section 40 is deemed to have been established by section 17.

(3) A national sports body or national umbrella sports body registered under the law repealed by section 40 is required to reregister under this Act within 90 days of the commencement of this Act, otherwise its registration lapses at the end of those days.

(4) The appeal committee constituted in terms of the law repealed by section 40 is deemed to have been established by section 35.

(5) A national sports emblem determined, or national sports colours approved, or an award of national sports colours made, under the law repealed by section 40 is deemed to have been determined, approved or made under sections 29 and 30, respectively.

(6) Any legal proceedings by or against any party under the law repealed by section 40 and which is pending, or any cause of action under that law existing, at the date of commencement of this Act, may be continued or enforced by or against that party in terms of this Act.

(7) Unless otherwise provided in this Act, anything done under the law repealed by section 40 and which could have been done under this Act is deemed to have been done under this Act.

Laws repealed

40. The Namibia Sports Act, 1995 (Act No. 7 of 1995) is repealed.

Short title and commencement

41. This Act is called the Namibia Sports Act, 2003 and commences on a date to be determined by the Minister by notice in the *Gazette*.
