

# Gerom Media, Sports & Entertainment (Pty) Ltd

Cell. 082 496 1657 | E-mail. [info@sportsbusiness.co.za](mailto:info@sportsbusiness.co.za)

Website: [www.sportsbusiness.co.za](http://www.sportsbusiness.co.za)

16 Kirkby Road, Bedfordview, Johannesburg, South Africa 2007

---

## **Cabinet approves National Sport and Recreation Amendment Bill of 2022**

On 30 November 2022, in its final meeting for the year, Cabinet approved the submission of the National Sport and Recreation Amendment Bill of 2022 to Parliament, for further processing.

The Bill seeks to amend the existing version i.e.; the National Sport and Recreation Act, of 1998 (Act 110 of 1998).

The Minister of Sports, Arts and Culture has published the Bill in 2020 and at that stage, as required by law, called for public input.

The Bill, once adopted will recognise a “Club” as either being an organisation or a professional body, practising a particular sport and one, which is affiliated to either a provincial or a national federation.

It also prescribes that in order for a “National federation” to be recognised by Sport and Recreation South Africa, it will have to have a minimum of five provincial affiliates as such.

The Bill will also recognise all 'recreational activity' as any form of activity, which are done for purposes of “physical fitness, mental well-being and social interaction” whether such activity is part of organised sport or if it is simply done as an activity forming part of any “non-competitive sport or recreational activity, including but not limited to leisure sport”.

The sports agency sector will also fall under the ambit of the Bill prescribing that agents will have to be registered and licensed, to act on behalf of athletes, whether it is for negotiating employment for sport or a recreation contract as well as concluding endorsement deals with any commercial brand, as such.

The Bill will also empower the Minister to set the registration “Fees for a sport or recreation agent”, to be allowed to practice in the sector.

The Bill further authorises the Director-General of Sport and Recreation South Africa, to recognise and issue a certificate declaring a national federation as the sole representative body for that particular code subject to the criteria issued by the Minister, which may vary for different sport and recreational bodies.

However, an exemption may be issued by the Director-General giving leeway to a specific federation, where for example, it is impossible for it to comply with the required criteria when it applies for recognition and such a certificate may also be withdrawn at any time, for good reason.

The Bill also provides direction on the use of sports facilities, especially where it is leased for non-sporting activities like weddings, church and political gatherings, that the latter will not receive preference over the needs of sports bodies, per se.

The Minister will also be authorised to set and prescribe norms and standards for the construction of sports facilities, oversees its governance, especially those facilities handed to municipalities and from time to time inspect these facilities for monitoring purposes.

Monitoring of the compliant management of sports facilities will be done by certified inspectors, drawn from the public service, as appointed by the Minister and they will have the power to enter any sports facility and interview officials in charge of such facilities as to any compliance required under the Act.

The Bill further authorises the Minister to promulgate Regulations to protect vulnerable communities, like children under the age of 18, women and those living with disabilities, from any form of sexual exploitation.

A national colours Board will also be established under the auspicious of Sports and Recreation South Africa,

The Bill also outlines the procedure to be followed for staging international events in South Africa of which all such applications must be approved by the Minister and be supported by the relevant national federation when an application is made.

The Bill explicitly prohibits anyone from staging an international sport and recreational event without prior application by the relevant national federation and approval from the Minister, respectively.

The contact sports industry will also have its own Regulatory Authority, established under the powers of the Minister and it will be tasked to, "Oversee, administer and govern all forms of combat sport in the prescribed manner", including, "Objects, functions and governance of such an Authority".

The Authority will essentially be authorised to Regulate every aspect of combat sports inclusive of certificates and licenses to operate as a controlling body, licenses for athletes, broadcasting requirements, tournament rules and regulations and a myriad of other controlling powers as granted by the Minister.

The contentious sector of the fitness industry will also now fall under the control of the Minister who may establish a Fitness Industry Regulatory Authority, which will have similar powers as that of the Combat Sport Regulatory Authority.

The Fitness Regulatory Authority will also be empowered to issue and withdraw operating licenses for fitness establishments like gyms, which could be closed if it does not comply with the standards set by the Authority as well as a dispute resolution mechanism to solve conflict through arbitration.

Personal fitness, wellness instructors and establishments will also have to apply for a license to operate in the sector and such a license may be withdrawn by the Authority where it was found that either the fitness establishment or the instructor did not comply with the applicable Regulations issued by the Minister.

The Bill also gives wide powers to the Minister to establish an investigation into any matter pertaining to a "Recognised Federation" or "any matter that may bring a sport or recreational activity or body into disrepute".

Under the Bill, the Minister will now have the power to establish a “Committee”, which may be afforded the power to investigate any person or sports body where non-compliance, mismanagement or a lack of good governance has been reported as well as any other matter or conduct that may bring sport or recreation in disrepute.

The Bill also seeks to establish a Sport Arbitration Tribunal to hear disputes, consider applications for reviews as well as appeals to any decision taken by the Minister and adjudicate on these, as it may deem fit.

Criminal sanction is also made provision for in the Bill where a person has attempted to manipulate the outcome or endeavour to undermine the integrity of a sport or recreational event, such a person may be liable to a fine or imprisonment for a period of up to 20 years or both a fine and such imprisonment.

The same sanction will apply where a person, “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”, to manipulate the outcome or endeavour to undermine the integrity of a sport or recreational event.

Further, a person who becomes aware of any attempt to manipulate the outcome or undermine the integrity of a sport or recreational event will be legally obliged to report it to the relevant sporting authorities, the Minister or the nearest police station and a failure to do so will also make the person liable to a fine or being imprisoned for a year or both a fine and imprisonment as such.

Many people are of the view that with this Bill, the Minister is endeavouring to “Nationalise” sport and recreation, in that he wants all the powers necessary to take decisions and manage sport through Committees as well as Regulatory Authorities to become his gatekeepers, through Regulations and investigations where non-compliance to this Bill, are suspected.

On the aspect of “recreational activity,” the Bill defines it as “All forms of physical activity that contribute to physical fitness, mental wellbeing and social interaction organised as a non-competitive sport or recreational activity, including but not limited to leisure sport”.

Some are already of the view that regulating “recreational activity”, especially that which are "non-competitive", could be seen as an overreach by the Minister since the Bill does not clearly stipulate how for example a social walking event, organised by a company for its staff, will be regulated other than compliance required under existing legislation like local event permit application, safety measures, etc.

It will also be interesting to see the different sets of Regulations, which will be issued after the enactment of the Bill and one has a feeling that litigation will become a pertinent response to it.

**Compiled by Gerrit Davids**

Gerom Media, Sports and Entertainment (Pty) Ltd.

Cell. 082 496 1657

E-mail: [info@sportsbusiness.co.za](mailto:info@sportsbusiness.co.za)

Website: [www.sportsbusiness.co.za](http://www.sportsbusiness.co.za)