

SPECIAL ISSUE

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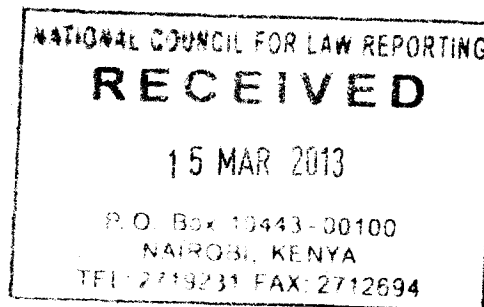
KENYA GAZETTE SUPPLEMENT

ACTS, 2013

NAIROBI, 25th January, 2013

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THE SPORTS ACT, 2013

AN ACT of Parliament to harness sports for development, encourage and promote drug-free sports and recreation; to provide for the establishment of sports institutions, facilities, administration and management of sports in the country, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Sports Act, 2013, and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette, appoint and different dates may be appointed for different provisions.

Short title and commencement.

2. (1) In this Act, unless the context otherwise requires—

Interpretation.

“Academy” means the Kenya Academy of Sports established under section 28;

“Board” means the Board of Sports Kenya constituted in accordance with section 5(1);

“Board of Trustees” means the National Sports Fund Board of Trustees established by section 13;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to sports;

“club members” includes officials and other athletes;

“Council” means the Council of the Institute constituted in accordance with section 30;

“Director-General” means the Director-General of the Authority appointed under section 8 or a person authorized to act on his behalf;

“lottery” means a lottery as defined in the Betting, Lotteries and Gaming Act;

Cap. 131.

“national sports organization” includes an umbrella body responsible for Olympic, non-Olympic, Paralympic or Deaflympic sports or multi-sport organization responsible for all sports disciplines or recreational bodies or body responsible for a particular sport nationally;

“professional sports” means sports for which a contract for engagement and remuneration has been entered into by a club or sports organization and the professional sports persons;

“professional sports person” means a person who is, on the basis of a contract for engagement and remuneration, preparing or training for the purposes of participating in the relevant sports competition;

“recreation” means voluntary participation in a physical or mental activity for enjoyment, improvement of general health, well-being and the development of skills of an individual;

“Registrar” means the Sports Registrar appointed under section 40;

“sport” includes all forms of physical or mental activity which, through casual or organized participation, or through training activities, aims at expressing or improving physical and mental well-being, forming social relationships or obtaining results in competition at all levels, and includes any other activity as the Cabinet Secretary may, from time to time and after consultation with the technical department responsible for sports, prescribe;

“sports agencies” includes the sports institutions and sports organizations;

“sports institutions” means the Sports Kenya, the National Sports Fund Board of Trustees, the Kenya Academy of Sports and the Sports Disputes Tribunal established under this Act;

“sporting event” means a sporting contest, competition, tournament or game open to participation and attendance by the public;

“Sports Kenya” means the Sports Kenya established by section 3;

“sportsperson’s representative” means a person who is duly authorized and registered as such according to the constitution of the respective sports organisation;

“Tribunal” means the Sports Disputes Tribunal established under section 50;

(2) Until after the first general elections under the Constitution, references in this Act to the expression “Cabinet Secretary” and “Principal Secretary” shall be construed to mean “Minister” and “Permanent Secretary, respectively

PART II—ESTABLISHMENT OF SPORTS KENYA

3. (1) There is established a body to be known as Sports Kenya.

Establishment of
Sports Kenya.

(2) Sports Kenya shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding and disposing of movable and immovable property;
- (c) borrowing money, with the approval of the Cabinet Secretary and subject to such limitations and conditions as may be imposed by the Treasury with respect to state corporations generally or specifically with respect to Sports Kenya; and
- (d) doing or performing any other things or acts for the proper performance of its functions under this Act which may be lawfully done or be performed by a body corporate.

(3) Sports Kenya shall be the successor to the Sports Stadia Management Board established by the Sports Stadia Management Board Order, 2002.

L.N 180/2002.

(4) Subject to this Act, all the rights, duties, obligations, assets and liabilities of the Sports Stadia Management Board existing immediately before the commencement of this Act shall be automatically and fully transferred to Sports Kenya.

(5) The headquarters of Sports Kenya shall be in Nairobi, but Sports Kenya may establish offices at any other place in Kenya.

(6) Sports Kenya shall ensure access to its services in all parts of the Republic in accordance with Article 6(3) of the Constitution.

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Functions of Sports
kenya.

4. The functions of Sports Kenya shall be to—

- (a) promote, co-ordinate and implement grassroots, national and international sports programs for Kenyans, in liaison with the relevant sports organizations and facilitate the active participation of Kenyans in regional, continental and international sports, including in sports administration;
- (b) manage and maintain the sports facilities specified in the First Schedule and any other facilities which the Cabinet Secretary may, by notice in the Gazette, declare to be sports facilities for the purposes of this Act;
- (c) establish, manage, develop and maintain the sports facilities, including convention centers, indoor sporting and recreational facilities for the purposes of this Act;
- (d) adopt, develop, plan, set stadia standards and licence and regularly inspect stadia for sporting and recreational use;
- (e) establish and maintain a sports museum;
- (f) participate in the promotion of sports tourism;
- (g) provide the necessary amenities or facilities for persons using the services or facilities provided by Sports Kenya;
- (h) operate sports facilities on public grounds in such manner as it deems necessary;
- (i) collaborate with county governments, learning institutions and other stakeholders concerned with sports and recreation, in the search, identification and development of sporting talent, provision of sports equipment, facilities and technical training,
- (j) identify and recommend talents in sports to national sports organizations;
- (k) inculcate the sense of patriotism and national pride through sports and recreation, create awareness on matters of national interest through sporting events, create awareness on the benefits

of regular participation in sports for healthy living and provide advisory and counseling services to athletes;

- (l) determine the national colours to be used in national and international competitions, in consultation with the relevant national sports organizations;
- (m) facilitate the preparation and participation of Kenyan teams in various international events and the hosting of similar events in the country and recommend members of steering committees for international sports competitions, in consultation with the relevant national sports organizations;
- (n) recommend to the relevant authorities issuance of work permits and visas to foreign athletes and technical sports personnel, in consultation with the relevant national sports organizations;
- (o) approve, at the request of the respective national sports organization, the clearance of foreign sports technical personnel before engagement by national sports organizations and other sporting bodies;
- (p) organize and co-ordinate training, conduct research, maintain a resource centre and provide and engage consultancy services for sports development programmes, in consultation with the respective national sports organizations;
- (q) with the approval of the Cabinet Secretary, prescribe charges or fees in respect of—
 - (i) access to, or use of, any of the resources or facilities of Sports Kenya;
 - (ii) the provision of programs, services, information or advice by Sports Kenya; and
 - (iii) the admission of persons to events and activities organized by Sports Kenya;
- (r) recommend, in liaison with the relevant sports organisations, tax exemption for sportspersons; and
- (s) perform such other functions related to the

implementation of this Act as may be directed by the Cabinet Secretary.

Powers of Sports Kenya.

5. Sports Kenya shall have the power to—

- (a) erect buildings and structures and carry out works necessary or desirable for the purposes of Sports Kenya;
- (b) appoint agents and attorneys;
- (c) engage persons to perform services for Sports Kenya;
- (d) obtain commercial sponsorship for Sports Kenya and participate in marketing arrangements involving endorsement by Sports Kenya of products and services associated with sports;
- (e) provide, whether by sale or otherwise, any article or thing bearing a mark, symbol or writing that is associated with Sports Kenya;
- (f) regulate the provision of services and use of the facilities of Sports Kenya;
- (g) act as an agent for any person engaged, whether within Kenya or elsewhere, in the performance of services, or the provision of facilities, of a kind similar or complementary to those performed or provided by Sports Kenya;
- (h) undertake the construction or execution of any works on land vested in Sports Kenya; and
- (i) make Regulations, with the approval of the Cabinet Secretary—
 - (i) relating to the use, safety or maintenance of the stadia falling within its responsibility;
 - (ii) relating to the erection of structures on, near, over or under the stadia falling within its responsibility;
 - (iii) for the drainage of streets, lands, compounds and buildings adjacent to the stadia;
 - (iv) for the inspection of the level, width and construction of stadia and play grounds; and
 - (v) for the removal, demolition or alteration of

any projection, structure or thing obstructing a stadia or likely to cause damage or inconvenience to sports facility users

6. (1) The management of Sports Kenya shall vest in a Board, which shall consist of—

Constitution of the Board of the Authority.

- (a) a non-executive chairperson, who shall be a person who holds a degree from a university recognised in Kenya and is knowledgeable in sports, finance or commerce, appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for sports;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance;
- (d) the Attorney-General;
- (e) the Principal Secretary in the Ministry responsible for education;
- (f) the Chief Executive Officer of the Academy of Sports;
- (g) the Chief Executive Officer of the National Sports Fund;
- (h) the secretary to the Sports Disputes Tribunal;
- (i) four persons appointed by the Cabinet Secretary on nomination by—
 - (i) the sports organizations recognized as the national co-ordinating bodies for the promotion and development of high performance Olympic, Paralympic and Deaflympics sports in Kenya; and
 - (ii) the national multi-sport sports organization that is responsible for the adherence to all the codes for sports and recreational bodies.
- (j) the Director-General of Sports Kenya, who shall be the Secretary.

(2) In appointing or nominating persons to be members of the Board under this section, the appointing or nominating authority shall have regard to the principle of gender equity and affirmative action.

(3) The Chairperson and members of the Board appointed under subsection (1)(g) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(4) The appointment of the Chairperson and members of the Board appointed under subsection (1)(g) shall be by notice in the Gazette.

Powers of the Board.

7. The Board shall have all the powers necessary for the performance of the functions of Sports Kenya under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) manage, control and administer the assets of Sports Kenya in such manner and for such purposes as best promote the purposes for which Sports Kenya is established;
- (b) receive any gifts, grants, donations or endowments made to Sports Kenya or any other monies in respect of Sports Kenya and make disbursements therefrom in accordance with the provisions of this Act;
- (c) determine the provisions to be made for capital and recurrent expenditure and for reserves of Sports Kenya;
- (d) open a banking account or banking accounts for the funds of Sports Kenya; and
- (e) invest any monies of Sports Kenya not immediately required for the purposes of this Act in the manner provided in section 11.
- (f) make grants or lend money, and provide scholarships to sportspersons and staff of Sports Kenya; and
- (g) do any other thing necessary, or expedient for the discharge of its functions under the Act.

Director-General.

8. (1) Sports Kenya shall have a Director-General, who shall be appointed by the Board, through a competitive recruitment process.

(2) A person shall not be qualified for appointment as the Director-General unless that person has held a similar

position or served in executive management in an institution of equal status for at least five years and has at least ten years' experience and proven competence in sports and facility management and operation of commerce, industry, finance or general administration.

(3) The Director-General shall hold office for a term of three years renewable only once and on such terms and conditions of employment as Sports Kenya may determine.

(4) The Director-General shall, subject to the general direction and control of the Board, be responsible for the day-to-day operations and administration of Sports Kenya, and in particular for-

- (a) the implementation of the policies and programmes and agreed objectives, performance targets and service standards of Sports Kenya
- (b) the proper management of the funds and property of Sports Kenya;
- (c) the organization and control of the staff of Sports Kenya;
- (d) the formulation, development and implementation of the strategic plan, business plan, annual plan and operations plan for achieving Sports Kenya's objectives;
- (e) co-operation with other lead agencies and organizations in the sports sector;
- (f) the development of an economic, efficient and cost effective internal management structure;
- (g) the provision of advice as required on all matters within Sports Kenya's responsibility; and
- (h) the performance of any other function necessary for the implementation of this Act as may be assigned to him by the Board.

9. (1) Sports Kenya may appoint such other officers Staff of the Authority. and staff as may be necessary for the proper and efficient performance of its functions.

(2) The officers and staff appointed under this section shall, hold office on such terms and conditions as may be determined by the Board and specified in their instruments of appointment.

No. 25

Delegation of powers
of the Board.

10. (1) The Board may, in writing, delegate to the Chairperson, a member of the Board, an officer of Sports Kenya or to a Committee of the Board established in accordance with the Third Schedule, any of the powers, duties or functions of Sports Kenya under this Act.

(2) The powers, duties and functions delegated under subsection (1) shall be exercised in accordance with the terms and conditions specified in the instrument of delegation and subject to such directions or guidelines as the Board may, from time to time issue, in writing.

(3) A person aggrieved by the decision of a person exercising powers delegated under this section may appeal to the Board.

Funds of the
Authority.

11. The funds of Sports Kenya shall comprise—

- (a) such moneys as may be appropriated by Parliament for purposes of Sports Kenya;
- (b) such moneys, revenue or assets as may accrue to or vest in the Board of Sports Kenya in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (c) money provided by the National Sports Fund for the purposes of Sports Kenya;
- (d) funds accruing from investments made by Sports Kenya;
- (e) such gifts, grants, loans or donations, made with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance, to Sports Kenya; and
- (f) money from any other source received by Sports Kenya in the performance of its functions under this Act.

**PART III—ESTABLISHMENT OF THE NATIONAL
SPORTS FUND**

Establishment of the
National Sports Fund.

12. (1) There is established a Fund to be known as the National Sports Fund, which shall vest in and be operated and managed by the Board of Trustees.

(2) There shall be paid—

- (a) into the Fund all the proceeds of any sports lottery, investments and any other payments required by this Act to be paid into the Fund; and
- (b) out of the Fund, financial support for sports persons and sports organizations and any other payments required under the provisions of this Act to be paid out of the Fund.

13. (1) There is established a Board of trustees of the Fund to be known as the National Sports Fund Board of Trustees, which shall consist of—

Establishment of a Board of Trustees.

- (a) a chairperson, who shall be a person knowledgeable in finance, commerce or sports, appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for sports or his representative;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance or his representative;
- (d) the Attorney-General or his representative;
- (e) the Director General of Sports Kenya;
- (f) the Chief Executive Officer of the Kenya Academy of Sports;
- (g) the secretary to the Sports Disputes Tribunal;
- (h) four trustees appointed by the Cabinet Secretary on nomination by—
 - (i) the sports organizations recognized as the national co-ordinating bodies for the promotion and development of high performance Olympic, Paralympic and Deaflympics sports in Kenya; and
 - (ii) the national multi-sport sports organization that is responsible for all sports disciplines or recreational bodies;
- (i) two other persons with experience in sports marketing, management of national sports organization, or the corporate sector, appointed by the Cabinet Secretary, taking into consideration gender balance;

(j) the Chief Executive Officer appointed under section 24, who shall be the Secretary to the Board of Trustees.

(2) The Board of Trustees shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

(3) The appointment of Trustees under subsection (1) (h) and (i) shall be by notice in the Gazette.

Cap. 167.

(4) A Trustee appointed under this section shall, in relation to the Fund, have the duties and obligations of a trustee, and be accountable in accordance with the provisions of the Trustee Act.

(5) The headquarters of the Board of Trustees shall be in Nairobi, but the Board of Trustees may establish offices at any other place in Kenya.

(6) The Board of Trustees shall ensure access to its services in all parts of the Republic in accordance with Article 6 (3) of the Constitution.

Qualification for appointment.

14. (1) A person shall not be qualified for appointment as a trustee if the person—

- (a) whether personally, through a spouse, immediate family member, business partner or associate has or has had a direct or indirect financial interest in any lottery or gambling or associated activity, in the three years immediately preceding the time of appointment;
- (b) has any interest in a business or enterprise that may conflict or interfere with the proper performance of that person's functions as a trustee;

- (c) holds a political office;
- (d) has been declared bankrupt or has committed an act of bankruptcy;
- (e) has at any time been, or is, removed from an office of trust on account of misconduct; or
- (f) has at any time been convicted, whether in Kenya or any other country, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Anti-Corruption and Economic Crimes Act, 2003 or an offence involving dishonesty.

No. 3 of 2003.

15. (1) The chairperson and trustees appointed under section 13(1) (h) and (i) shall, subject to the provisions of this Act, hold office for a term of three years, on such terms as may be specified in the instrument of appointment, and shall be eligible for reappointment for a final term of three years.

Term of office.

(2) The chairperson or a trustee, other than an *ex officio* member, may—

- (a) at any time resign from office by notice, in writing, to the Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary if the trustee—
 - (i) has been absent from three consecutive meetings of the Board of Trustees without the permission of the chairperson;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of fraud, forgery, uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act, 2003;
 - (vi) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (vii) is incapacitated by prolonged physical or mental illness or is otherwise unable to discharge his duties as a trustee; or

No. 3 of 2003.

- (viii) fails to comply with the provisions of this Act relating to disclosure.

Filling of Vacancy

16. Whenever the office of a trustee appointed under section (13)(1)(h) becomes vacant before the expiry of the trustee's term of office, the Cabinet Shall, on the recommendation of the nominating body, appoint a person similarly qualified to fill the vacant position for the remainder of the term.

Functions of the Board of Trustees.

17. (1) The functions of the Board of Trustees shall be to—

- (a) manage, control and administer the assets of the Fund in such manner and for such purposes as to best promote the purpose for which the Fund is established;
- (b) receive any gifts, grants, donation or endowments made to the Fund or any other moneys lent in respect of the Fund and make disbursements there from in accordance with the provisions of this Act;
- (c) enter into contracts on behalf of the Board of Trustees;
- (d) raise funds through sports lotteries, investments and any other means and disburse the funds for the development of sports and recreation;
- (e) make recommendations relating to the provision of financial grants to national sports organizations;
- (f) in relation to the national sports lottery, ensure that any lottery carried out for the purposes of the Fund complies with the relevant law;
- (g) indicate to all the sports agencies at the beginning of its financial year-
 - (i) the amount of money likely to be available to the Board for allocation in that year;
 - (ii) the priorities of the Board in monies allocated in that year; and
 - (iii) the criteria to be applied in making allocations;
- (h) receive from sports agencies, at least six months before the commencement of every financial year,

an annual sports programme in such form as it shall specify, outlining a comprehensive plan of action for the development, rehabilitation and maintenance of sports projects or programmes of the sports agency and the estimated costs of every activity;

- (i) required to implement the plan of action;
- (j) advise the Cabinet Secretary on the establishment and implementation of a social responsibility programme in respect of the national sports lottery and any other matter relating to the national sports lottery which the Cabinet Secretary may require advice; and
- (k) perform such other functions as the Cabinet Secretary may assign.

(2) The Board of Trustees of Trustees shall with the approval of the Cabinet Secretary set a ceiling of the amount of money that may be spent from the Fund on administrative expenses, which shall not exceed three per cent of the total collections in any year.

(3) The Board of Trustees of Trustees shall ensure that in any financial year, expenditure and commitments from the Fund shall not exceed the annual income of the Fund and any surplus income brought forward from the previous year.

(4) If, in exceptional circumstances, the income from the Fund or other funds together with any surplus income brought forward from the previous year is insufficient to meet the actual or estimated liabilities of the Board of Trustees and the Fund, the Cabinet Secretary of Finance may, with the approval of Parliament, make advances to the Board of Trustees on such terms and conditions, whether as to repayment or otherwise, as the Cabinet Secretary for Finance may determine, provided that any such advance shall be repaid from the income of the Fund.

(5) The Board of Trustees shall, through regular publications, inform the public of its activities and operations and ensure that such activities and operations shall be accessible to the public.

18. (1) The Board of Trustees shall have all the powers necessary for the proper performance of its

Powers of the Board of Trustees.

functions under this Act and, in particular, the Board of Trustees shall have the power to—

- (a) enter into partnerships with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which it is established;
- (b) where it considers it necessary or desirable, become a member of, or associate with corporations or other bodies or associations for the purposes of assisting or promoting sporting projects, programmes and activities.

(2) The Board of Trustees may, from time to time, delegate any of its functions to a committee, trustee or an employee, but the exercise of such powers shall, to the extent required by the Board of Trustees, be reported within the specified time to a meeting of the Board of Trustees.

Remuneration of the trustees.

19. The trustees shall be paid such remuneration, allowances and disbursements for expenses as may be approved by the Cabinet Secretary in consultation with the Treasury.

Common seal of the Fund.

20. (1) The common seal of the Board of Trustees shall be kept in the custody of the Chief Executive Officer or of such other person as the Board of Trustees may direct, and shall not be used except upon the order of the Board of Trustees.

(2) The common seal of the Board of Trustees, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Board of Trustees under this section shall be presumed to have been given.

(3) The common seal of the Board of Trustees shall be authenticated by the signature of the chairperson of the Board of Trustees and the Chief Executive Officer:

Provided that the Board of Trustees shall, in the absence of either the chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board of Trustees to authenticate the seal of the Fund

on behalf of either the chairperson or the Chief Executive Officer.

21. (1) The Board of Trustees, trustees or members of staff shall not be liable for loss or damage sustained by any person as a result of any act or omission done or made in good faith and without negligence in the performance or exercise of any duty or power conferred by this Act.

Protection of fund from liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against that person in any court in respect of any act which is done or purported to be done by that person under the direction of the Board of Trustees shall, if the court holds that such act was done in good faith, be paid out of the general funds of the Board of Trustees unless such expenses are recovered by him in such suit or prosecution.

22. The provisions of section 20 shall not relieve the Fund of liability to pay compensation or damages to any person for any injury to that person, property or any of that person interests caused by the exercise of any power conferred by this Act or by any other written law or by the failure, whether wholly or partially, of any works.

Liability of Fund for damages.

23. The Board of Trustees may, by resolution either generally or the Board of Trustees in any particular case, delegate to any committee of the Board of Trustees or to any officer, member of staff or agent of the Board of Trustees, the exercise of any of the powers or the performance of any of the functions or duties of the Board of under this Act.

Delegation by the Board of Trustees.

24. (1) The Board of Trustees may, in order to perform its functions effectively, consult any person, organization or institution with regard to any matter it deems necessary.

Consultation by the Board of Trustees.

(2) The Board of Trustees may invite any person to attend any of its meetings and to participate in its deliberations but such a person shall not have a vote in any decision of the Board of Trustees.

25. (1) There shall be a Chief Executive Officer of the Board of Trustees who shall be appointed by Board of Trustees, through a competitive recruitment process.

Chief Executive Officer of the Board of Trustees.

(2) The Chief Executive Officer shall hold office for such period and on such terms and conditions of employment as the Board of Trustees may determine.

(3) The Chief Executive Officer shall be an ex-officio member of the Board of Trustees and shall not have the right to vote at a meeting of the Board of Trustees.

Functions of the
Chief Executive
Officer.

26. (1) The Chief Executive Officer shall, in consultation with the Board of Trustees, be responsible for the management of the affairs and transactions of the Board of Trustees and the exercise, discharge and performance of the objectives, functions and duties of the Board of Trustees.

(2) The Chief Executive Officer shall—

- (a) ensure the maintenance of efficiency and discipline by all staff of the Board of Trustees;
- (b) manage the budget of the Fund and ensure that its funds are properly expended and accounted for; and
- (c) perform such other duties as the Board of Trustees may, from time to time, assign.

Staff of the Fund.

27. The Board of Trustees may employ such staff as may be necessary for the proper and efficient discharge of the functions of the Board of Trustees under this Act, upon such terms and conditions of service as the Board of Trustees may determine and specify in their instruments of appointment.

Funds of the Board of
Trustees.

28. The funds of the Board of Trustees shall comprise—

- (a) such moneys as may be appropriated by Parliament for purposes of the Board of Trustees;
- (b) such moneys, revenue or assets as may accrue to or vest in the Board of Trustees in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (c) funds accruing from investments made by the Board of Trustees;
- (d) such gifts, grants, loans or donations, made with the approval of the Cabinet Secretary and the

Cabinet Secretary responsible for finance to the Board of Trustees; and

- (e) money from any other source received by the Board of Trustees in the performance of its functions under this Act.

29. The Board of Trustees shall establish an account into which shall be paid— Administrative expenses of the Fund.

- (a) the initial grants provided by the Government for the expenditure incurred by the Board of Trustees in the exercise of its powers or the performance of its functions under this Act;
- (b) the annual administrative fee deducted from the investment income of the Fund at the rate approved from time to time by the Cabinet Secretary but subject to a maximum of three per cent of such investment income;
- (c) such monies as may accrue or vest in the Board of Trustees in the course of the exercise of its powers;
- (d) income from the investment of the monies held in the account, and
- (e) all monies from any other source provided for or donated or lent to the Board of Trustees.

30. (1) The Board of Trustees may invest any surplus funds held in the account established under section 29 in securities approved by the Cabinet Secretary for the time being responsible for matters relating to finance. Investment of surplus funds.

(2) The Board of Trustees may place on deposit with such bank or banks as it may determine any monies held in the account established under section 29 that are not immediately required for the purposes of the administration of the Fund.

31. There shall be maintained a reserve account of the Fund into which shall be deposited— Reserve Account.

- (a) any special contribution paid into the Fund by the Government for the purposes of facilitating sportspersons; and
- (b) any income of the Fund that the Board if Trustees determines should be set aside to support national

sports organisations subject to a maximum of ten per cent of such income:

Provided that no money shall be drawn out of the reserve account without the authority of the Board.

Actuarial evaluation of the Fund.

32. (1) The Fund shall be valued at intervals not exceeding five years by an actuary appointed by the Board of Trustees.

(2) The actuary appointed under subsection (1) shall—

- (a) prepare a report on the state of the Fund; and
- (b) recommend any necessary action to be taken.

(3) The actuary shall submit the report prepared under subsection (2) to the Board of trustees.

(4) The Board of Trustees shall within six months of the receipt of such report pay due regard to any recommendations made by the actuary and in so doing, may—

- (a) increase or decrease the rates of contribution payable in respect of sports agencies; or
- (b) take any other action recommended by the actuary.

PART IV—ESTABLISHMENT OF THE KENYA ACADEMY OF SPORTS

Establishment of the Academy of Sports.

33. (1) There is established an Academy to be known as the Kenya Academy of Sports.

(2) The Academy shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

(3) The headquarters of the Academy shall be in Nairobi, but the Academy may establish offices at any other place in Kenya.

(4) The Academy shall ensure access to its services in all parts of the Republic in accordance with Article 6(3) of the Constitution.

34. The functions of the Academy shall be to—

Functions of the Academy.

- (a) establish and manage sports training academies;
- (b) organize, administer and co-ordinate sports courses for technical and sports administration personnel;
- (c) promote research and development of talent in sports, in collaboration with institutions of higher learning, national sports organizations and other stakeholders;
- (d) collect, collate, store and disseminate tangible and intangible historical sports material to the public, sports organizations, researchers and institutions of learning;
- (e) receive and analyze data on training requirements from sports organizations;
- (f) link with other institutions and organizations for regular updates on the current sports trends; and
- (g) perform any other function that may directly or indirectly contribute to the attainment of the foregoing.

35. (1) The management of the Academy shall vest in a Council which shall consist of—

Constitution of the Council.

- (a) a chairperson, who shall be a person knowledgeable in sports, finance or commerce, appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for sports
- (c) the Principal Secretary in the Ministry for the time being responsible for finance;
- (d) the Attorney-General;
- (e) the Director General, Sports Kenya;
- (f) the Chief Executive Officer of the Academy appointed under section 32 who shall be the Secretary

- (g) two other persons who have experience in the management of training Academics, corporate sector or sports, appointed by the Cabinet Secretary;
 - (k) four other persons appointed by the Cabinet Secretary on nomination by—
 - (i) the sports organizations recognized as the national co-ordinating bodies for the promotion and development of high performance Olympic, Paralympic and Deaflympics sports in Kenya; and
 - (ii) the national multi-sport sports organization that is responsible for the adherence to all the codes for sports and recreational bodies.
- (2) The members of the Council under subsection (1) (b) to (d) may attend the meetings of the Council in person or designate a representative, in writing to attend on their behalf.
- (3) Any member of the Council, appointed under subsection (1) (g) and (h) shall, subject to the provisions of this Act, hold office for a period not exceeding three years, on such terms as may be specified in the instrument of appointment and shall be eligible for reappointment for a further and final term of three years.
- (4) Appointment to the Council under subsection (1) (g) and (h) shall be by name and notice in the Gazette.
- (5) The chairperson or a member of the Council, other than an ex-officio member, may—
- (a) at any time resign from office by notice in writing to the Cabinet Secretary;
 - (b) be removed from office by the Cabinet Secretary if the member—
 - (i) has been absent from three consecutive meetings of the Council without the permission of the chairperson;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;

- (iii) is convicted of fraud, forgery, uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act, 2003;
- (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; or
- (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge the duties of a member of the Council.

36. The Council shall have all the powers necessary for the performance of the functions of the Academy under this Act and in particular, but without prejudice to the generality of the foregoing, the Council shall have power to—

Powers of the Council.

- (a) manage, control and administer the assets of the Academy in such manner and for such purposes as best promote the purposes for which the Academy is established;
- (b) receive any gifts, grants, donations or endowments made to the Academy or any other monies in respect of the Academy and make disbursements therefrom in accordance with the provisions of this Act;
- (c) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Academy;
- (d) open a banking account or banking accounts for the funds of the Academy; and
- (e) invest any monies of the Academy not immediately required for the purposes of this Act in the manner provided in section 33.

37. (1) There shall be a Chief Executive Officer of the Academy who shall be appointed by the Council, through a competitive recruitment process.

Chief Executive Officer of the Academy and other members of staff.

(2) The Chief Executive Officer shall hold office for such period and on such terms and conditions of employment as the Council may determine.

(3) The Chief Executive Officer shall be an ex-officio member of the Council and shall not have the right to vote at a meeting of the Council.

(4) The Council may appoint such other officers and staff as may be necessary for the proper and efficient performance of its functions.

(5) The officers and staff appointed under this section shall, hold office on such terms and conditions as may be determined by the Council and specified in their instruments of appointment.

Funds and assets of the Institute.

38. The funds and assets of the Academy shall comprise

- (a) such moneys as may be appropriated by Parliament for the purposes of the Academy;
- (b) such moneys, revenue or assets as may accrue to or vest in the Council of the Academy in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (c) funds accruing from investments made by the Academy;
- (d) such gifts, grants, loans or donations, made to the Academy with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance to the Academy; and
- (e) money from any other source received by the Academy in the performance of its functions under this Act.

PART V—FINANCIAL PROVISIONS

Financial year.

39. (1) The financial year of the sports institutions established under this Act shall be the period of twelve months ending on the thirtieth June in each year.

(2) Notwithstanding subsection (1), the first financial year of the sports institutions shall commence on the date on which this Act comes into operation and end on the thirtieth June of the subsequent year.

Preparation of a Sports Investment Programme.

41. (1) The Cabinet Secretary shall, once in every five years and in consultation with the Board of Trustees, cause to be prepared a sports investment programme.

(2) The sports investment programme prepared under subsection (1) shall outline the development and maintenance priorities relating to specified stadia facilities, training programmes, activities and such other detail as may be specified.

(3) Every sports institution shall not later than six months before the end of each financial year, cause to be prepared and submitted to the Cabinet Secretary for approval an annual sports program based on the five-year sports investment program in respect of the ensuing financial year, comprising estimates of expected maintenance, development and capital expenditure of the respective institution in the said financial year to be financed by the National Sports Fund.

(4) The annual work programmes prepared or implemented by Sports Kenya, Board of Trustees, Academy, Sports Disputes Tribunal, the Registrar and the sports organizations shall be based on the approved five-year sports investment programme.

42. (1) Every sports institution shall, at least three months before the commencement of each financial year, cause to be prepared and submitted to the Cabinet Secretary an annual budget based on the five-year sports investment program in respect of the following financial year comprising estimates of expected recurrent, maintenance, development and capital expenditure of the sports institution in the said financial year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the sports institution for the financial year and in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the officers, agents or members of staff of the sports institution;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits payable to the members of staff of the sports institution;
- (c) the proper maintenance, repair and replacement of the equipment and other movable property of the sports institution; and
- (d) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement

benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the sports institution may deem appropriate.

(3) The annual estimates shall be approved by respective governing bodies of the sports institutions before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval, and once the annual estimates are approved by the Cabinet Secretary, the respective sports institution shall not increase the sum provided without the written consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the a sports institution except in accordance with the annual estimates approved under subsection (3).

(5) A sports institution shall not undertake any activity that is outside the budget approved under subsection (3) unless the sports institution has obtained the written approval of the Cabinet Secretary, and the Cabinet Secretary for the time being responsible for finance.

Accounts and audit.

43. (1) Every sports institution shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and the liabilities of the respective sports institution and shall prepare an annual statement of accounts in conformity with international accounting standards.

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(2) The accounts of the sports institutions shall be audited and reported in accordance with the Public Audit Act, 2003.

Power to borrow.

44. (1) A sports institution may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance, borrow money required by it for the exercise of its functions and for meeting its obligations.

(2) The approval under subsection (1) may be general or limited to a particular transaction and may be unconditional or subject to such conditions as may be specified.

Power to invest
Funds.

45. Any funds of the sports institutions that are not immediately required for any purpose under this Act may be invested in a manner which the Board, Board of

Trustees or Council may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance, determine.

**PART VI—REGISTRATION AND REGULATION
OF SPORTS AND LICENSING**

46. (1) There shall be an office of the Sports Registrar which shall be an office within the Public Service.

Registrar of sports.

(2) The Public Service Commission shall appoint the Sports Registrar who shall be—

- (a) in charge of the office of the Sports Registrar;
- (b) responsible for the registration and regulation of sports organizations and multi-sports bodies representing sports organizations at the national level, in accordance with the provisions of this Act;
- (c) responsible for the matters relating to the licensing of professional sports and professional sports persons in accordance with the provisions of this Act; and
- (d) responsible for the arbitration of registration disputes between sports organizations.

(3) The Registrar shall keep and maintain a register of the registered sports organizations and such other particulars relating to the registered sports organizations as may be prescribed.

(4) The Registrar shall issue licences for professional sports in accordance with the regulations and the requirements that the Cabinet Secretary may prescribe and any other relevant law.

(5) A copy of an entry in the register certified by the Registrar shall, for purposes of any written law, be prima facie evidence of the facts stated in the certificate.

47. (1) A body shall not operate as a sports organization unless it is registered under this Act.

Registration of sports organizations.

(2) The Registrar shall register sports organizations as either—

- (a) a sports club;

- (b) a county sports association; or
 - (c) a national sports organization.
- (3) An application for registration of a national sport organization shall—
- (a) be submitted to the Registrar; and
 - (b) be in the prescribed form and shall specify—
 - (i) the name of the sports organization;
 - (ii) the category under which it is to be registered;
 - (iii) the office-bearers of the applicant;
 - (iv) the head office and postal address of the applicant;
 - (v) sources of funding of the applicant;
 - (vi) national and international affiliation, if any; and
 - (vii) such other information as the Cabinet Secretary may prescribe.
- (4) An application for registration under this section shall be accompanied by—
- (a) a certified copy of the constitution of the applicant; and
 - (b) such fees as the Cabinet Secretary may prescribe.
- (5) A constitution submitted under subsection (3) shall contain, as a basic minimum, the provisions set out in the Second Schedule.
- (6) All national sports organizations registered under this Act shall be open to the public in their leadership, activities and membership.
- (7) A certificate of registration issued under this section—
- (a) shall be conclusive evidence of authority to operate throughout the country as may be specified in the certificate of registration; and
 - (b) may contain such terms and conditions as the Registrar may prescribe.

48. (1) A national sports organization registered under this Act shall be issued with a certificate of registration in the prescribed form.

Certificate of registration.

(2) The Registrar shall not register more than one national sports organization run any one discipline.

49. (1) The Registrar may reject an application for registration of a body as a sports organization if the Registrar is satisfied that—

Rejection of application

(a) its proposed activities or procedures are not in the national interest; or

(b) the body has given false information to secure registration.

(2) The Registrar shall notify the applicant, in writing, of the rejection of its application for registration within fourteen days from the date of such rejection.

50. (1) A sports organization, which was duly registered under the Societies Act and existing immediately before the commencement of this Act shall be required to apply for registration under this Act within one year after the commencement of this Act.

Transition of existing sports organizations.

(2) A sports organization, which was duly registered under the Societies Act and existing immediately before the commencement of this Act shall not be deemed to be an unlawful sports organization before the period prescribed under subsection (1) has expired.

(3) An existing sports organization that does not apply for registration within the time prescribed in subsection (1), shall not be recognized as a sports organization for the purposes of this Act:

Provided that an existing sports organization in respect of which—

(a) an application for registration has been made by it under subsection (1) and has not been rejected; or

(b) an appeal has been lawfully made under this Act and remains undetermined,

shall continue to be recognized as a sports organization for the purposes of this Act.

51. (1) Upon the registration of an existing sports organization under this Act—

Effect of registration of existing sports organization.

- (a) all the funds, assets and other property, movable and immovable, which immediately before such registration were held by that sports organization or on its behalf shall vest in the sports organization registered under this Act;
- (b) all rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the commencement of this Act were vested in, imposed on or enforceable by or against an existing sports organization shall, be vested in, imposed on or be enforceable by or against the sports organization registered under this Act.

Cancellation of certificate.

52. (1) The Registrar may cancel a certificate of registration issued to a sports organization under this Act if the Registrar is satisfied that—

- (a) the registration was procured through misrepresentation or non-disclosure of material facts;
- (b) the terms or conditions attached to the certificate of registration have been violated; or
- (c) the sports organization has breached the provisions of this Act or any other law.

(2) The Registrar shall before cancelling the certificate of registration of a sports organization, notify the sports organization of the intended cancellation, giving reasons for the intended cancellation and give the sports organization an opportunity to be heard.

(3) The Registrar shall notify a sports organization, in writing, of the cancellation of its certificate or registration within fourteen days from the date of such cancellation.

Inspection of sports organizations.

53. (1) The Registrar may, at any time, or if so directed by the Cabinet Secretary, cause an inspection to be made by any person authorized by the Registrar, in writing, of any sports organization, branch, sub-branch, organ, or any person associated with any sports organization, and of its or his books, accounts and records.

(2) When an inspection is made under subsection (1), the sports organization, branch, sub-branch, organ or person concerned, and every official and employee thereof

shall produce and make available to the person making the inspection all the books, accounts, records and other documents of the sports organization, branch, sub-branch, sub-branch organ or person, its or his affairs and conduct, as the person making the inspection may require, and within seven days or such longer period as he may direct, in writing.

(3) A person who fails to produce any books, accounts, records, document, correspondence, statements, returns or other information within the period specified in the direction under subsection (2) contravenes this Act:

Provided that:

- (a) the books, accounts and other documents required to be produced shall not, in the course of inspection, be removed from the premises of the sports organization, branch, sub branch, organ or person, or other premises at which they are produced;
- (b) the person making the inspection may make copies of any books, accounts and other documents required for the purposes of his report; and
- (c) all information obtained in the course of the inspection shall be treated as confidential and used solely for the purposes of this Act.

(4) The person conducting an inspection shall submit a report to the Registrar, and the report shall specify any breach or non-compliance with the requirements of this Act and any regulations made there under, any irregularity in the manner of conduct of affairs of the sports organization, branch, sub-branch, discovered in the course of the inspection that warrants, in the opinion of the person making the inspection, remedial action or further investigation.

54. The Registrar may, by notice in writing, and after giving the sports organization, branch, sub-branch or person, reasonable opportunity of being heard, require the sports organization, branch, sub-branch, organ or person to comply, within such period as may be specified, with such directions as he considers necessary in relation to any matter arising out of a report made under section 47 (4).

Directions to sports organization after inspection.

No. 25

Intervention by
Cabinet Secretary in
management.

55. (1) Where a sports organisation fails to comply with the recommendations of an inspection, the Cabinet Secretary may—

- (a) appoint any person or committee to assume the management, control and conduct of the affairs of a sports organization, to exercise the powers and functions of the sports organization to the exclusion of its officials, including the use of its corporate seal, where the sports organization concerned has been unable to conduct its affairs in a proper manner; or
- (b) remove any official of a sports organization who, in the opinion of the Cabinet Secretary, has caused or contributed to any contravention of any provision of this Act, or any regulations or directions made thereunder or to any deterioration in the financial stability of the sports organization or has conducted himself in a manner which is detrimental to the interest of the relevant sporting discipline, or which has brought the sporting discipline into disrepute.

(2) The appointment of a person or committee under this section shall be for such period as the Cabinet Secretary shall specify in the instrument of appointment, but shall not exceed six months.

(3) A person or committee shall, upon assuming the management, control and conduct of the affairs of a sports organization, discharge his or its duties with diligence and in accordance with sound management and financial principles.

PART VII—ARBITRATION OF SPORTS DISPUTES

Establishment of
Tribunal.

56. (1) There is established a tribunal to be known as the Sports Disputes Tribunal.

(2) The Tribunal shall consist of the following members appointed by the Judicial Service Commission in consultation with the national sports organizations—

- (a) a chairperson who shall be a person who is qualified to be appointed as a Judge of the High Court;

- (b) at least two members who shall—
 - (i) be advocates of the High Court of Kenya with at least seven years experience; and
 - (ii) have experience in legal matters relating to sports or have been involved in sport in any capacity; and
- (c) at least two and not more than six other persons who have experience in sport, in any capacity, of at least ten years.

(3) The Judicial Service Commission shall, in consultation with the national sports organizations, appoint a deputy chairperson from the members of the Tribunal appointed under subsection 2(b).

57. (1) The chairperson and members of the Tribunal shall hold office for a term of five years and may be reappointed for one further term of five years.

Tenure.

(2) The chairperson and members of the Tribunal shall serve on part-time basis.

58. (1) The office of a member of the Tribunal shall become vacant if the member—

Vacancy in office of member.

- (a) resigns by giving notice in writing to the Judicial Service Commission;
- (b) is convicted of a criminal offence;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing his duties;
- (d) is adjudged bankrupt;
- (e) is otherwise unable or unfit to continue serving as a member of the Tribunal; or
- (f) dies.

59. The Tribunal shall determine—

Jurisdiction of the Tribunal.

- (a) appeals against decisions made by national sports organizations or umbrella national sports organizations, whose rules specifically allow for appeals to be made to the Tribunal in relation to that issue including—
 - (i) appeals against disciplinary decisions;
 - (ii) appeals against not being selected for a Kenyan team or squad;

- (b) other sports-related disputes that all parties to the dispute agree to refer to the Tribunal and that the Tribunal agrees to hear; and
- (c) appeals from decisions of the Registrar under this Act.

Powers of the Tribunal.

60. The Tribunal may, in determining disputes apply alternative dispute resolution methods for sports disputes and provide expertise and assistance regarding alternative dispute resolution to the parties to a dispute.

Staff of the Tribunal.

61. The Judicial Service Commission shall appoint the Secretary and such other staff of the Tribunal as are necessary for the proper functioning of the Tribunal.

Rules.

62. The Chief Justice may in consultation with the chairperson of the Tribunal, and by notice in the Gazette, make rules governing the practice and procedure of the Tribunal having regard to the objectives of this Act.

PART VIII—MISCELLANEOUS

Conduct of business.

63. (1) The business and affairs of the Board, Board of Trustees and Council shall be conducted in accordance with the Third Schedule.

(2) Except as provided in the Third Schedule, the Board, Board of Trustees and Council may regulate their own procedures.

Confidentiality.

64. (1) A member, officer or servant of the sports institutions shall not disclose any information which he has acquired in the performance of his functions as such member, officer or servant to any person except so far as may be necessary for the performance of such functions or for due compliance with an order of any Court.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall, be liable, on conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding ten thousand shillings or to both.

Offences and penalties.

65. A person who contravenes any of the provisions of this Act commits an offence and shall be liable, upon conviction, to a fine not exceeding five hundred thousand shillings, or imprisonment for a term not exceeding three years, or both.

66. No matter or thing done by an officer or employee of a sports institution shall, if the thing is done *bona fide* for executing the functions, powers or duties of the sports institution, render such officer or employee personally liable to any action, claim or demand whatsoever.

Protection from liability.

67. (1) A performance agreement shall be made between the Cabinet Secretary and the respective sports institutions concerning the management by the institutions of the sports programmes and stadia facilities for which the institutions are responsible, and shall include all the activities that are necessary to develop and maintain such stadia and programmes in a satisfactory state.

Performance Agreement.

(2) The performance agreement shall describe the key outputs that a sports institution shall achieve in any financial year, and such outputs shall be defined in terms of performance indicators and targets.

(3) The Cabinet Secretary may request for an independent report from the technical department responsible for sports on the implementation of the performance agreement.

68. (1) Every sports institution shall, within a period of four months after the end of each financial year, submit to the Cabinet Secretary an annual report dealing generally with the activities and operations of the sports institution.

Annual Report.

(2) An annual report submitted under subsection (1) shall include—

- (a) information with regard to the progress and policies of the sports institution;
- (b) a copy of the audited accounts of the sports institution in respect of that year together with the report of the Auditor-General;
- (c) report submitted in relation to that financial year by the Auditor-General;
- (d) an overview of the operations of the sports institution;
- (e) an assessment of the degree to which performance targets have been achieved;
- (e) an assessment of the adequacy of sports projects and programme funding;

- (f) a report on the condition and status of the stadia and sports programmes and the degree of change in such condition and status since the last report, the projected optimal level of the facilities and programmes and the extent of financing required to meet that level;
- (g) a review of the technical adequacy and proven cost efficiency of sports management operations;
- (h) a report on progress achieved concerning coordination between the sports institutions and county governments and national sports organisations, including any challenges encountered and proposals for the future;
- (i) generally a report on the degree to which the objectives of this Act have been realized and the levels of compliance with the provisions of this Act; and
- (j) such other information as the Cabinet Secretary may request, in writing.

Directions to sports institutions.

69. (1) The Cabinet Secretary shall oversee the performance of the activities of the sports institutions established by this Act and may, in writing, give the sports institutions directions on matters of policy not inconsistent with the provisions of this Act.

(2) The Cabinet Secretary may appoint an oversight committee for purposes of subsection (1).

Maintenance of, development of protection of stadia.

70. (1) Notwithstanding anything in any law to the contrary, no body, or other person shall exercise any power relating to the control, maintenance, development or protection of any stadia except where such power has been delegated by Sports Kenya established under this Act or by the Cabinet Secretary.

(2) Notwithstanding subsection (1), Sports Kenya shall encourage community and private sector participation in stadia construction, maintenance and management under its supervision and guidance.

Protection of Names.

71. Any person who, without the written approval of the sports institution, assumes for the purposes of business, or registers in terms of any written law relating to companies or business names under the names—

- (a) "Sports Kenya";
- (b) "Academy of Sports" or "Kenya Academy of Sports"; or
- (c) "Sports Fund", or "National Sports Fund",

commits an offence and shall be liable on conviction to imprisonment for a term not exceeding six months or a fine not exceeding one hundred thousand shillings, or to both.

72. The transitional provisions set out in the Fourth Schedule shall apply upon the commencement of this Act.

Transitional provisions.

73. The Cabinet Secretary may make regulations—

Regulations.

- (a) generally for the better carrying into effect the provisions of this Act; and
- (b) prescribing anything that may be prescribed under this Act.

74. (1) Every person involved in sports and recreation shall observe anti-doping rules.

Anti-doping Rules.

(2) The Cabinet Secretary shall make regulations for the better management of anti-doping activities and such regulations may prescribe penalties for contravention of subsection (1).

FIRST SCHEDULE (sec. 4(b))

SPORTS FACILITIES WHICH THE AUTHORITY WILL MANAGE

1. Moi International Sports Centre, Kasarani, Nairobi;
2. Nyayo National Stadium; and
3. Any other sports facilities acquired, established or developed by the Authority.

SECOND SCHEDULE (sec. 41)

MATTERS TO BE PROVIDED FOR IN THE CONSTITUTIONS OF SPORTS ORGANIZATIONS

The constitution of a body seeking registration as a sports organization shall provide that—

- (a) elections of officials and athletes at the national, branch and sub-branch levels shall be done directly by members;

- (b) only citizens of Kenya shall be eligible for election as the chairperson, secretary or treasurer of a body at the national level;
- (c) the elections contemplated in paragraph (a) above shall be held at regular intervals after a period of between two years and four years, and persons elected as officials thereof shall consequently hold office as follows—
 - (i) the chairperson shall hold office for a term not exceeding four years, but is eligible for re-election for one more term;
 - (ii) any other official shall hold office for a term not exceeding four years, but is eligible for re-election for one more term.;
- (d) elections shall be held in accordance with the general principles for the electoral system as stipulated in Article 81 of the Constitution;
- (e) subscription to anti-doping policies and rules which conform with the World Anti Doping Agency Code and compliance with the requirements set out in an anti-doping policy and rules of the National Anti-Doping Organization; and
- (f) subscription to Court of Arbitration for Sports policies and rules which conform with requirements set out in Sports Disputes Tribunal policy and rules for sports disputes resolution.
- (g) that the election of officials at national, branch and sub-branch levels shall be done directly and only registered club members are entitled to vote at those elections;
- (h) that the selection of the Kenyan team and the technical personnel shall be done in good time and transparently using fair criteria;
- (i) that the criteria for authorisation and registration of sportspersons and sportspersons' representatives shall be codified, transparent and fair.

THIRD SCHEDULE (sec. 57)**THE CONDUCT OF BUSINESS AND AFFAIRS OF
THE BOARD, BOARD OF TRUSTEES AND
COUNCIL**

1. (1) The first meeting of the Board, Board of Trustees or Council, shall be convened by the chairperson and, subsequently, the Board, Board of Trustees or Council shall meet as often as necessary for the transaction of business at such places and at such times as may be decided upon by the Board, Board of Trustees or Council, but it shall meet at least once every three months.

Meetings of the Board, Board of Trustees or Council.

(2) The chairperson shall preside at every meeting of the Board, Board of Trustees or Council, and in the absence of the chairperson, the deputy chairperson and in the absence of the deputy chairperson, the members present may appoint a member from among themselves to preside at that meeting.

(3) The chairperson or in the absence of the chairperson, the deputy chairperson and in the absence of the deputy chairperson, a member appointed by the Board, Board of Trustees or Council, may at any time call a special meeting upon a written request by a majority of the members.

(4) Notice of every meeting of the Board, Board of Trustees or Council shall be given in writing to each member at least five days before the day of the meeting.

2. (1) Subject to subparagraph (2), five members, excluding the *ex-officio* members shall constitute a quorum for the conduct of business at any meeting of the Board, Board of Trustees or Council.

Quorum.

(2) When there is no quorum at, or for the continuation of, a meeting of the Board, Board of Trustees or Council, due to the exclusion of a member from the deliberations on a matter in which the member has disclosed a personal interest, the other members present may if they deem it expedient so to do—

- (a) postpone the consideration of that matter until there is a quorum without that member; or
- (b) proceed to consider and decide the matter as if there was a quorum.

3. (1) All questions proposed at a meeting of the Board, Board of Trustees or Council shall be decided by a majority of the votes of the members present and voting,

Decisions of the Board, Board of Trustees or Council.

and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(2) A decision may be made by the Board, Board of Trustees or Council without a meeting by circulation of the relevant papers among the members of the Board, Board of Trustees or Council, and by the expression of the views of the majority of the members in writing but any member shall be entitled to require that the decision be deferred and the matter on which a decision is sought be considered at a meeting of the Board, Board of Trustees or Council.

Minutes of proceedings.

4. (1) The Board, Board of Trustees or Council, shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board, Board of Trustees or Council at the next meeting of the Board, Board of Trustees or Council and signed by the chairperson or the person presiding at the meeting.

(2) The chairperson of the Board, Board of Trustees or Council shall submit to the Cabinet Secretary a copy of the minutes of each meeting of the Board, Board of Trustees or Council as soon as the minutes have been confirmed.

Co-opting to the Board, Board of Trustees or Council.

5. The Board, Board of Trustees or Council may co-opt any person to participate in its deliberations, but a person so co-opted shall have no right to vote.

Committees of the Board, Board of Trustees or Council.

6. (1) The Board, Board of Trustees or Council may establish committees of the Board, Board of Trustees or Council—

- (a) to inquire into and advise the Board, Board of Trustees or Council, on any matter concerning the functions of the Authority as the Board, Board of Trustees or Council may refer to the committee; and
- (b) to exercise such powers or perform such functions as the Board, Board of Trustees or Council may delegate or refer to the committee

(2) A committee appointed under subparagraph (1) shall consist of a chairperson and other persons, whether members of the Board, Board of Trustees or Council or not, as the Board, Board of Trustees or Council may determine.

(3) The Board, Board of Trustees or Council may require a committee appointed under this section to act

jointly or in co-operation with any other committee.

(4) Members of a committee appointed under this section may be paid such allowances as the Board, Board of Trustees or Council may, with the approval of the Cabinet Secretary, determine.

(5) Subject to any direction given by the Board, Board of Trustees or Council, a committee appointed under this section may regulate its own procedure.

7. Subject to the provisions of this Schedule, the Board, Board of Trustees or Council, of Sports Kenya, the Fund or the Academy may regulate its own procedure.

Board, Board of Trustees or Council to regulate its own procedure.

FOURTH SCHEDULE (sec. 57)

TRANSITIONAL PROVISIONS

1. The Cabinet Secretary shall, in consultation with the relevant stakeholders, establish an interim management committee for Sports Kenya.

Interim Management Committee.

2. Upon the commencement of this Act, the functions that were immediately before the commencement of this Act being undertaken by the Sports Department within the Ministry responsible for sports and the Sports Stadia Management Board pertaining to sports programs and stadia facilities, shall be transferred to Sports Kenya.

Transfer of functions.

3. All property, assets, rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the commencement of this Act were vested in, imposed on or enforceable against the Government in respect of the Sports Department and the Sports Stadia Management Board as the case may be, shall, on the commencement of this Act be transferred to, vested in, imposed on or be enforceable against Sports Kenya.

Transfer of rights, powers etc

4. (1) The lawful directions, orders, rules, authorizations and other things published, made given or done by the Sports Department relating to national sports programs, subsisting at the commencement of this Act shall be deemed to have been published, given made or done by Sports Kenya.

Directions, orders issued before commencement.

(2) The legal directions, orders, rules, authorizations and other things published, made given or done by the Sports Stadia Management Board relating to stadia

facilities, subsisting at the commencement of this Act, shall be deemed to have been published, given made or done by Sports Kenya.

Acts etc before commencement of this Act.

5. Any legal act or thing done or purported to be done or any act or thing omitted to be done on behalf of, or in the name of the Sports Department or the Sports Stadia Management Board that relates to stadia facilities before the commencement of this Act by any person acting in good faith and with due or apparent authority in that behalf shall be deemed to be an act or thing made or done or omitted to be done, by Sports Kenya.

Regulations governing transfer of assets liabilities.

6. The Cabinet Secretary for finance, may, in consultation with Cabinet Secretary, by Order in the Gazette, direct that any assets and liabilities which, immediately before the commencement of this Act, were vested in the government for the use of the Sports Department or the Sports Stadia Management Board shall on such commencement vest in Sports Kenya.

Regulations governing transfer of functions.

7. The Cabinet Secretary responsible for sports and the Cabinet Secretary responsible for matters relating to finance shall have power to issue such administrative guidelines and regulations for sports maintenance, rehabilitation and development functions, and any matters pertaining thereto to be transferred from any local authority to Sports Kenya as appropriate.

Updating.

8. Every public officer having the power or duty to effect or amend any entry in a register relating to property, or to issue or amend any certificate upon request made by or on behalf of Sports Kenya, shall do all such things as are by law necessary to give final effect to the transfer of property mentioned in any order made under this Schedule.

Staff.

9. (1) Subject to subparagraph (3), every person who immediately before the commencement of this Act, was an employee of the Sports Stadia Management Board shall, upon the commencement of this Act, be employed or appointed as a member of staff of Sports Kenya for the unexpired period, if any, of the term.

(2) Subject to subsection (3), the employees of the Government who were, immediately before the commencement of this Act, serving in the Department of Sports at the Ministry responsible for sports shall, upon the

commencement of this Act be given an option to serve in Sports Kenya and if not appointed by Sports Kenya be redeployed in the Public Service.

(3) Before appointing or employing a person to who subparagraphs (1) and (2) apply, Sports Kenya shall-

- (a) require such person to make an application for employment or appointment to Sports Kenya; and
- (b) applying the criteria determined by the Board, assess such persons to determine their suitability to serve in the position applied for.

(4) Any person who has been assessed and appointed or employed as an officer of Sports Kenya shall be deemed to be in continuous service for purposes of the pension.

(5) Any officer who is assessed and engaged by Sports Kenya under subparagraph (3) who was on the date of the commencement of this Act a member of any statutory or voluntary pension scheme or provident fund, shall for the purpose of this Act, continue to be governed by the same regulations governing those schemes or funds and his service with Sports Kenya shall be deemed to be eligible service for the purposes of the pension scheme or provident fund.

(6) An applicant who fails to meet the assessment criteria under subparagraph (3), shall not be employed or appointed by Sports Kenya and the services of such applicant shall be terminated in accordance with the terms of their contract of employment.