

GENERAL EXPLANATORY NOTES:

- [] Words in bold type in square brackets indicate omissions from the existing enactment.
- Words underlined with a solid line indicate insertions in existing enactment.

(English text signed by the President)
(Assented to 31 May 2024)

ACT

To amend the South African Institute for Drug-Free Sport Act, 1997, so as to delete, amend and insert certain definitions; to provide for consequential amendments in certain provisions; to clarify that the Institute is a public entity and is the National Anti-Doping Organisation in the Republic; to provide for Results Management; to provide that investigations by the Department must be conducted in a manner that is fair, transparent, just and equitable; that punitive measures may only be imposed by the Department after a finding of non-compliance; and to provide for matters connected therewith.

BE IT ENACTED by Parliament of the Republic of South Africa, as follows:—

Substitution of section 1 of Act 14 of 1997, as amended by section 1 of Act 25 of 2006

1. The following section is hereby substituted for section 1 of the South African Institute for Drug-Free Sport Act, 1997 (Act No. 14 of 1997) (hereinafter referred to as the “principal Act”): 5

“Definitions and Interpretation

1. (1) In this Act, unless the context indicates otherwise—
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| <p>‘Anti-Doping Organisation’ means an Anti-Doping Organisation as defined in Appendix 1;</p> <p>‘Appeal Board’ means the Anti-Doping Appeal Board established by section 17;</p> <p>‘Appendix 1’ means Appendix 1 to the Code;</p> <p>‘athlete’ means an athlete as defined in Appendix 1;</p> <p>‘Code’ means the World Anti-Doping Code adopted by the Foundation Board of WADA on 5 March 2003 at Copenhagen, Denmark as amended from time to time;</p> <p>‘Department’ means the national department responsible for sport;</p> <p>‘doping’ means doping as defined in Article 1 of the Code;</p> <p>‘doping control’ means doping control as defined in Appendix 1;</p> <p>‘Institute’ means the South African Institute for Drug-Free Sport, established by section 2;</p> <p>‘International-Level Athlete’ means an International-Level Athlete as defined in Appendix 1;</p> <p>‘International Olympic Committee’ means the organisation of that name with its headquarters in Lausanne, Switzerland, under the auspices of which the Olympic Games are conducted;</p> | <p>10</p> <p>15</p> <p>20</p> <p>25</p> |
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‘international sports federation’ means any group of national sports bodies involved in the overseeing and co-operation of the playing and administration of any particular sport at international level;
‘International Standard’ means International Standard as defined in Appendix 1; 5
‘Minister’ means the Minister responsible for sport;
‘National Anti-Doping Organisation (NADO)’ means the National Anti-Doping Organisation as defined in Appendix 1;
‘national sports federation’ means any number of people involved in the overseeing and co-ordination of the playing and administration of any particular sport in any particular country; 10
‘person’ means a natural person or an organisation or other entity;
‘Prohibited List’ means the Prohibited List as defined in Appendix 1;
‘prohibited substance’ means a Prohibited Substance as defined in Appendix 1; 15
‘public entity’ means a public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
‘Public Finance Management Act’ means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
‘Results Management’ means Results Management as defined in Appendix 1; 20
‘testing’ means testing as defined in Appendix 1;
‘the Sports Confederation’ means the Sports Confederation as defined in section 1 of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998); 25
‘Therapeutic Use Exemption (TUE)’ means Therapeutic Use Exemption as defined in Appendix 1;
‘UNESCO Convention’ means the UNESCO (United Nations Educational, Scientific and Cultural Organisation) Convention as defined in Appendix 1; 30
‘WADA’ means the World Anti-Doping Agency; and
‘WADA-accredited laboratory’ means a laboratory accredited by WADA according to the International Standard for Laboratories.
 (2) When interpreting a provision of this Act, any reasonable interpretation which is consistent with the Code must be preferred over any alternative interpretation which is inconsistent with the Code.”. 35

Substitution of section 2 of Act 14 of 1997

2. The following section is hereby substituted for section 2 of the principal Act:

‘Establishment of South African Institute for Drug-Free Sport

2. (1) There is hereby established a **[corporate body]** public entity in terms of the Public Finance Management Act to be known as the South African Institute for Drug-Free Sport. 40

(2) The Institute is the National Anti-Doping Organisation in the Republic of South Africa.”.

Amendment of section 10 of Act 14 of 1997, as amended by section 5 of Act 25 of 2006 45

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

(a) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) to promote and ensure the adoption of a centralised doping control programme, which **[may subject any athlete to]** focuses on implementing intelligent testing, **[with or without advance notice,]** both in and out of competition, on athletes over whom it has authority;”;

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- (b) by the substitution for subsection (2) of the following subsection:

“(2) The Institute shall operate independently, but may co-operate with [SASCOC] the Sports Confederation and [SRSA] the Department from time to time as the need arises in order to achieve the objects of the Institute as contemplated in this Act.”.

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Amendment of section 11 of Act 14 of 1997, as amended by section 6 of Act 25 of 2006

4. Section 11 of the principal Act is hereby amended—

- (a) by the deletion of paragraphs (b) and (c) of subsection (2);

- (b) by the substitution for paragraph (f) of subsection (2) of the following paragraph: 10

“(f) collect samples from athletes and secure the safe and tamper-free transit of samples to WADA-accredited laboratories in accordance with the Code[’s **International Standard for Testing**];”;

- (c) by the substitution for paragraph (m) of subsection 2 of the following paragraph: 15

“(m) require that athletes who have been included in the testing pools provide accurate information on their current whereabouts which shall be made available to WADA and to other Anti-Doping Organisations having authority to test the athletes; and”;

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- (d) by the substitution for paragraph (n) of subsection (2) of the following paragraph:

“(n) ensure that there is a process for all athletes with documented medical conditions requiring the use of a prohibited substance or method [**may**] to request a [**therapeutic use exemption: Provided that such requests shall be evaluated by a therapeutic use exemption committee in accordance with the International Standard for Therapeutic Use: Provided further that the Institute shall promptly report in writing to the WADA such granting of therapeutic use exemptions**] Therapeutic Use Exemption (TUE).”; and

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- (e) by the insertion after subsection (2) of the following subsection:

“(2A)(a) A request contemplated in subsection (2)(n) shall be evaluated by a Therapeutic Use Exemption Committee in accordance with the International Standard for Therapeutic Use Exemptions referred to in the Code; and

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(b) The Institute shall promptly report in writing to the WADA any Therapeutic Use Exemption (TUE) granted in respect of a request contemplated in subsection (2)(n).”.

Repeal of sections 11A to 11C of Act 14 of 1997

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5. Sections 11A to 11C of the principal Act are hereby repealed.

Substitution of section 17 of Act 14 of 1997, as amended by section 10 of Act 25 of 2006

6. The following section is hereby substituted for section 17 of the principal Act:

“Results Management

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17. (1) Results Management shall be the responsibility of, and shall be governed by the procedural rules and anti-doping rules of the Institute aligned with the principles of the Code and relevant International Standards.

(2) There is hereby established by the Institute a first instance hearing panel named the Independent Doping Hearing Panel which has jurisdiction in the first instance to hear and determine whether an athlete or other person subject to the anti-doping rules of the Institute has committed an anti-doping rule violation and if applicable to impose relevant consequences.

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(3)(a) There is hereby established an independent board which shall be known as the Anti-Doping Appeal Board.

(b) The Minister shall appoint an Appeal Board, which shall consist of not fewer than eight persons possessing special knowledge and expertise relevant to anti-doping and dispute resolution.

(c) The members of the Appeal Board are appointed for a period of five years and are eligible for re-appointment.

(d) The Appeal Board must consist of no fewer than four practising attorneys or advocates, two sports medical physicians and two sports administrators.

(e) The Minister may terminate the appointment of an Appeal Board member for serious misconduct, incapacity or incompetence.

(4) A party to an appeal shall be entitled to be represented by a person of his or her own choice.

(5) The procedure to be followed in connection with appeals shall be determined by the Appeal Board.

(6) Appeals involving International-Level Athletes shall be heard by the Court of Arbitration for Sport (CAS) in accordance with the relevant provisions of the Code.

(7) Any proceedings, pending before the Independent Doping Hearing Panel at the commencement of this Act must be continued and concluded in terms of this Act in the Independent Doping Hearing Panel and, for that purpose those proceedings are deemed to have been instituted in terms of this Act in the Independent Doping Hearing Panel.”.

Substitution of section 17A of Act 14 of 1997, as inserted by section 11 of Act 25 of 2006

7. The following section is hereby substituted for section 17A of the principal Act:

“Punitive measures

17A. (1) [SRSA] The Department, on the written recommendations of [SASCOC] the Sports Confederation, may cause an investigation to be conducted [as it deems fit] in a fair, transparent, just and equitable manner to ascertain whether all national sports federations have complied with the provisions [contained in] of this Act.

(2) [SRSA] The Department must, after consultation with the Institute and [SASCOC] the Sports Confederation, and after any national sports federation is found, subsequent to an investigation as contemplated in subsection (1) above to be non-compliant identify any non-compliant national sports federations whereafter it may, amongst others—

(a) withdraw or reduce its or the Government’s funding of any such federation;

(b) bar any such federation from administering its sport in the Republic; or

(c) recommend that [SASCOC] the Sports Confederation refuse to award national colours to the members of any such federation.

(3) [SRSA] The Department may only act against a federation in terms of subsection (2) after it has given that federation an opportunity to make oral or written representations with regard to any proposed action.”.

Substitution of long title of Act 14 of 1997

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

“To promote the participation in sport free from the use of prohibited substances or methods intended to artificially enhance performance, thereby rendering impermissible doping practices which are contrary to the principles of fair play and medical ethics, in the interest of the

health and well-being of sportspersons; to provide for the establishment of the South African Institute for Drug-Free Sport; to provide for the composition of the Institute; to provide for its meetings and staff; to provide for the remuneration and allowances of members of the Institute; to provide for its expenditure, finances and accountability; to provide for the objects, powers and duties of the Institute; to provide for Results Management; to provide for punitive measures; and to provide for matters connected therewith.” 5

Amendment of Arrangement of sections of Act 14 of 1997

9. The Arrangement of Sections of the principal Act is hereby amended by— 10
- (a) the substitution of item 1 of the following item:
“1. Definitions and Interpretation”;
 - (b) the deletion of items 11A-11C; and
 - (c) the substitution of item 17 of the following item:
“17. [Appeals] Results Management”. 15

Amendment of principal Act

10. The principal Act is hereby amended by the substitution of the expression “SASCOC”, wherever it occurs, with the expression “the Sports Confederation”.

Short title and commencement

11. This Act is called the South African Institute for Drug-Free Sport Amendment Act, 2024 and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 20