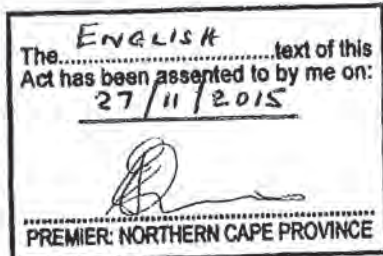


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PREMIER'S NOTICE 3 OF 2016



NORTHERN CAPE SPORT AND RECREATION AUTHORITY ACT, 2015

(ACT No. 4 OF 2015)



# ACT

To provide for the institution of the Northern Cape Sport and Recreation Authority and for the governance thereof by a board; to determine its objects, functions and operation; to regulate its staff and financial matters; and to provide for matters connected therewith.

**BE IT ENACTED** by the Provincial Legislature of the Northern Cape Province as follows:-

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## CHAPTER I INTERPRETATION

### Definitions

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

“**Authority**” means the Northern Cape Sport and Recreation Authority referred to in section 2;

“**Board**” means the Board of the Authority constituted in accordance with section 6;

“**chairperson**” means the chairperson of the Board appointed in terms of section 6(6);

“**chief executive officer**” means the chief executive officer appointed in terms of section 14(1) other than those appointed in other institutions performing different functions;

“**committee**” means a committee of the Board appointed in terms of section 13;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Department**” means the Provincial Department responsible for sport and recreation in the Province (DSAC);

“**Department**” means the Provincial Department responsible for Education in the Province (DoE);

“**District municipality**” means a district municipality as defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Local Government**” means a district municipality as defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Executive Council**” means the Executive Council of the Province as referred to in section 132 of the Constitution;

“**Elite Sport**” means any sport activity/ sport code that is defined according to the National Sport and Recreation Plan, White Paper on Sport and Recreation as well as the South African Sport Confederation and Olympic Committee Act (defined in terms of the Sport and Recreation Act of 2007 (as amended));

“**family member**” means a person’s –

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

“**financial year**” means the period commencing on the first day of April in any year to the thirty-first day of March in the ensuing year, both days inclusive;

“**forum**” means the regional sport and recreation forum established by section 14(1);

“**Head of Department**” means the Head of the Department responsible for sport and recreation in the Province;

“**Head of Education**” means the Head of the Department responsible for school education in the Province;

“**head of the provincial treasury**” means the head of the provincial treasury in the Province referred to in section 17(1)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**member**” means a member of the Board;



**“member of a provincial sport or recreation body”** means any sport person being a member or affiliate of such body, either directly or through an institution duly affiliated to that body;

**“organ of state”** has the meaning set out in section 239 of the Constitution;

**“policy”** means the Provincial Sport and Recreation policy made by the responsible Member in terms of section 29;

**“political office-bearer”** means –

- (a) a member of the National Assembly or the National Council of Provinces or the Cabinet;
- (b) a member of a provincial legislature;
- (c) a diplomatic representative of the Republic who is not a member of the public service;
- (d) a member of a house or council of traditional leaders;

- (e) a member of a municipal council; or
- (f) a national or provincial office-bearer of any political party;

“**Premier**” means the Premier of the Province referred to in section 125 of the Constitution;

“**prescribe**” means prescribe by regulation;

“**Province**” means the Northern Cape Province referred to in section 103(1)(g) of the Constitution, or any region thereof;

“**Provincial Gazette**” means the *Provincial Gazette* of the Province;

“**Provincial Revenue Fund**” means the Provincial Revenue Fund referred to in section 226 of the Constitution;

“**provincial sport institution**” means the Northern Cape Provincial Academy of Sport or the Northern Cape Sport Council, each established as a voluntary association under its own constitution, respectively to deal with matters related to sport or recreation in the Province;

“**provincial sport or recreation body**” means any provincial federation, agency, club or body, including a trust, registered company or other corporate structure of such a provincial federation, agency, club or body involved in the administration of sport and recreation at provincial level;

“**recreation**” means a guided process of voluntary participation in any physical activity, which may contribute to the improvement of the general health, well-being or skill of the participant;

“**region**” means the area of jurisdiction of a district municipality;

“**registered**” means registered with the Authority in terms of section 23(1);

“**Republic**” means the Republic of South Africa referred to in section 1 of the Constitution;

“**responsible Member**” means the Member of the Executive Council responsible for sport and recreation in the Province;

“**sport**” means any activity which requires a significant level of physical and mental involvement and in which participants engage in either a structured or unstructured environment, for the purpose of declaring a winner, though not solely so, or purely for relaxation, personal satisfaction, physical health, emotional growth or development;

“**sport federation**” means a sport organisation charged in terms of its constitution and by the national federation where such exists, with the responsibility of governing of a specific code of sport within the Province;

'sport focus school' means a school that includes sport as an examination subject in its curriculum;

'sport person' means any person taking part or intending to take part in sport;

'SASCOC' means the South African Sport Confederation and Olympic Committee defined in terms of the Sport and Recreation Act 2007 (as amended); and

'this Act' includes any regulation made under this Act.

## CHAPTER II THE AUTHORITY AND BOARD

### Institution of Authority

2. (1) The Northern Cape Sport and Recreation Authority is hereby instituted as a juristic person.
- (2) The Authority must be structured in a manner that will enable it to perform its functions in each of the regions of the Province.

### Objects of the Authority

3. The objects of the Authority are to—

- (a) regulate;
- (b) consolidate;
- (c) promote;
- (d) develop;
- (e) finance; and
- (f) co-ordinate,

Sport and recreation activities and facilities in the Province.

### Powers, functions and duties of Authority

4. (1) The Authority must, in close co-operation with the Department and with due regard to the achievement of gender equality in sport and the needs of disabled sport persons, exercise the powers, perform the functions and carry out the duties—
  - (a) provided for in this Act or any other law;
  - (b) provided for in the policy made by the responsible Member in terms of section 29; and
  - (c) from time to time assigned to it in writing by the responsible Member.
- (2) The Authority may, in the Province and subject to any national legislation—



- (a) promote community sport and amateur sport by –
  - (i) staging, financing or facilitating events intended for mass participation and encouraging communities to participate in such events;
  - (ii) assisting and encouraging sport club and federation development;
  - (iii) undertaking or assisting in the management of sport and recreation facilities;
- (b) promote elite sport and recreation by –
  - (i) undertaking, facilitating or financing athlete support services;
  - (ii) providing or financing medical support to athletes;
  - (iii) undertaking doping and medical testing of athletes on a regular basis;
  - (iv) identifying talented and high performance sport persons at an early stage;
- (c) in consultation with the Member of the Executive Council responsible for Education, assist with the development of school sport by –
  - (i) staging, financing or facilitating events intended for mass participation by learners and encouraging learners to participate in such events;
  - (ii) encouraging and financially supporting the formation and maintenance of school sport leagues;
  - (iii) encouraging the development of motor-skills amongst learners;
  - (iv) financially supporting sport focus schools;
  - (v) encouraging and financially supporting competitive school sport;
- (d) provide support –
  - (i) for the eradication of mainstream gender based discrimination and disability in sport;
  - (ii) for any special sporting event by –



- (aa) assisting with fundraising for the event;
  - (bb) helping find sponsorships for the event;
  - (cc) marketing and assisting with a communication plan for the event;
  - (dd) facilitating sound stakeholder relationships;
- (e) engage in capacity building in the field of sport and recreation by –
- (i) providing training and coaching in any form of sport;
  - (ii) the facilitation of accredited training through the relevant SETA;
  - (iii) providing a legal framework through which sporting and recreational events may take place;
  - (iv) strengthening regional and local sport structures;
- (f) undertake the development of sport by –
- (i) talent identification;
  - (ii) organizing or hosting training camps or coaching clinics;
  - (iii) holding road shows in the various regions; and
  - (iv) arranging exchange programmes for sport persons on institutional, provincial, national and international level;
- (g) determine provincial colours for all sport codes representing the Province.

#### **Establishment of Board**

A Board for the Authority is hereby established –

- (a) to manage and control the affairs of the Authority;
- (b) to be the accounting authority for the Authority as contemplated in section 49(2)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
- (c) to exercise the powers and perform the functions conferred or imposed upon the Authority by this Act or any other law.

**Composition of the Board**

6. (1) The Board shall consist of 13 members to be appointed by the responsible Member, subject to subsection (4),
- (2) Every one of the 5 regions in the Province must be represented by 2 members on the Board, and representation must be from the sport and recreation sector in those respective Districts/ Region,
- (3) 3 officials shall be appointed to serve on the Board as members each representing the Department of Sport, Arts and Culture, Department of Education and Local Government as Ex Officio members with no voting rights on the Board;
- (4) The responsible Member must, before appointing members, request nominations to be made for suitable persons to serve as members of the Board in at least one newspaper circulating in the Province/ regions and in the *Provincial Gazette*.
- (5) Members of the Board must have special competence, experience or interest in the field of sport and recreation and must be broadly representative of the gender, language and community composition of the Province.
- (6) The Head of Department for Sport, Arts and Culture shall identify an official to represent the said Department.
- (7) The Head of Department for Education shall identify an official to represent the said Department.
- (8) The Chief Executive Officer of the South African Local Government Association in the Province shall identify an official to represent the said organisation.
- (9) The responsible Member must appoint a chairperson and deputy chairperson from amongst the members of the Board.
- (10) Before being appointed a member of the Board, the candidate must submit to the responsible Member an affidavit in which such candidate declares that he or she –
  - (a) is eligible for such appointment; and
  - (b) is not disqualified in terms of this Act from such appointment.
- (11) The responsible Member is at any time entitled to call for proof to his or her satisfaction of the continued eligibility of any member or prospective member of the Board, or to undertake or cause to be undertaken any investigation or enquiry in that regard.

**Term of office of members of the Board and filling of vacancies**

7. (1) A member may be appointed for a period of 4 years (in line with the South African Sport Confederation and Olympic Committee's Olympic cycle)
- (2) A member whose term of office has expired is eligible for reappointment, but may not serve more than 2 terms of office.
- (3) Any vacancy on the Board may be filled by appointment in the manner in which the member who vacates the office was required to be appointed, and any member so appointed holds office for the unexpired portion of the period for which the member who vacated the office was appointed.



**Eligibility to serve on the Board**

8. (1) To be eligible to serve as a member of the Board, and to continue to hold that office, a person must –
- (a) be a fit and proper person;
  - (b) not be subject to any disqualification set out in subsection (2);
  - (c) have submitted to the responsible Member the affidavit referred to in section 6(7); and
  - (d) be a citizen of the Republic and ordinarily residing in the country.
- (2) A person may not be a member of the Board if that person –
- (a) is a political office-bearer;
  - (b) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;
  - (c) was once, or is removed from an office of trust on account of misconduct;
  - (d) is subject to an order of a competent court holding that person to be mentally deranged;
  - (e) within the previous ten years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) or an offence involving dishonesty; or
  - (f) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine.
- (3) The provisions of subsections (1) and (2), read with the changes required by the context, apply to any official referred to in section 6(5).

**Conflicting interests**

9. (1) A member of the Board must not –

- (a) engage in any activity that may undermine the integrity of the Authority;
  - (b) attend, participate in or influence the proceedings during a meeting of the Board if, in relation to the matter before the Board, that member has an interest that precludes the member from performing the duties of a member of the Board in a fair, unbiased and proper manner;
  - (c) vote at any meeting of the Board in connection with a matter contemplated in paragraph (b);
  - (d) make private use of, or profit from, any confidential information obtained as a result of performing duties as a member of the Board; or
  - (e) divulge any information referred to in paragraph (d) to any third party, except as required as part of that person's official functions as a member of the Board.
- (2) If, at any time, it appears to a member of the Board that a matter before the Board concerns an interest of that member referred to in subsection (1)(b), the member must -
- (a) immediately and fully disclose the nature of that interest to the meeting; and
  - (b) withdraw from the meeting to allow the remaining members to discuss the matter and determine whether the member should be prohibited from participating in any further proceedings concerning that matter.

#### **Removal from office**

10. (1) The responsible Member may, by written notice, remove any member of the Board from office -
- (a) on the grounds of misconduct or incompetence;
  - (b) if the member becomes subject to a disqualification contemplated in section 8(2);
  - (c) if the member is absent for more than two meetings of the Board in one year without sound reason, or, in the case of absence due to medical reasons, without presenting a valid medical certificate.
- (2) A decision to remove a member of the Board on the grounds of misconduct or incompetence must be based on a finding to that effect by an investigating tribunal appointed by the responsible Member.



- (3) A notice contemplated in subsection (1) must state the reasons for removal of the member.
- (4) The responsible Member may at any time disband the Board if he or she is, on reasonable grounds, convinced that the Board is not functioning properly or that it will be in the community's or public interest to do so.
- (5) If the responsible Member has disbanded the Board as contemplated in subsection (4), he or she must forthwith appoint an administrator to exercise the powers, perform the functions and carry out the duties of the Board until a new Board is appointed in terms of section 6.

#### **Remuneration of members of Board**

11. (1) A member of the Board must be paid such reasonable remuneration and allowances out of the funds of the Board as the responsible Member, with the concurrence of the head of the provincial treasury, may from time to time determine.
- (2) A member of the Board, who is in the full-time employ of any organ of state, may not receive remuneration in terms of subsection (1).
- (3) Remuneration determined in terms of subsection (1) must be published in the *Provincial Gazette* by the responsible Member before it becomes effective.
- (4) Members of the Board are entitled to be reimbursed for any travelling and subsistence expenses reasonably incurred by them for the performance of their functions as members of the Board.

#### **Meetings of the Board**

12. (1) The chairperson determines the date, time and place for the first meeting of the Board, and the chairperson, in consultation with the Board, determines the date, time and place for each subsequent meeting.
- (2) The chairperson, in consultation with the Board, may determine procedures at meetings of the Board, after due consideration of the principles of openness and transparency.
- (3) A majority of the members of the Board contemplated in section 6(1) is a quorum for a meeting of the Board.
- (4) The Board must attempt to reach its decision by consensus.
- (5) If the Board is unable to reach a consensual decision in any matter before it, the Board may resolve the matter by a simple majority vote on a motion.
- (6) In the event of an equality of votes regarding any matter put to the vote, the chairperson has a casting vote in addition to his or her deliberative vote.



- (7) Subject to subsections (4), (5) and (6), the Board may establish rules for its own proceedings.
- (8) The chief executive officer must take minutes or cause minutes to be taken at meetings of the Board.
- (9) Minutes of the proceedings of meetings of the Board must be retained at the offices of the Authority and must be open to the public for inspection.
- (10) No person who has access to any information classified by the Board as confidential, may, without permission of the Board, divulge such information.
- (11) If a particular person is able to assist the Board in the consideration of a particular matter, the Board may co-opt that person for that purpose.
- (12) A person so co-opted is not entitled to vote at any meeting of the Board or a committee of the Board.
- (13) The Board must meet at least once every 3 months to, amongst other things; consider the report referred to in section 20(3).
- (14) The responsible Member may call a meeting of the Board if the Board fails to comply with subsection (13).
- (15) The chairperson must call an extraordinary meeting of the Board, if so requested by the responsible Member, the majority of members of the Board or the chief executive officer.
- (16) Whenever any matter to be dealt with by the Board is of such a nature that it requires the immediate and urgent attention of the Board and it is not possible for the Board to meet in order to attend to the matter, all relevant documentation pertaining to such matter must forthwith be made available to each member by the chief executive officer for consideration.
- (17) A matter referred to in subsection (16) and agreed upon in writing by a simple majority of the Board members will, subject to subsection (18), be a resolution of the Board.
- (18) A resolution contemplated in subsection (17), must be reported to the Board by the chief executive officer at its next ensuing meeting and must be so recorded in the minutes of that meeting.

#### **Committees of Board**

13. (1) The Board may establish committees, with the power to co-opt other persons, for the purpose of assisting it with the due and proper exercise and performance of any of its powers and functions in terms of this Act, and may likewise dissolve, extend, enlarge or limit any committee so established.

- (2) (a) A committee established under subsection (1), consists of no fewer than three members designated by the Board being suitable and appropriately qualified or experienced regarding matters relating to the functions of the committee in question.
- (b) The Board must designate a Board member serving on a committee as the chairperson of such committee.
- (3) A co-opted member of a committee serves in an advisory capacity, and may not vote at any meeting of such committee.

### CHAPTER III REGIONAL FORUM

#### Regional sport and recreation forum

14. (1) A regional sport and recreation forum is hereby established to make recommendations to the Authority regarding matters pertaining to sport and recreation matters at a regional or local level.
- (2) The forum consists of –
- (a) Chairpersons of the District/ Regional Sport and Recreation bodies/ registered and functional structures,
  - (b) Nominated person representing the schools sport structure in the District/ Region,
  - (c) A person appointed to represent the Local Government sphere in the District/ Region.
- (3) To participate in the activities of the forum, the regional managers of the responsible Departments in each region must assist to –
- (a) establish a regional sport and recreation associations consisting of all registered sport or recreation bodies within the region willing to participate in the activities of the forum;
  - (b) support in the hosting of regular meetings of the forum;
  - (d) provide the chief executive officer with a copy of the constitution of the regional association,
  - (c) Departmental regional managers from both Departments (DSAC and DoE) including Local government shall be Ex Officio members of the Forums.
- (3) The forum must meet at least once every 3 months, alternatively in each region, to deliberate on and make recommendations to the Authority regarding matters pertaining to sport or recreation at a regional or local level.
- (4) A decision of the forum is taken only by way of consensus at a meeting of the Forum where at least a majority of the members contemplated in subsection (2) are present.



- (6) All matters relating to meetings and the functioning of the forum must be attended to by the chief executive officer or a member of the staff of the Authority designated by the chief executive officer and must be financed by the Authority.
- (7) Members of the forum do not receive any remuneration, but are entitled to be reimbursed for travelling and subsistence expenses reasonably incurred by them for the attendance of meetings of the forum.
- (8) Recommendations of the forum must be put onto the agenda of the next ensuing meeting of the Board by the chief executive officer for consideration, decision and report back to the forum.

#### CHAPTER IV STAFF MATTERS

##### Staff of Authority and remuneration

15. (1) The Board –
  - (a) must, subject to sections 16, 17 and 18 and with the concurrence of the responsible Member, appoint a suitably qualified and experienced person as chief executive officer, who –
    - (i) subject to the direction and control of the Board, is responsible for all financial and administrative responsibilities pertaining to the functions of the Authority; and
    - (ii) is accountable to the Board;
  - (b) must, with the concurrence of the responsible Member, determine a staff establishment for the Authority; and
  - (c) may, on the establishment contemplated in paragraph (b), appoint any other staff as may be necessary to enable the Authority to perform its functions.
- (2) Section 8(1) and (2) and section 9, read with the changes required by the context, apply to the chief executive officer and each staff member to be appointed in terms of this Act.
- (3) The Board may, with the concurrence of the responsible Member and the head of the provincial treasury, determine the remuneration, allowances, employment benefits and other terms and conditions of appointment of a person appointed in terms of subsection (1).
- (5) The Board may delegate its powers in terms of subsection (1)(c) to the chief executive officer.



- (5) The responsible Member may, after consultation with the Board, second any official on the establishment of the Department to the Authority in accordance with section 15(3) of the Public Service Act, 1994.
- (6) On dissolution of a provincial sport institution in accordance with section 30(1)(a), a person in the employ of the institution –
  - (a) remains so employed;
  - (b) retains his or her emoluments and other conditions of service; and
  - (c) is employed additional to the staff establishment of the Authority determined in terms of subsection (1)(b).

#### Chief executive officer

16. (1) The chief executive officer, appointed in terms of section 15(1), must be a person who has appropriate qualifications, knowledge or experience regarding the business and operations of the Authority.
- (2) The chief executive officer must have thorough knowledge of the financial and provisioning administration prescripts incumbent on the Authority.
- (3) The Board must, when appointing a chief executive officer, through public invitation, request applications for that position.
- (4) The chief executive officer is appointed for such period and on such terms and conditions of service as the Board may, subject to section 15(3), determine, but –
  - (a) the chief executive officer may not be so appointed for a period exceeding 5 years;
  - (b) upon the expiration of the term of office of the chief executive officer, he or she is eligible for reappointment for one further term of 5 years only;
  - (c) the chief executive officer may not undertake any other remunerative work, without the prior written consent of the Board.
- (5) The chief executive officer may, on 3 months' written notice tendered to the Board, resign from his or her office.
- (6) Whenever the office of chief executive officer is vacant or the chief executive officer is absent or incapacitated or refuses or fails to act, the powers and functions of the chief executive officer may be exercised and performed by any person designated as the acting chief executive officer by the responsible Member, but such person may not be the acting chief executive officer for a period exceeding 6 months in total

- (7) While a person appointed as contemplated in subsection (6) so acts, he or she may exercise the powers and perform the functions of the chief executive officer.

#### **Removal of chief executive officer from office**

17. (1) The Board may remove the chief executive officer from office –
- (a) on account of his or her improper conduct;
  - (b) for unfitness for the functions of his or her office;
  - (c) on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the functions of his or her office or discharging them properly;
  - (d) on the ground that he or she is or has become subject to a disqualification envisaged in section 8(2).
- (2) The Board may, in order to determine whether there exists sufficient cause for the removal of the chief executive officer from office as contemplated in subsection (1), initiate an inquiry or investigation for that purpose.
- (3) Whenever any inquiry or investigation, initiated as contemplated in subsection (2), is being undertaken, the Board may and with due regard to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), suspend the chief executive officer from his or her office pending the outcome of such an inquiry or investigation.
- (4) For the purposes of subsection (1)(a), non-compliance by the chief executive officer with any provision of this Act or the Public Finance Management Act, 1999 (Act No. 1 of 1999), amongst other things, constitutes improper conduct.
- (5) If the responsible Member is of the opinion that one or more of the grounds referred to in subsection (1) is applicable to the chief executive officer, he or she may direct the Board to act in accordance with subsection (2).

#### **Employment contract and performance agreement of chief executive officer**

18. (1) The appointment of the chief executive officer by the Board as contemplated in section 15(1) becomes effective from the date of the entering into a written employment contract with the Authority, which employment contract must be for the duration of his or her term of office as chief executive officer.
- (2) The employment contract contemplated in subsection (1) must, as a minimum, contain the chief executive officer's personal particulars, term of office, conditions of service, powers, functions, responsibilities, duties as well as his or her remuneration, allowances and benefits



- (3) In addition to the employment contract as contemplated in subsection (1), the chief executive officer must annually, prior to the commencement of the financial year concerned, conclude a performance agreement with the Board which performance agreement's term of operation must coincide with the financial year of the Board.
- (4) The performance agreement contemplated in subsection (3) must, as a minimum, contain a reference to the financial year to which such performance agreement pertains, the purpose of the chief executive officer's job, the key result areas, financial and management criteria, performance guidelines and targets of such job, as well as the standards for measuring the performance of the chief executive officer, by the Board, on at least a bi-annual basis.

## CHAPTER V FINANCE AND PROCUREMENT

### Finances

19. (1) The Authority is financed from –
- (a) money appropriated by the Provincial Legislature for the Authority;
  - (b) any money payable to the Authority in terms of this Act;
  - (c) income derived by the Authority from its investment and deposit of surplus money in terms of subsection (6); and
  - (d) all other monies legally accruing to the Authority from any source.
- (2) The financial year of the Authority is the period from 1 April in any year to 31 March of the following year.
- (3) The prescripts incumbent on a provincial public entity, contained in the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the Treasury Regulations apply to the Authority.
- (4) The Board must open and maintain an account in the name of the Authority with a registered bank in the Republic and –
- (a) any money received by the Authority must be deposited into that account; and
  - (b) every payment on behalf of the Authority must be made from that account.
- (5) Withdrawals from the account of the Authority must be authorized on its behalf by two persons designated for that purpose by resolution of the Board.



- (6) The Board may invest or deposit money of the Authority that is not immediately required for contingencies or to meet current expenditures –
- (a) on a call account or short-term fixed deposit with any registered bank or financial institution in the Republic; or
  - (b) in an investment account with the Corporation for Public Deposits established in terms of section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).
- (7) Any money standing to the credit of the Authority at the end of any financial year of the Authority, excluding such money as has been approved by the responsible Member, being necessary for the reasonable immediate running expenses of the Authority, must be paid into the Provincial Revenue Fund.
- (8) No loan may be made out of the funds of the Authority, or from any other funds administered or held in trust by the Authority, to a member of the Board, or a member of the staff of the Authority, or to a family member of such member of the Board or member of the staff of the Authority.

#### **Accountability, audits and reports**

20. (1) The Board must –
- (a) account for state and other money received by, or paid for, or on account of the Authority; and
  - (b) cause the necessary accounting and related records to be kept,
- in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (2) The records referred to in subsection (1)(b) must be audited by the Auditor General.
- (3) The Authority must, through the Head of Department, report at least quarterly in writing to the responsible Member on its activities.
- (4) The Authority must submit the report and statements referred to in section 55(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the responsible Member in the way required by section 55(3) of that Act.
- (6) The responsible Member must, as soon as practicable after receiving the report and statements referred to in subsection (4), table it in the Provincial Legislature.

- (6) The Authority must, in the report contemplated in subsection (4), as far as the exercise and performance of its powers and functions during the year being reported on, are concerned, also include reference to -
- (a) its achievements;
  - (b) its failures;
  - (c) the financial implications of all such achievements and failures;
  - (d) any recommendations pertaining to its objects, for consideration.
- (7) The Board must establish an audit committee for the Authority consisting of at least three persons in accordance with Treasury Regulation 27.
- (8) The audit committee must prepare, sign and submit to the Authority, within 15 days of the end of each quarter, a report in respect of the operations, including the income and expenditure of the Authority in respect of the preceding quarter.

#### **Appropriation of income and property**

21. The moneys appropriated by the Provincial Legislature to the Authority as contemplated in section 18(1)(a), must be utilized in accordance with such appropriation and all other income, property and profits of the Authority must be utilized exclusively for the achievement of its objects and in accordance with the provisions of this Act.

#### **Procurement**

22. (1) When procuring any supply or service, or hiring or letting anything or acquiring or granting any right or acquiring or disposing of any asset for or on behalf of the Authority, the Board must ensure that such procurement is effected in accordance with, and duly complies with -
- (a) the regulations made or instructions issued by the National Treasury in respect of an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective as contemplated in section 76(4)(c) of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
  - (c) the instructions issued by the Provincial Treasury as contemplated in section 18(2)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), in respect of an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;



- (c) the appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective as established by the Board, as contemplated in section 51(1)(a)(iii) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) and Treasury Regulation 16A; and
  - (d) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
- (2) The Board must adopt, within six months after the coming into operation of this Act, a procurement system consistent with subsection (1), which procurement system must be utilized for the procurement of all supplies, goods and services, as well as the disposal of supplies and goods by the Board.

## CHAPTER VI REGISTRATION

### Registration with the Authority of provincial sport or recreation bodies

23. (1) All provincial sport or recreation bodies representing sport persons within the boundaries of the Province, must register with the Authority.
- (2) An application for registration with the Authority must be lodged on the prescribed form, accompanied by –
- (a) a detailed written motivation in support of the application;
  - (b) a copy of its constitution or other founding document;
  - (c) proof of membership of constituent bodies or persons;
  - (d) a letter of support by the Head of Department for Education, in the event of a sport or recreation body representing school sport; and
  - (e) proof of payment of the prescribed fee.
- (3) The Board must, within a reasonable time after receipt of the application referred to in subsection (2), consider the application and –
- (a) approve the application subject to such conditions as the Board may determine; or
  - (b) reject the application.
- (7) The Board must, in writing, forthwith notify the applicant of its decision and if the application was rejected, provide the reasons for its decision



- (5) An unsuccessful applicant may reapply for registration only after a period of 6 months has lapsed since being notified accordingly.
- (6) When considering an application, the Board may request additional information to that already provided for in subsection (2).

#### **Consequences of not being registered with the Authority**

24. (1) The Department or the Authority may not provide financial or other assistance to –
- (a) a provincial sport or recreation body not registered with the Authority in terms of section 23;
  - (b) a sport person who is –
    - (i) not a member of a provincial sport or recreation body; or
    - (ii) a member of a provincial sport or recreation body not registered with the Authority in terms of section 23.
- (2) No sport person may represent the Province in any sport event or wear the Province's colours in such event, unless that sport person is a member of a provincial sport or recreation body registered with the Authority in terms of section 23.

#### **Application, registration and annual renewal fee**

25. (1) (a) An institution applying for registration in terms of section 23 must pay to the Authority the prescribed application fee upon submission of the application.
- (b) A successful applicant must, upon receipt of the notification to that effect in terms of section 23(4), pay to the Authority the prescribed registration fee before the registration becomes effective and thereafter annually pay the prescribed renewal fee.
- (c) The Authority must, within 48 hours after receipt of the fees contemplated in paragraphs (a) and (b), pay the fees into the Provincial Revenue Fund.
- (d) No fee contemplated by this section is refundable.
- (2) The annual renewal fee becomes due on the last day of March in each consecutive year.
- (4) If the annual renewal fee is not paid within 90 days from the date on which it became due in accordance with subsection (2), the registration lapses.

**Suspension and termination of registration**

26. (1) Should any provincial sport or recreation body –
- (a) contravene or fail to comply with a provision of this Act;
  - (b) contravene or fail to comply with a provision of the policy made by the responsible Member in terms of section 29; or
  - (c) bring the Province, the Department, the Authority or the sport code it represents into disrepute,
- (the Board may, by written notice –
- (i) pending an investigation, suspend the membership of the body;
  - (ii) after an investigation, terminate the membership of the body.
- (2) A decision by the Board to suspend the membership of a provincial sport or recreation body must be taken with the concurrence of the responsible Member.
- (3) A decision to terminate the membership of a provincial sport or recreation body in terms of subsection (1) must be based on a finding to that effect by an investigating tribunal appointed by the responsible Member.
- (4) A notice to terminate the membership of a sport or recreation body must state the reasons for the termination.
- (5) If the membership of a sport or recreation body is suspended in terms of subsection (1), the body is, during the period of the suspension, for purposes of section 24 deemed not to be registered with the Authority.

**CHAPTER VII  
GENERAL PROVISIONS****Delegation**

27. (1) The Board may, subject to subsections (2) and (3), in writing, delegate any of the Authority's powers, functions or duties in terms of this Act, to the chief executive officer or a committee of the Board.
- (2) The chief executive officer may, with the written permission of the Board, sub-delegate any power, function or duty delegated to him or her in terms of subsection (1), to any member of the staff of the Authority.



- (3) A delegation or sub-delegation, as the case may be, may be withdrawn by the Board or the chief executive officer with the concurrence of the Board, respectively.

### Regulations

28. (1) The responsible Member may, by notice in the *Provincial Gazette*, make regulations regarding –
- (a) fees to be paid to the Authority or any institution administered by the Authority; and
  - (b) any other matter that may be necessary or expedient in order to achieve the objects of this Act.
- (2) Any regulation made in terms of subsection (1)(a), may only be made with the concurrence of the head of the provincial treasury.
- (3) No less than 1 month before any regulation is made under this section, the responsible Member must cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish any comments thereon or any representation which they may wish to make in regard thereto, to the responsible Member on or before a date mentioned in the notice.

### Sport and recreation policy

29. (1) The responsible Member may, after consultation with the Board, adopt a sport and recreation policy for the Province.
- (2) The policy contemplated in subsection (1), may not be in conflict with this Act or any other law, and is binding on the Authority, any provincial sport or recreation body or any sport person, and may include –
- (a) the determination of priorities for sport and recreation development in the Province;
  - (b) measures to achieve transformation in sport in the Province;
  - (c) conditions pertaining to the transfer of funds to the Authority or any other institution or entity;
  - (d) measures to achieve gender equality in sport and to provide for the special needs of disabled sport persons in the Province;



- (e) a code of conduct for sport persons and members of teams representing the Province; and
  - (f) any other matter related to sport or recreation in the Province.
- (3) A policy contemplated in subsection (1) or any amendment thereto, only becomes binding after publication thereof in the *Provincial Gazette*.

#### **Transitional and founding arrangements**

30. (1) With effect from the date on which this Act comes into operation, subject to the approval of the governing body of a provincial sport institution first being obtained –
- (a) the institution is dissolved;
  - (b) the staff, assets, liabilities and records of the institution are transferred to the Authority and the Authority becomes the successor-in-law of the institution.
- (2) The responsible Member must appoint an administrator to exercise the powers, perform the functions and carry out the duties of the Board, until the first Board is appointed in terms of section 6.

#### **Short title and commencement**

31. This Act is called the Northern Cape Sport and Recreation Authority Act, 2015, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.