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THE PRESIDENCY

No. 349

17 April 2007

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 25 of 2006: South African Institute for Drug-Free Sport Amendment Act, 2006



AIDS HELPLINE: 0800-123-22 Prevention is the cure

Act No. 25, 2006 SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT
AMENDMENT ACT, 2006

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 11 April 2007.)

ACT

To amend the South African Institute for Drug-Free Sport Act, 1997, so as to delete certain definitions and to insert, amend or substitute other; to provide for the appointment of the staff of the Institute; to align the Act with the Public Finance Management Act; to provide for the amendment of the powers of the Institute; to provide for the adoption of matters contained in the World Anti-Doping Code; to establish a doping control programme in compliance with the World Anti-Doping Code; to provide for the testing of athletes for doping by sports administration bodies; to provide for punitive measures against national sports federations not complying with the regulations contained in this Act; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 14 of 1997

1. Section 1 of the South African Institute for Drug-Free Sport Act, 1997 (hereinafter referred to as the principal Act) is hereby amended—

(a) by the insertion of the following definitions before the definition of “Appeal Board” of the following definitions:

“**adverse analytical finding**” means a report from a WADA-accredited laboratory that identifies in a sample, the presence of a prohibited substance or its metabolites or markers (including elevated quantities of endogenous substances) or evidence of the use of a prohibited method;

“**anti-doping rule violation**” means any one of the following:

- (i) the presence of a prohibited substance or its metabolites or markers in an athlete's bodily specimen;
- (ii) the use or attempted use of a prohibited substance or method;
- (iii) the refusal or failure, without compelling justification, to submit to sample collection after notification as authorised in terms of applicable anti-doping rules or otherwise evading sample collection;

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- (iv) the violation of applicable requirements regarding athlete availability for out of competition testing, including failure to provide required whereabouts information and missed tests which are declared based on reasonable rules;
- (v) the tampering, or attempting to tamper, with any part of doping control; 5
- (vi) the possession of prohibited substances and methods;
- (vii) the trafficking in any prohibited substance or method; or
- (viii) the administration or attempted administration of a prohibited substance or method to any athlete, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any attempted violation"; 10
- (b) by the insertion after the definition of "Appeal Board" of the following definitions: 15
 - "athlete"** means for purposes of doping control, any person who participates in sport at the international level (as defined by each International Sports Federation) or national level (as defined by the Institute) and any other person who participates in sport at a lower level if designated by the Institute; 20
 - "Code"** means the World Anti-Doping Code adopted by the Foundation Board of WADA on 5 March 2003 at Copenhagen, Denmark;¹
- (c) by the substitution for the definition of "doping" of the following definition: 25
 - "doping"** means the occurrence of one or more of the anti-doping rule violations as set out in this Act;
- (d) by the insertion after the definition of "doping" of the following definitions:
 - "doping control"** means the process, including test distribution planning, sample collection and handling, laboratory analysis, results management, hearings and appeals;
 - "doping control programme"** means the programme described in section 11A; 30
 - "doping register"** means a database of information recording relevant details of athletes or other persons found guilty of having committed anti-doping rule violations in terms of this Act;";
- (e) by the insertion after the definition of "international sports federation" of the following definitions: 35
 - "International Standard"** means a standard adopted by WADA in support of the Code. Compliance with an International Standard (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the International Standard were performed properly; 40
 - "International Standard for Laboratories"** is a mandatory International Standard developed by WADA;
 - "International Standard for Testing"** is a mandatory International Standard developed by WADA; 45
 - "International Standard for Therapeutic Use Exemptions"** is a mandatory International Standard developed by WADA;";

1. In 2006, the text of the World Anti-Doping Code was accessible on the Internet through the website of the World Anti-Doping Agency (www.wada-ama.org)

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- (f) by the insertion after the definition of "Minister" of the following definitions:
"National Anti-Doping Organisation (NADO)" means the entity
designated by each country as possessing the primary authority and
responsibility to—
 (a) adopt and implement anti-doping rules;
 (b) direct the collection of samples;
 (c) manage test results; and
 (d) conduct hearings;
at the national level;";
- (g) by the insertion after the definition of "national sports federation" of the following definition:
"negative analytical finding" means the finding, on analysis of a
sample by a WADA-accredited laboratory, that does not indicate the
presence of a prohibited substance or the use of a prohibited method;";
- (h) by the deletion of the definition of "NOCSA";
- (i) by the substitution for the definition of "notifiable event" of the following definition:
"notifiable event" means any sports competition or event under the
auspices of the South African Sports Confederation and Olympic
Committee (SASCOC) or any national sports federation anywhere
within or outside the Republic, with reference to which doping control is
to be carried out, as determined by the Institute;";
- (j) by the deletion of the definition of "NSC";
- (k) by the insertion after the definition of "notifiable event" of the following definitions:
"person" means a natural person or an organisation or other entity;
"possession" means the actual, physical possession or the constructive
possession (which shall be found only if the person has exclusive control
over the prohibited substance or method or the premises or property in
which a prohibited substance or method exists); Provided that, if a person
does not have exclusive control over the prohibited substance or method
or the premises in which a prohibited substance or method exists,
constructive possession shall only be found if such a person knew about
the presence of the prohibited substance or method and intended to
exercise control over it; Provided further that there shall be no
anti-doping rule violation based solely on possession if, prior to
receiving notification of any kind that such a person has committed an
anti-doping rule violation, the person has taken concrete action
demonstrating that the person no longer intends to have possession and
has renounced the person's previous possession.
"Prohibited List" means the list identifying the prohibited substances
and prohibited methods, published at least annually by WADA as a
mandatory International Standard;
"prohibited method" means any method so described on the Prohibited
List;
"prohibited substance" means any substance so described on the
Prohibited List;
"Promotion of Access to Information Act" means the Promotion of
Access to Information Act, 2000 (Act No. 2 of 2000);
"Public Finance Management Act" means the Public Finance Manage-
ment Act, 1999 (Act No. 1 of 1999);
"Register of Notifiable Events" means a register of sporting competi-
tions or events at which the Institute may perform doping control;
"registered testing pool" means the pool of top level athletes,
established by the Institute, who are subject to both in competition and
out of competition testing as part of the Institute's test distribution plan;
"sample" means a specimen of any biological material collected for the
purposes of doping control;

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'SASCOC' means the South African Sports Confederation and Olympic Committee, a non-governmental sports body consisting of the following founding constituent components:

- (a) The Olympic national federations;
- (b) the Commonwealth national federations;
- (c) school sport insofar as it is represented on SASCOC's Board in accordance with its articles of association;
- (d) tertiary institutions sport (including Further Education and Training);
- (e) the national federations catering for athletes with disability;
- (f) the All Africa Games national federations; and
- (g) other national federations.”;

(l) by the deletion of the definition of “SISA”;

(m) by the insertion at the end of the section of the following definitions:

“**'sports administration body'** means—

- (a) a multi-coded international sports governing body (e.g. the International Olympic Committee (IOC));
- (b) an international sports federation;
- (c) a national sports federation;
- (d) a sports federation;
- (e) a tribunal, committee or other investigative body that is associated with a body referred to in paragraphs (a), (b), (c) or (d);
- (f) SASCOC;
- (g) WADA; or
- (h) a National Anti-Doping Organisation;

'SRSA' means Sport and Recreation South Africa which is the national department responsible for Sport and Recreation;

'tampering' means altering for an improper purpose or in an improper way, bringing improper influence to bear or interfering improperly to alter results or prevent normal procedures from occurring;

'testing' means the parts of the doping control process involving test distribution planning, sample collection, sample handling and sample transport to the laboratory;

'trafficking' means to sell, give, administer, transport, send, deliver or distribute a prohibited substance or prohibited method to an athlete either directly or through one or more third parties, but excluding the sale or distribution (by medical personnel or by persons other than an Athlete's Support Personnel as contemplated in the Code) of a prohibited substance for genuine and legal therapeutic purposes;

'UNESCO Convention' means the UNESCO (United Nations Educational, Scientific and Cultural Organisation) International Convention Against Doping in Sport, adopted in Paris on 19 October 2005;

'WADA' means the World Anti-Doping Agency;

'WADA-accredited laboratory' means a laboratory accredited by WADA according to the International Standard for Laboratories.”.