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## **THE NEW NATIONAL SPORT AND RECREATION AMENDMENT BILL**

*By Dave Steward, Chairman of the FW de Klerk Foundation*

All those who are concerned about the future of sport and recreation in South Africa should give very serious attention to the *National Sport and Recreation Amendment Bill* [B-2020] that has been presented for public comment before 28 February. The Bill has serious implications - not only for sport and recreation - but also for the principle that citizens and organisations in free societies should be able to go about their lawful activities and business without undue interference or prescription by the state.

The Bill - which will amend the *National Sport and Recreation Act, No. 110 of 1998* - would diminish the role of sports federations, clubs and individuals and give the Minister (Mr Nathi Mthethwa) wide-ranging powers to dictate policy to virtually everyone involved in the sport and recreation sector. In terms of 1998 Act, his power was limited to determining general policy - only after consultation with the Sports Confederation. The Bill would give the Minister the untrammelled power, "from time to time to determine and publish policy objectives to be achieved by Sports and Recreation South Africa, the Sports Confederation and sports or recreation bodies".

The Sports Confederation (the embattled SASCOC) would lose much of its ability to act independently in controlling and promoting sport. It would no longer award national colours - which will in future be the responsibility of a National Colours Board appointed by the Minister. It - together with all other bodies involved in Sport and Recreation - will be required to carry out the policies dictated by the Minister - including the obligation to "comply with the guidelines or policies to promote equity, representivity and redress in sport and recreation" - and, more specifically, with the Government's 2011 *Transformation Charter for South African Sport* (Transformation Charter).

The Transformation Charter is, in effect, the extension of the Government's BBBEE policies into the sport sector. It explicitly accepts the need for racial quotas and requires the changing of "sport's demographic profile on and off the field of play so that it reflects regional and local population demographics".

Sport and recreation bodies would also be required to comply with, and support, Government priorities relating to issues such as AIDS, crime, xenophobia, nation-building and social cohesion.

The Minister will henceforth control the relationship between South African sport bodies and international sports federations. They will have to notify him before bidding to host international events and before seeking election to, or voting in, any matter dealt with by, international bodies.

The Bill would vastly expand the powers and scope of the Minister and his Department:

- Apart from their impact on the Sports Confederation and sporting federations, they will



also be able to prescribe policies for sports clubs affiliated to provincial or national federations. This would presumably include hundreds of affiliated golf, rugby and tennis clubs throughout the country;

- The whole “fitness industry” will fall under the control of the Minister - who may establish a Fitness Industry Regulatory Authority for the registration and accreditation of fitness controlling bodies and the licencing of fitness professionals - whose members he will appoint;
- Similarly, the Minister will “oversee, administer and govern” all combat sports through the establishment of a Combat Sport Regulatory Authority;
- The Minister will be responsible for approving “all applications for the bidding and hosting of major international sport and recreation events”;
- He may publish the procedure and compliance requirements for the recruitment of foreigners to participate in sport in South Africa;
- He will henceforth publish norms and standards for the building of new sports facilities and his department will oversee the “the governance of any newly established facility that has been allocated to a municipality”;
- He will also be able to make regulations for the school sport development programme; the fees for sport or recreation agents; and the training of sport coaches.

The Minister will be empowered to appoint a Ministerial Committee of Inquiry, chaired by a retired judge, to investigate failures to comply with his policy directives or “any matter that may bring a sport or recreational activity or body into disrepute.” He will also establish a Sport Arbitration Tribunal to hear disputes and appeals against decisions affecting sport and recreation.

All this will be policed by a new cohort of Sports Inspectors. They will have wide-ranging powers to inspect sport and recreation facilities and access documentation, and will be empowered to issue compliance orders.

Much of the Bill is profoundly at odds with the values and prescripts of international sporting bodies:

- In terms of the Olympic Charter “Members of the IOC (International Olympic Committee) will not accept from governments, organisations, or other parties, any mandate or instructions liable to interfere with the freedom of their action and vote”.
- The IOC’s Code of Ethics requires “rejection of discrimination of any kind on whatever grounds” including race and colour;
- The Constitution of the International Cricket Council (ICC) requires that every member must “manage its affairs autonomously and ensure that there is no government interference” in its activities. In August 2019, it suspended Zimbabwe from participation in ICC events because of Zimbabwean government’s interference in the running of the sport.



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Can one imagine the outcry that would quite rightly ensue should anyone ever suggest that US track and field squads - or European soccer teams - should be subject to racial quotas?

Why then is the government proposing legislation that will pose such a dire risk to South Africa's position in international sport? What compels it to expand so unnecessarily its powers to intervene in, and control, so many aspects of sport and recreation in the country? Why would it want to undermine the enormous goodwill generated among all South Africans by sporting successes - such as the recent victory in the Rugby World Cup - by accentuating once again the divisive issue of race?

- One reason may be the bureaucratic tendency to increase the power and employment opportunities of officials. The proposed ministerial committees, regulatory authorities, boards, tribunals - and sport inspector posts - all offer potentially lucrative salaries and allowances. Where will the money come from to pay for all of this? The memorandum that accompanies the Bill estimates that this vast expansion of the Department's responsibilities will cost a mere R7 million per annum – less than 1% of its annual budget of R1.15 billion.
- Secondly, the Bill has its origins in the ANC's wish to control as much as it can. Its dislike for the 'neo-liberal' concept of free and autonomous individuals and organisations probably derives from the SACP genes that have been spliced into its own ideological DNA.
- Finally, there is the all-encompassing question of race and the ANC's determination to develop a National Democratic Society in which everything would be allocated on racial percentages - rather than on the basis of individual merit and achievement.

There is one clause in the Bill that the government will probably want to reconsider. In its desire to impose control, the government has for the first time included a provision for criminal offences. Thus, among other provisions, any person who fails to comply with the obligations of an international sport controlling body (such as the IOC or the ICC) would be liable for a fine, or two years imprisonment. This could come back to haunt government officials as the proposed legislation is itself, a *prima facie* breach of South Africa's international sporting obligations.

All South Africans who love sport and freedom should oppose the Bill at every step of its progress through Parliament.