

BOTSWANA NATIONAL SPORTS COUNCIL ACT, 1981

No. 4



of 1981

ARRANGEMENT OF SECTIONS

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- SCHEDULE**

An Act to repeal and replace the Botswana National Sports Council Act, to continue in existence the Botswana National Sports Council, to provide it with a new constitution and to provide for matters incidental thereto and connected therewith.

Date of Assent: 9.4.81.

Date of Commencement: On Notice.

ENACTED by the Parliament of Botswana.

Short title
and
commence-
ment

1. This Act may be cited as the Botswana National Sports Council Act, 1981, and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Inter-
pretation

2. In this Act, unless the context otherwise requires, —
- “annual meeting of the Council” means the annual meeting of the Council prescribed by section 9 (1);
- “Appeals Board” means the Appeals Board for the Council established by section 16 (1);
- “Chairman of the Council” includes the Vice-Chairman of the Council where the Chairman of the Council is unable or not readily available to perform the functions of his office as such;
- “Council” means the Botswana National Sports Council referred to in section 3;
- “Council’s rules” means rules made by the Council under section 19;
- “delegate” means a delegate from and representing a member of the Council;
- “Executive Committee” means the Executive Committee of the Council established by section 10;
- “financial year” means the financial year of the Council prescribed by section 15;
- “meeting of the Council” means the annual meeting or an ordinary or special meeting of the Council;
- “ordinary meeting of the Council” means an ordinary meeting of the Council prescribed by section 9 (2);
- “prescribed” means prescribed by the Council’s rules or by regulations made by the Minister under section 20;
- “Secretary of the Council” includes the Vice-Chairman of the Council where the Secretary of the Council is unable or not readily available to perform the functions of his office as such;
- “special meeting of the Council” means a special meeting of the Council called by the Chairman of the Council under or in accordance with section 9 (3) or (4).

3. Notwithstanding the repeal of the Botswana National Sports Council Act by this Act, the Botswana National Sports Council established by section 3 of that Act shall continue in existence as a body corporate in conformity with the provisions of this Act.

Botswana
National
Sports
Council
to continue
in existence
notwith-
standing
repeal of
Cap. 60:02

4. The objects of the Council shall be to promote sport within Botswana and participation in sport outside Botswana.

Objects
of
Council

5. The Council may do all such lawful acts as are necessary or expedient for the furtherance of the objects of the Council prescribed by section 4 and, without prejudice to the generality of the foregoing, may –

Powers of
Council

- (a) institute and defend suits and other legal proceedings in its corporate name;
- (b) acquire, hold, charge and dispose of property of any kind;
- (c) enter into contracts; and
- (d) borrow and lend money with or without giving or taking security.

6. (1) The provisions of the Schedule shall have effect in respect of the Council.

Schedule to
have effect
in respect
of Council

(2) The Minister may, by order published in the Gazette, amend the Schedule in order to give effect, to such extent as he considers desirable, to a resolution of the annual meeting or of an ordinary or special meeting of the Council that the Schedule be amended.

7. (1) All those bodies which were members of the Council immediately before the commencement of this Act shall continue to be members of the Council.

Membership
of Council

(2) Any body of persons claiming to represent the majority of clubs, associations or other bodies of persons or individuals engaged or interested in any sport in Botswana may apply, in such manner as may be prescribed, to the Council for membership thereof and thereafter the annual meeting or an ordinary or special meeting of the Council may, if it is satisfied that such claim is well-grounded, elect the body to be a member of the Council.

(3) Where the Minister is satisfied that a body of persons, not being a member of the Council, represents the majority of clubs, associations or other bodies of persons or individuals engaged or interested in any sport in Botswana and that it is in the public interest for that body of persons to be a member of the Council, the Minister may, by order published in the Gazette, provide that that body shall be a member of the Council.

(4) Notwithstanding any provision contained in the constitution, rules, regulations or bye-laws of a body of persons to which an order under subsection (3) applies, that body of persons shall, at the commencement of the order, become a member of the Council and as such shall thereafter be bound by and subject to this Act and the Council's rules in all respects.

(5) Where the Minister is satisfied that a club, association or other body of persons, not being a member of a member of the Council, is principally engaged or interested in a sport in Botswana in respect of which a member of the Council represents the majority of clubs, associations or other bodies of persons engaged or interested in that sport and that it is in the public interest for that club, association or other body of persons to be a member of that member of the Council, the Minister may, by order published in the Gazette, provide that that club, association or other body of persons shall be a member of that member of the Council.

(6) Notwithstanding any provision contained in the constitution, rules, regulations or bye-laws of a club, association or other body of persons to which an order under subsection (5) applies, that club, association or other body of persons shall, at the commencement of the order, become a member of the member of the Council specified in the order and as such shall thereafter be bound by and subject to the constitution, rules, regulations and bye-laws of that member of the Council in all respects.

(7) Any body of persons to which an order under subsection (3) applies or any club, association or other body of persons to which an order under subsection (5) applies or any member of a member of the Council specified in an order under subsection (5) which fails to take every reasonable step to give effect to the order or any other person who is knowingly a party to such a failure shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

8. The ultimate authority of the Council shall be exercised by a meeting of the Council.

9. (1) The Council shall hold a meeting, to be called the annual meeting of the Council, in July of every year.

(2) The Council shall hold a meeting, to be called an ordinary meeting of the Council, in March of every year and a further such meeting in November of every year.

(3) Where the Chairman of the Council is of the opinion that a matter concerning the Council ought to be considered by a meeting of the Council before the next annual or ordinary meeting of the Council, he may call a special meeting of the Council for that purpose.

Ultimate
authority
of Council
to reside
in meeting
of Council
Meetings
of Council

(4) Where the Chairman of the Council is informed in writing by a majority of the members of the Council that they wish a matter concerning the Council to be considered by a meeting of the Council before the next annual or ordinary meeting of the Council, he shall call a special meeting of the Council for that purpose.

(5) The following persons alone shall be entitled to take part in the proceedings of the annual meeting or of an ordinary or special meeting of the Council –

- (a) the members of the Executive Committee; and
- (b) 2 delegates from and representing each member of the Council.

(6) No meeting of the Council shall be held otherwise than as provided by this section.

10. There is hereby established a committee of the Council, to be called the Executive Committee of the Council, which shall be constituted in accordance with section 11.

Estab-
lishment
of Executive
Committee
of Council

11. (1) Each annual meeting of the Council shall, as a late item of business conducted by the meeting, proceed to elect any 3 persons whom it considers to be suitably qualified to be, respectively, –

Council's
office
bearers and
constitution
of Executive
Committee

- (a) the Vice-Chairman of the Council and a member of the Executive Committee;
- (b) the Treasurer of the Council and a member of the Executive Committee; and
- (c) an additional member of the Executive Committee.

(2) Immediately after the election prescribed by subsection (1), the Minister shall appoint any person whom he considers to be suitably qualified to be the Chairman of the Council and a member of the Executive Committee.

(3) Where the Minister appoints as the Chairman of the Council and a member of the Executive Committee a person already elected in accordance with subsection (1), that person's election shall thereupon be rendered null and void and the annual meeting of the Council shall forthwith proceed to elect any other person whom it considers to be suitably qualified in his place.

(4) The Minister shall, from time to time, designate for the purposes of this section a public officer directly subordinate to the Director of Sports and Cultural Activities and the officer for the time being so designated shall be the Secretary of the Council and a member of the Executive Committee.

(5) The Minister for the time being responsible for education shall, from time to time, designate for the purposes of this section a public officer specially concerned with physical education

throughout Botswana and the officer for the time being so designated shall be a member of the Executive Committee.

(6) Where a delegate to the annual meeting of the Council is elected or appointed in accordance with this section, he shall thereupon cease to be a delegate.

Terms of
office of
Council's
office bearers

12. (1) The Chairman of the Council shall hold office as such and remain a member of the Executive Committee until the appointment by the Minister, after the election prescribed by section 11 (1), of a new Chairman of the Council at the next or any subsequent annual meeting of the Council.

(2) The Vice-Chairman and Treasurer of the Council shall each hold office as such and remain a member of the Executive Committee until the election of a new Vice-Chairman or Treasurer, as the case may be, at the next or any subsequent annual meeting of the Council.

(3) Where the office of the Chairman, Vice-Chairman or Treasurer of the Council becomes vacant for any reason, he shall immediately cease to be a member of the Executive Committee.

(4) Notwithstanding subsections (1) and (2), the office of the Chairman, Vice-Chairman or Treasurer of the Council shall immediately become vacant on –

- (a) his resignation from the office; or
- (b) the passing, by an ordinary or special meeting of the Council, of a resolution of no confidence in him.

(5) If the office of the Chairman of the Council becomes vacant between annual meetings of the Council, the Minister may appoint any person whom he considers to be suitably qualified to fill the vacancy and be a member of the Executive Committee.

(6) If the office of the Vice-Chairman or Treasurer of the Council becomes vacant between annual meetings of the Council, the Executive Committee may appoint any person whom it considers to be suitably qualified to fill the vacancy and be a member of the Executive Committee:

Provided that, where the office becomes vacant in consequence of a resolution of no confidence passed by an ordinary or special meeting of the Council, the meeting shall forthwith proceed to elect any person whom it considers to be suitably qualified to fill the vacancy and be a member of the Executive Committee.

(7) Where a delegate to an ordinary or special meeting of the Council is elected in accordance with the proviso to subsection (6), he shall thereupon cease to be a delegate.

(8) The provisions of subsections (2), (4), (6) and (7) shall apply, with all necessary modifications, to the office of the additional member of the Executive Committee referred to in section 11 (1) (c).

13. The Executive Committee shall manage the day-to-day affairs of the Council and, for this purpose, may exercise any power and shall perform every duty conferred or imposed on the Council by this Act, other than a power or duty specifically conferred or imposed on the annual meeting or on an ordinary or special meeting of the Council, in conformity with the Council's rules and with such directions, conditions, exceptions or qualifications as the annual meeting or an ordinary or special meeting of the Council may, from time to time, give or specify.

Functions
of Executive
Committee

14. No member of the Executive Committee shall be eligible to be a delegate to the annual meeting or to an ordinary or special meeting of the Council.

Prohibition
of members
of Executive
Committee
acting as
delegates
Financial
affairs of
Council

15. (1) The financial year of the Council shall be the period of 12 months ending on 31st December in every year.

(2) The Treasurer of the Council shall cause to be kept proper books and records of account of the Council's income, expenditure, assets and liabilities.

(3) The Treasurer of the Council shall, within 8 weeks immediately after the end of each financial year, prepare and submit to the Council's auditor a financial statement in respect of that financial year (which statement is hereinafter referred to as "the annual financial statement").

(4) The annual financial statement shall consist of –

- (a) a statement of the Council's income and expenditure during the financial year to which it relates; and
- (b) a statement of the Council's assets and liabilities on the last day of that financial year.

(5) After receipt of the annual financial statement, the Council's auditor shall audit the Council's accounts in respect of the year to which it relates and shall, not later than 30th April immediately following such receipt, submit to the Treasurer of the Council his written report thereon (which report is hereinafter referred to as "the auditor's annual report").

(6) The auditor's annual report shall state whether, in the opinion of the Council's auditor, –

- (a) proper books and records of account have or have not been kept by the Council; and
- (b) the annual financial statement –
 - (i) was or was not prepared on a basis consistent with that of the financial year immediately preceding the financial year to which it relates and is or is not in agreement with the Council's books and records of account; and
 - (ii) in the case of the income and expenditure statement, gives or does not give a true and fair view of the

Council's income and expenditure for the financial year to which it relates.

(7) The Treasurer of the Council shall, not later than 31st May in every year, transmit to the Minister a certified true copy of the annual financial statement in respect of the immediately preceding financial year together with a certified true copy of the auditor's annual report on the Council's accounts in respect of that year.

(8) The Treasurer of the Council shall, not later than 31st May in every year, prepare estimates of the Council's revenue and expenditure in respect of the immediately following financial year (which estimates are hereinafter referred to as "the annual estimates").

(9) The annual estimates shall be approved by the annual meeting of the Council to which they are presented in accordance with subsection (10).

(10) The Treasurer of the Council shall present or cause to be presented to the annual meeting of the Council —

- (a) the annual financial statement in respect of the immediately preceding financial year or a certified true copy thereof together with the auditor's annual report on the Council's accounts in respect of that year or a certified true copy thereof; and
- (b) the annual estimates in respect of the immediately following financial year.

Estab-
lishment
and
constitution
of Appeals
Board

16. (1) There is hereby established a tribunal, to be called the Appeals Board for the Council, which shall consist of 4 members appointed by the Minister from among those persons whom he considers to be suitably qualified.

(2) In respect of any appeal to the Appeals Board, the Minister may appoint, for the purpose of hearing and determining that appeal alone, an additional member of the Appeals Board who shall be a person having, in the Minister's opinion, special knowledge and experience of the sport connected with the appeal.

(3) Every member of the Appeals Board appointed in accordance with subsection (1) shall remain a member of the Appeals Board for such period as the Minister shall determine and that period shall be specified at the time of the member's appointment to the Appeals Board.

(4) Every member of the Appeals Board appointed in accordance with subsection (1) shall be eligible for reappointment as a member thereof at the expiry of the term of his membership.

(5) The Minister shall appoint, from among the members of the Appeals Board appointed in accordance with subsection (1), a Chairman and a Vice-Chairman of the Appeals Board, each of

whom shall hold office as such until he ceases to be a member of the Appeals Board.

(6) The Chairman or in his absence the Vice-Chairman of the Appeals Board shall preside at the hearing and determination of every appeal to the Appeals Board.

(7) The presence of the Chairman or Vice-Chairman of the Appeals Board and of 2 other members thereof appointed in accordance with subsection (1) (including the Vice-Chairman if the Chairman is present) shall constitute a quorum of the Appeals Board:

Provided that, where an additional member of the Appeals Board has, in respect of any appeal, been appointed under subsection (2), no quorum of the Appeals Board shall be constituted for the purpose of hearing and determining that appeal unless that additional member is also present

(8) Subject to this Act, the Appeals Board shall regulate its own procedure.

17. (1) Subject to subsection (2), each member of the Council shall make adequate and effective provision for the settlement of disputes within the member.

Settlement
of disputes

(2) Where, in the event of a dispute arising within a member or between members of the Council, all procedures for the settlement of such a dispute prescribed by the member concerned or by the Council's rules, as the case may be, have been exhausted, any party to the dispute may appeal to the Appeals Board which shall finally determine the dispute.

18. (1) No member of the Council shall, without the written consent of the Executive Committee, permit, encourage or in any way assist any team or group of 2 or more individuals or any individual to tour outside Botswana for the purposes of sport or in any way participate in sport outside Botswana or, while touring within or outside Botswana for the purposes of sport or in any way participating in sport within or outside Botswana, —

Restrictions
on certain
sporting
activities

- (a) in the case of a team or group of 2 or more individuals, to describe themselves or permit themselves to be described as a national team or in any way representing Botswana; or
- (b) in the case of an individual, to describe himself or permit himself to be described as in any way representing Botswana.

(2) No team or group of 2 or more individuals and no individual shall, without the written consent of the Executive Committee, tour within or outside Botswana for the purposes of sport or in any way participate in sport within or outside Botswana and, while so touring or participating, —

- (a) in the case of a team or group of 2 or more individuals, describe themselves or permit themselves to be described as a national team or in any way representing Botswana; or

(b) in the case of an individual, describe himself or permit himself to be described as in any way representing Botswana.

(3) No member of the Council shall, without the written consent of the Executive Committee, invite any team or group of 2 or more individuals or any individual from outside Botswana to tour within Botswana for the purposes of sport or in any way participate in sport within Botswana.

(4) Any member of the Council or other person who contravenes or is knowingly a party to a contravention of this section shall be guilty of an offence and liable to a fine of P500.

Power of Council to make rules

19. (1) The annual meeting or an ordinary or special meeting of the Council may make rules for the regulation of the Council and, without prejudice to the generality of the foregoing, such rules may provide –

(a) for the settlement of disputes between members of the Council; and

(b) for the imposition on a member of the Council, by the annual meeting or by an ordinary or special meeting of the Council or by the Executive Committee, of a fine not exceeding P1 000 where the annual meeting or an ordinary or special meeting of the Council or the Executive Committee, as the case may be, is satisfied that the member is guilty of a breach thereof.

(2) Where a fine is imposed on a member of the Council under the Council's rules, no delegate from that member shall take part in the proceedings of the annual meeting or of an ordinary or special meeting of the Council until the fine is paid to the Council.

(3) The proceeds of all fines imposed on members of the Council under the Council's rules shall belong to the Council.

Power of Minister to make regulations

20. (1) The Minister may make regulations for the better carrying into effect of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may prescribe –

(a) the circumstances in which the Executive Committee may give its consent for the purposes of section 18 and the conditions to be attached thereto; and

(b) the conditions subject to which financial assistance may be provided by the Council to a member thereof and the procedure to be followed for providing such assistance.

Declaration for removing doubts

21. For removing doubts, it is hereby declared that, in the event of a conflict between the Council's rules and regulations made by the Minister under section 20, the regulations shall, to the extent of the conflict, prevail.

Repeal of Cap. 00:02

22. The Botswana National Sports Council Act is hereby repealed.

SCHEDULE

(section 6)

PROVISIONS TO HAVE EFFECT IN RESPECT OF COUNCIL

1. (1) Each member of the Council shall pay to the Council, on or before 31st January in every year, such annual subscription as the annual meeting or an ordinary or special meeting of the Council shall, from time to time, determine. Membership
subscription

(2) The Treasurer of the Council shall report to the first meeting of the Executive Committee held after 31st January in every year the names of all those members of the Council whose annual subscriptions to the Council remained unpaid on 31st January in that year and the Executive Committee shall take such action on the report as it thinks appropriate.

(3) No delegate from a member of the Council which fails to pay its annual subscription to the Council by 31st January in any year shall take part in the proceedings of the annual meeting or of an ordinary or special meeting of the Council until that subscription is paid to the Council.

2. (1) The annual meeting or an ordinary meeting of the Council shall be held at such place and, subject to section 9, commence on such day as the Executive Committee shall determine. Supple-
mentary
provisions
relating to
meetings
of Council
alone

(2) A special meeting of the Council shall be held at such place and commence on such day as the Chairman of the Council shall determine.

(3) The Secretary of the Council shall take every reasonable step to give to each member of the Council, in such manner as the Council's rules may prescribe, not less than 14 days' notice of each meeting of the Council and such notice shall –

(a) in the case of the annual meeting of the Council, be accompanied by the agenda for the meeting together with a copy of the annual financial statement in respect of the immediately preceding financial year, a copy of the auditor's annual report on the Council's accounts in respect of that year and a copy of the annual estimates in respect of the immediately following financial year;

(b) in the case of an ordinary meeting of the Council, be accompanied by the agenda for the meeting; and

(c) in the case of a special meeting of the Council, indicate the matters to be considered by the meeting.

(4) Notwithstanding subparagraph (3), where the Chairman of the Council informs the Secretary of the Council that he is calling a special meeting of the Council as a matter of urgency, the Secretary shall take every reasonable step to give to each member of the Council, in such manner as he shall determine, not less than 72 hours' notice of the meeting.

(5) The presence of the Chairman or Vice-Chairman of the Council and of one delegate from each of two thirds of the members of the Council shall constitute a quorum for the annual meeting or for an ordinary or special meeting of the Council.

(6) The annual meeting or an ordinary or special meeting of the Council may appoint any persons to constitute committees of the Council for such purposes as the meeting shall specify.

(7) The business to be conducted at each annual meeting of the Council shall include –

- (a) a roll-call of the members of the Council and an examination of the credentials of the delegates present;
- (b) the presentation and discussion of the Executive Committee's annual report on the activities of the Council;
- (c) the presentation and discussion of the annual financial statement in respect of the immediately preceding financial year together with the auditor's annual report on the Council's accounts in respect of that year;
- (d) the presentation, discussion and approval of the annual estimates in respect of the immediately following financial year;
- (e) the consideration of any pending applications for membership of the Council;
- (f) the conduct of the election prescribed by section 10 (1) and of any election which may be required by section 10 (3); and
- (g) the consideration of motions.

Supple-
mentary
provis ions
relating
to meetings
of both
Council and
Executive
Committee

3. (1) The Chairman or in his absence the Vice-Chairman of the Council shall preside at every meeting of the Council or Executive Committee.

(2) At a meeting of the Council, each member of the Executive Committee and delegate present shall have one vote and, at a meeting of the Executive Committee, each member thereof present shall have one vote:

Provided that the Chairman or Vice-Chairman of the Council shall, when presiding at a meeting of the Council or Executive Committee, have both an original and a casting vote.

(3) At a meeting of the Council or Executive Committee, voting shall be by show of hands:

Provided that, where the majority of the delegates present at a meeting of the Council or the majority of the members of the Executive Committee present at a meeting of the Executive Committee so requires, the voting on a particular question shall be by secret ballot conducted by the person presiding at the meeting.

Supple-
mentary
provis ions
relating
to meetings
of Executive
Committee
alone

4. (1) The Executive Committee shall meet when and as often as the Chairman of the Council alone directs:

Provided that the Chairman of the Council shall ensure that the Executive Committee meets at least once in every 4 weeks.

(2) The presence of the Chairman or Vice-Chairman of the Council and of 3 other members of the Executive Committee (including the Vice-Chairman if the Chairman is present) shall constitute a quorum of the Executive Committee.

Supple-
mentary
powers and
duties of
Executive
Committee

5. (1) The Executive Committee may —

- (a) from time to time and for such period as it shall in each case determine, co-opt any person whose advice or other assistance it requires; but no such person shall vote on any question before a meeting of the Council or Executive Committee nor shall such a person count for the purpose of constituting a quorum of the Executive Committee;
- (b) appoint any persons to constitute sub-committees of the Executive Committee for such purposes as the Executive Committee shall specify;

- (c) where it is of the opinion that the interests of the Council so require, delegate to the Chairman, Vice-Chairman, Treasurer or Secretary of the Council or to any sub-committee of the Executive Committee the exercise of any power and the performance of any duty conferred or imposed on the Executive Committee by this Act (including any power or duty conferred or imposed on the Executive Committee by section 13), subject to such conditions, exceptions or qualifications as the Executive Committee may, from time to time, specify, and, thereupon or from such date as the Executive Committee may specify, the Chairman, Vice-Chairman, Treasurer or Secretary of the Council or the subcommittee in question, as the case may be, may exercise that power and shall perform that duty in conformity with any conditions, exceptions or qualifications so specified; and
 - (d) employ such staff of the Council as it considers necessary for the proper running of the Council, on such terms and subject to such conditions as it shall determine.
- (2) The Executive Committee shall –
- (a) appoint a duly qualified person to be the Council's auditor;
 - (b) cause to be kept a register of all sporting clubs, associations and other bodies of persons within Botswana, their colours, insignia and addresses; and
 - (c) cause to be prepared and presented to the annual meeting of the Council the Executive Committee's annual report on the activities of the Council.

6. (1) The Treasurer of the Council shall take every reasonable step to ensure that all moneys received for and on behalf of the Council are paid forthwith into a bank account in the name of the Council.

Supplementary provisions relating to financial affairs of Council

(2) Every cheque drawn on a bank account in the name of the Council shall be signed by any 2 among the Chairman, Vice-Chairman, Treasurer and Secretary of the Council.

7. (1) Subject to paragraph 6 (2), all documents made on behalf of the Council and all decisions of the Council shall be signified under the hand of the Chairman, Vice-Chairman, Treasurer or Secretary of the Council.

Supplementary provisions relating to legal matters

(2) Where, in the event of legal proceedings, whether civil or criminal, being instituted against any office bearer, servant or agent of the Council in respect of anything done or omitted to be done by him, the Executive Committee is of the opinion that that thing was done or omitted to be done by him in good faith and in the proper and reasonable discharge of his duty as such office bearer, servant or agent, that person shall be defended at the expense of the Council and the Council shall indemnify him from all damages, costs and other expenses directly resulting from the legal proceedings.

PASSED by the National Assembly this 30th day of March, 1981.

I.P. GONTSE,
Clerk of the National Assembly.