

**BOTSWANA NATIONAL SPORT COMMISSION ACT, 2014**

**No. 30**



**of 2014**

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**An Act to establish the Botswana National Sport Commission and to provide for its powers and functions; to provide for the registration of sports associations; to provide for doping control; and for matters incidental thereto.**

*Date of Assent:* 27.08.2014

*Date of Commencement:* ON NOTICE

ENACTED by the Parliament of Botswana.

PART I – *Preliminary*

Short title and commencement	<p>1. This Act may be cited as the Botswana National Sport Commission Act, 2014, and shall come into operation on such a day as the Minister may, by Order published in the <i>Gazette</i>, appoint.</p>
Interpretation	<p>2. In this Act, unless the context otherwise requires —</p> <p>“Appeals Committee” means the Committee appointed under section 31;</p> <p>“Board” means the Board of the Commission appointed under section 5;</p> <p>“Botswana National Olympic Committee” means a body registered under the Societies Act, and duly recognised by the International Olympic Committee as the national level structure for dealing with Olympic matters;</p> <p>“Chairperson” means the Chairperson of the Board appointed under section 5 (2) (a);</p> <p>“Chief Executive Officer” means the Chief Executive Officer of the Commission appointed under section 20 (1);</p> <p>“Commission” means the Botswana National Sport and Commission established under section 3;</p> <p>“Disciplinary Committee” means the Disciplinary Committee appointed under section 27;</p> <p>“doping”, in relation to sports, means one of the following —</p> <ul style="list-style-type: none"><li>(a) the presence of a prohibited substance or its metabolites or markers in an athlete’s bodily specimen;</li><li>(b) the use or attempted use of a prohibited substance or a prohibited method;</li><li>(c) refusing, or failing without compelling justification, to submit to sample collection after notification as authorised in applicable anti-doping rules or otherwise evading sample collection;</li><li>(d) violation of applicable requirements regarding athlete availability for out-of-competition testing, including failure to provide required whereabouts information;</li><li>(e) tampering, or attempting to tamper, with any part of doping control;</li><li>(f) possession of prohibited substances or methods;</li><li>(g) trafficking in any prohibited substance or prohibited method; or</li><li>(h) administration or attempted administration of a prohibited substance or prohibited 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;</li></ul> <p>“member” means a member of the Board;</p> <p>“national team” means a team officially representing the country; ·</p> <p>“Paralympic Association of Botswana” means a body registered under the Societies Act, and duly recognised by the International Paralympic Committee as the national level structure for dealing with Paralympic matters;</p>
Cap. 18:01	

“sport association” means a body registered under the Societies Act, which has as its principal objective the promotion or organisation of any sport or recreation activity at national level;

“repealed Act” means the Botswana National Sports Council Act repealed under section 44; and

Cap. 60:01

“Women and Sport Botswana” means a body registered under the Societies Act, and duly recognised by the International Working Group on Women and Sport as the national level structure for dealing with women in sport.

## PART II – *Establishment and Functions of the Commission*

**3. (1)** The Council known as the Botswana National Sports Council, established under the repealed Act, is hereby continued under the new name of the Botswana National Sport Commission.

Continuation  
of  
establishment  
of  
Commission

(2) The Commission shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name and, subject to the provisions of this Act, of performing such acts as bodies corporate may by law perform.

**4.** The functions of the Commission shall be –

Functions of  
the  
Commission

- (a) to determine policies for giving effect to the objects and purposes of the Act;
- (b) to advise the Minister to change, review or formulate sport related policies and strategies where necessary;
- (c) to provide leadership and guidance on sport development and promotion;
- (d) to assist the sport associations ensure that their policies and procedures meet the required standards;
- (e) to provide knowledge through sport education programmes;
- (f) to ensure private sector participation in sport development;
- (g) to mainstream the benefits of sport and physical activity and recreation in the lives of Batswana;
- (h) to facilitate the preparation of the national team in regional and international competitions;
- (i) to provide leadership and guidance in prioritising funding for sports associations and recreation clubs;
- (j) to take responsibility and leadership in the process for hosting regional and international competitions;
- (k) to promote the national brand and symbols through sport;
- (l) to promote sport tourism;
- (m) to facilitate elite sport development and participation in international Competitions in collaboration with Botswana National Olympic Committee;
- (n) to ensure structured talent identification and nurturing of athletes;
- (o) to ensure compliance with set ethics and standards, conventions and protocols;

- (p) to regulate sport at all levels;
- (q) to promote the development of professional sport;
- (r) to conduct research on sport and sport related issues;
- (s) to authorise participation of national teams in international sport competitions;
- (t) to set performance targets and design programmes aimed at facilitating the continued growth and development of sport; and
- (u) to promote the inclusion of girls, women and people with disabilities in sport.

### PART III — *Administration of the Commission*

Establishment  
of Board

5. (1) There shall be a Board, which shall be the governing body of the Commission.

(2) The Board established under subsection (1) shall consist of the following eleven members appointed by the Minister —

- (a) the Chairperson;
- (b) the President and Secretary of the Botswana National Olympic Committee;
- (c) two representatives of sport associations, elected by sport associations registered with the Commission;
- (d) one representative from the Ministry responsible for sport;
- (e) one member with the necessary expertise or interest to drive the mandate of the Commission;
- (f) one representative from the Paralympic Association of Botswana;
- (g) one representative from Women and Sport Botswana;
- (h) one representative from the Ministry responsible for education;
- (i) one representative from the Ministry responsible for local government; and
- (j) the Chief Executive Officer, who shall be an *ex officio* member.

(3) The Minister shall appoint a member where the Olympic Committee or sport association fails, neglects or refuses to nominate a member, and the person so appointed by the Minister shall be deemed to be properly nominated and subsequently appointed.

(4) The Board shall elect the Vice Chairperson from among their number.

Direction by  
the Minister

6. (1) The Minister may, after consultation with the Board, give the Board written directions, of a general or specific nature, regarding the exercise of its powers and the performance of its functions, which directions shall not be inconsistent with this Act or with the contractual or other legal obligations of the Commission.

(2) The Board shall give effect to the Minister's directions given in accordance with subsection (1).

7. (1) A member shall hold office, in the case of —
- (a) a Chairperson, for four years and shall be eligible for re-appointment for one successive term;
  - (b) any other member, for a period of four years:

Tenure of  
office

Provided that on the expiry of his or her term of office he or she shall hold office until a successor has been elected or a period of three months has elapsed, whichever occurs first.

(2) A member whose term of office has expired shall be eligible for re-appointment or re-election, as the case may be, as a member.

(3) The Minister shall cause the appointment of members of the Board to be published by notice in the *Gazette*.

8. A person shall not be appointed to be a member if the person —

Disqualification  
of a member

- (a) has in terms of a law in force in any country —
  - (i) been adjudged or otherwise declared bankrupt and has not been discharged, or,
  - (ii) made assignment to, arrangement or composition with, his or her creditors, which has not been rescinded or set aside;
- (b) has within a period of 10 years immediately preceding the date of his or her appointment, been convicted —
  - (i) of a criminal offence within Botswana, or
  - (ii) outside Botswana, of an offence, if committed in Botswana, would have been a criminal offence,

and sentenced by a court of competent jurisdiction to imprisonment for a term of six months or more without the option of a fine, whether that sentence has been suspended or not, and for which he or she has not received a free pardon; or

- (c) is a member of the National Assembly, a Councilor in a local authority or the holder of an office in a political party; or
- (d) has been dismissed for incompetence, bribery, corruption tendencies in sport within Botswana or outside or has been judged for misconduct to the detriment of sport.

9. (1) The Minister may, in writing, suspend from office a member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended, the member shall not carry out any duties or be entitled to any remuneration or allowances as a member.

Removal from  
office

- (2) The Minister may remove a member from the Board if the member —
  - (a) is absent without reasonable cause from three consecutive meetings of the Board of which he or she has had notice;
  - (b) has been found to be physically or mentally incapable of performing his or her duties efficiently, and a medical doctor has issued a certificate to that effect;
  - (c) contravenes the provisions of this Act or otherwise misconducts himself or herself to the detriment of the objectives of the Commission;
  - (d) has failed to comply with the provisions of section 16 or 17; or
  - (e) has been convicted of an offence under this Act.

	<p>(3) A member may resign from office by giving 30 days' notice in writing to the Minister.</p> <p>(4) For purposes of subsection (2) (c), "misconduct" includes any act done without reasonable excuse by a member which —</p> <p>(a) amounts to a failure to perform in a proper manner any duty imposed on the member as such;</p> <p>(b) is prejudicial to the efficient carrying out of the functions of the Board; or</p> <p>(c) tends to bring the Board into disrepute.</p>
Vacation of office	<p><b>10.</b> A member shall vacate his or her office and his or her office shall become vacant —</p> <p>(a) if a member becomes disqualified, in terms of section 9, to hold office as a member or is removed in terms of section 10 (2);</p> <p>(b) where a period of 30 days has elapsed from the date the member is given notice, in writing by the Minister, to vacate office;</p> <p>(c) on the expiry of one months' notice in writing, to the Minister of the member's intention to resign from office;</p> <p>(d) after a period of 30 days from the date that a ruling against the member is made on all appeals made in respect of a conviction of an offence under this Act, or under any other Act for which he or she is sentenced to imprisonment for a term of six months or more without an option of a fine;</p> <p>(e) upon his or her death.</p>
Filling of vacancy	<p><b>11.</b> (1) Where the office of a member becomes vacant before the expiry of the member's term of office, the Minister shall appoint another person to be a member in place of a member who vacates office, until expiry of a period during which such member would have otherwise continued in office.</p> <p>(2) Subsection (1) shall not apply where the remainder of the period for which the member whose office has been vacated would otherwise have held office is less than six months.</p>
Committees of the Board	<p><b>12.</b> (1) The Board may appoint such committees as it considers appropriate, consisting of its members, and other suitably qualified persons.</p> <p>(2) The Board may delegate any of its functions or powers under this Act, to a committee appointed under subsection (1).</p> <p>(3) The provisions of sections 16 and 17 shall apply to a member appointed under this section.</p>
Reports to the Minister	<p><b>13.</b> (1) The Chairperson shall, from time to time, submit to the Minister, reports with regard to matters relating to the activities of the Commission which, in the opinion of the Board, should be brought to the attention of the Minister.</p> <p>(2) The Board shall, when so requested by the Minister, furnish him or her with advice on matters in connection with the profession of sport or cognate matters and shall communicate, to the Minister, information acquired by it in the course of its duties on matters regarded by it as being of public importance.</p>
Remuneration and allowance	<p><b>14.</b> A member shall be paid, out of the funds of the Commission, such remuneration and allowance, if any, as the Minister may determine.</p>

#### PART IV — *Meetings and Proceedings of Board*

15. (1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

Proceedings  
of Board

(2) The Board shall hold its first meeting on such date and at such place as the Minister may determine and thereafter the Board shall meet once every three months at such times and places as the Chairperson shall determine for the transaction of its business.

(3) Upon giving notice in writing of not less than 14 days, a meeting of the Board may be called by the Chairperson.

(4) Where the urgency of any particular matter does not permit the giving of notice in accordance with subsection (3), a special meeting may be called upon giving a shorter notice of not less than 24 hours.

(5) The quorum at any meeting of the Board shall be a simple majority of the members.

(6) There shall preside, at any meeting of the Board —

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice Chairperson; or

(c) in the absence of the Chairperson and the Vice Chairperson, such member as the members present may elect from among their number for the purposes of the meeting.

(7) A decision of the Board on any question shall be by the simple majority of the members present and voting at the meeting and, in the event of an equality of votes, the member presiding shall have a casting vote in addition to that member's deliberative vote.

(8) The Board may invite any person whose presence it considers necessary, to attend and participate in the deliberations of a meeting of the Board, but such person shall have no vote.

(9) The Chief Executive Officer's presence shall not count towards the constitution of the quorum and he or she shall not be entitled to vote in any matter that is before the Board.

16. (1) Where a member, or any person attending a meeting of the Board, at which meeting a matter which is the subject of consideration is one in which he or she is directly or indirectly interested in a private capacity, the member shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on any question touching upon, such matter.

Disclosure of  
interest

(2) A disclosure of interest made in accordance with subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member or any person attending the meeting of the Board fails to disclose his or her interest in accordance with subsection (1) and a decision by the Board is made benefiting such member, such decision shall be void.

(4) A member or any person attending the meeting of the Board who fails to comply with the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P2 000, or to imprisonment for a term not exceeding six months, or to both.

Confidentiality

**17. (1)** A member or any person assisting the Board or Commission shall observe and preserve the confidentiality of all matters concerning the Board or Commission and such confidentiality shall subsist even after the termination of the term of office or the mandate of the member.

(2) A member, or any person to whom confidential information is revealed through working with the Board or Commission shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) A member, or any other person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P2 000, or imprisonment for a term not exceeding six months, or to both.

Validity of decisions and acts of Board

**18.** A decision or act of the Board done under the authority of this Act shall not be invalid by reason of the fact that —

- (a) the various members did not have the necessary expertise set out in section 5; or
- (b) a disqualified person acted as a member of the Board.

#### *PART V — General Meetings of the Commission*

Meetings of the Commission

**19. (1)** The Commission shall hold a meeting to be called the annual general meeting of the Commission to be presided by the Chairperson.

(2) Where the Chairperson is of the opinion that a matter concerning the Commission ought to be considered by a meeting of the Commission before the next annual general meeting of the Commission, he or she may call a special general meeting of the Commission for that purpose.

(3) Where the Chairperson is informed in writing by a majority of associations registered with the Commission that they wish a matter concerning the Commission to be considered by a meeting of the Commission before the next annual general meeting of the Commission, he or she shall call a special general meeting of the Commission for that purpose.

(4) The following persons are entitled to take part in the proceedings of the annual general meeting or special general meeting of the Commission —

- (a) members of the Board; and
- (b) two delegates from and representing each sport association registered under this Act.

(5) An annual general meeting or special general meeting of the Commission shall not be held otherwise than as provided by this section.

PART VI – *Chief Executive Officer and other Staff of the Commission*

Chief  
Executive  
Officer

**20.** (1) The Minister shall, in consultation with the Board, appoint a Chief Executive Officer of the Commission for a fixed contract period, not exceeding five years, who shall be eligible for re-appointment, as the Minister may determine.

(2) A person shall not be appointed as Chief Executive Officer unless he or she possesses such experience and training in such discipline as the Minister may determine, and he or she has demonstrated that he or she is competent to carry out the functions of the Commission.

(3) The Chief Executive Officer shall, subject to such directions on matters of policy given by the Board, be responsible for the day to day management of the affairs of the Commission.

(4) The Chief Executive Officer shall be the secretary of the Board, and shall attend the meetings of the Board, but shall not vote.

(5) The Chief Executive Officer may resign from office by giving three months notice in writing to the Minister and the Board.

(6) The Minister may, in consultation with the Board, remove the Chief Executive Officer from office by giving him or her three months' notice in writing, or by paying him or her three months' salary in lieu of notice, if the Chief Executive Officer –

(a) conducts himself or herself in a manner that is detrimental to the objective of, or the proper performance of the functions of the Commission;

(b) has been found to be physically or mentally incapable of performing his or her duties efficiently by his or her medical doctor or psychiatrist, as well as an independent medical doctor or psychiatrist;

(c) becomes bankrupt or is declared insolvent by a court of law; or

(d) absents himself or herself from office without reasonable excuse.

(7) The Chief Executive Officer may delegate, to any senior officer of the Commission, the exercise of any powers as he or she deems fit, which he or she is authorised to exercise under this Act.

(8) The Chief Executive Officer shall be responsible for –

(a) the appointment, formation and development of an efficient administration of the Commission;

(b) the organisation, control and management of all staff of the Commission;

(c) the maintenance of discipline in respect of the staff of the Commission;

(d) the carrying out of the decisions of the Board;

(e) the management of the support structure of the Commission;

(f) all income and expenditure of the Commission; and

(g) all assets of the Commission and the discharge of all the liabilities of the Commission.

(9) The Chief Executive Officer shall be paid such remuneration and allowance as may be determined by the Board in consultation with the Minister.

Appointment  
of staff

**21.** (1) The Board shall, in consultation with the Chief Executive Officer, appoint the senior staff of the Commission.

(2) The senior staff of the Commission shall not be appointed for a term exceeding five years, and may be re-appointed at the discretion of the Board.

(3) The senior staff shall, under the direction of the Chief Executive Officer, assist the Chief Executive Officer in the proper administration and management of the functions and affairs of the Commission, in accordance with the policies laid down by the Board.

(4) The Chief Executive Officer shall appoint such other staff as may be necessary for the proper discharge of the functions of the Commission.

(5) The terms and conditions of employment of staff of the Commission shall be as may be determined by the Board, in consultation with the Minister.

#### PART VII — *Register and Registration of Members*

Register

**22.** (1) Subject to the provisions of this Act, the Commission shall establish and maintain a register of all sports associations.

(2) The register shall be kept at the offices of the Commission and shall be open to inspection during office hours to any member of the public upon payment of such fee as may be prescribed.

Procedure for  
registration

**23.** (1) A sport association which wishes to register under this Act shall make a written application to the Commission in such form as may be prescribed.

(2) An application made under subsection (1) shall be accompanied by satisfactory evidence that the association —

(a) fulfills any terms and conditions set by the Commission;

(b) is registered under the Societies Act; and

(c) has paid such fees as may be prescribed by the Minister.

(3) Where the Chief Executive Officer is satisfied that the sport association meets the requirements of this Act, he or she shall issue a conditional certificate of recognition pending the registration of the applicant by the Board.

Certificate of  
recognition

**24.** (1) The Chief Executive Officer shall, after consultation with the Board and on being satisfied that a sport association has been registered, issue a certificate of recognition in such form as may be prescribed.

(2) On issuance of a certificate under subsection (1), the sport association shall pay such a fee as may be prescribed.

Suspension of  
recognition

**25.** (1) The Chief Executive Officer may, after consultation with the Board, suspend or cancel a certificate of recognition, where the sport association no longer fulfills the requirements of this Act.

(2) The Chief Executive Officer shall suspend or cancel certificate of recognition if —

- (a) the sport association's objects become inconsistent with those of the Commission;
- (b) the sport association fails to pay its annual subscriptions for two consecutive years;
- (c) the sport association misappropriates its funds; or
- (d) the sport association ceases to be registered under the Societies Act.

(3) The Chief Executive Officer shall cause to be sent, to the sport association against which a suspension or cancellation of certificate of recognition is imminent under subsection (2), a registered letter to its address as shown in the register, containing a notice setting out the allegation against the sport association and the Chief Executive Officer shall afford the sport association an opportunity to be heard.

Restoration of name to register

26. Where the name of a sport association has been removed from the register or its registration has been suspended, the Chief Executive Officer may, either of its own volition, or on the application of the concerned sport association made in such form as may be prescribed, and after holding such inquiry as the Chief Executive Officer may consider, direct that the name of the sport association be restored to the register.

#### PART VIII — *Disciplinary Committee and Appeals Committee*

Appointment of Disciplinary Committee

27. Subject to the provisions of this Act, the Minister shall appoint a Disciplinary Committee consisting of such members as the Minister may appoint.

Disciplinary powers of Disciplinary Committee

28. (1) Subject to the provisions of this Act, the Disciplinary Committee may hold an inquiry where the Chief Executive Officer has reasonable grounds to believe, by a written complaint made to him or her, that a sport association —

- (a) is suspected of professional misconduct;
- (b) is suspected of committing a material irregularity;
- (c) has contravened or is in breach of the rules or standards of the Commission; or
- (d) has become incapable of operating as a sports association.

(2) Where the Disciplinary Committee is notified of a complaint pursuant to subsection (1), it shall cause to be sent to a sport association against whom the complaint has been made, a registered letter to the address as shown in the register, containing a notice setting out the complaint against the sport association and the Disciplinary Committee shall afford the sport association an opportunity to be heard.

(3) For the purposes of an inquiry under this section, the Disciplinary Committee shall —

- (a) administer oaths;
- (b) summon persons to attend and give evidence; and
- (c) order the production of evidence.

(4) All summons and orders issued under the hand of the Chief Executive Officer shall be deemed to be issued by the Disciplinary Committee.

(5) The Chairperson of the Disciplinary Committee, or in his or her absence the Vice Chairperson, shall record or cause to be recorded a summary of any oral evidence given at an inquiry under this section.

(6) Subject to the provisions of this Act, the Disciplinary Committee shall regulate its own procedure at an inquiry held under this Part, but all parties having an interest in the inquiry shall be advised by the Disciplinary Committee of the form and procedure of such inquiry.

Disregard of  
summons, etc.

**29.** (1) A person to whom a summons or order is issued under section 28 and to whom such summons or order is served, who —

- (a) refuses or omits, without sufficient cause, to attend at the time and place mentioned in the summons;
- (b) refuses, without sufficient cause, to answer fully and satisfactorily, questions put to him or her by or with the concurrence of the Disciplinary Committee; or
- (c) refuses or omits, without sufficient cause, to produce any document in his or her possession or under his or her control,

commits an offence and is liable to a fine not exceeding P1 000, or to imprisonment for a term not exceeding two months, or to both.

(2) A person giving evidence before an inquiry under this Part shall, in respect of evidence given by him or her or documents produced by him or her, be entitled to all privileges to which he or she would be entitled as a witness before the High Court.

Power of  
Disciplinary  
Committee at  
inquiry

**30.** (1) If, after inquiry, the Disciplinary Committee is of the opinion that the case under consideration has been proven wholly or in part, it shall make a finding to that effect and may make any one or more of the following orders against the sport association —

- (a) that the Chief Executive Officer, remove from the register, the name of the sport association;
- (b) that the sport association be suspended from sport activities for such period as shall be specified in the order;
- (c) that the certificate of recognition of the sport association be withdrawn;
- (d) that the sport association should pay such fine as the Disciplinary Committee may determine;
- (e) that the sport association should pay any costs or expenses of, and incidental to the inquiry; or
- (f) by written notice, caution the sport association and set conditions for the conduct of the association to comply within such period as shall be specified in the order.

(2) The Disciplinary Committee may, after giving reasonable notice in writing to a sport association, take further action against the sport association where it has not complied with subsection (1) (c), (d), (e) or (f).

31. (1) The Minister shall, by notice published in the *Gazette*, appoint an Appeals Committee which shall hear and determine appeals made from the decisions of the Disciplinary Committee.

Appointment  
of Appeals  
Committee

(2) Subject to the provisions of this Act, the Appeals Committee shall regulate its own procedure.

32. (1) Any person aggrieved by a decision of the Appeals Committee at an inquiry under this Part may, within 30 days, appeal to the High Court.

Appeal against  
decision of  
Appeals  
Committee

(2) The High Court may, on hearing an appeal in terms of subsection (1) —

- (a) confirm, vary or set aside any decision of the Appeals Committee; or
- (b) remit the matter to the Minister and the Commission for further consideration and may make such other orders as to costs as it considers appropriate.

33. Sections 14, 16 and 17 of the Act shall apply with necessary modification, to members of the Disciplinary Committee and the Appeals Committee.

Application  
of sections 14,  
16 and 17 to  
members of a  
committee, etc.

34. (1) Where the Chief Executive Officer is so directed by the Committee, he or she shall cause to be published by notice in the *Gazette*, the name of any sport association whose name has been suspended or been removed from the register under this Part.

Publication  
of outcome of  
proceedings

(2) A notice published in accordance with subsection (1) shall be *prima facie* evidence that the name of a sport association specified in the notice has been suspended from practice for the period specified or has been removed.

#### PART IX — *Financial Provisions*

35. (1) The revenues of the Commission shall consist of —

Revenues of  
Commission

- (a) such monies as may be appropriated by the National Assembly;
- (b) fees that the Commission may charge for services it may render;
- (c) membership subscriptions;
- (d) grants and donations that the Commission may receive;
- (e) income that the Commission may receive from rentals or the sale of land, or buildings; and
- (f) such other sources as may be approved by Government.

(2) The Commission shall use the funds acquired under subsection (1) to meet the costs incurred in its operations and shall use any surplus accrued for any purpose as it may determine.

36. The financial year of the Commission shall be a period of twelve months commencing on 1st April in each year and ending on 31st of March of the following year.

Financial year

Accounts  
and audit

**37.** (1) The Commission shall keep and maintain a proper book of records and accounts in respect of every financial year relating to the assets, liabilities, income and expenditure of the Commission, and shall prepare, in each financial year, a statement of such accounts.

(2) The accounts of the Commission shall, in respect of each financial year, within three months of the end thereof, be audited by an auditor appointed by the Commission.

(3) An auditor appointed under subsection (2) shall report in respect of the accounts for each financial year, in addition to any other matter on which the auditor considers it necessary.

Annual report

**38.** (1) The Commission shall, within a period of six months after the end of the financial year or within such longer period as the Minister may approve, submit, to the Minister, a comprehensive report on the operations of the Commission during that year, together with the auditors report and the accounts audited under section 37.

(2) The Minister shall, within 30 days of receiving the report and a copy of the audited accounts under subsection (1), lay such report and accounts before the National Assembly.

#### PART X – *Doping Control*

doping control  
tests

**39.** (1) Any person who is to participate, or has participated, in any sport event in Botswana or outside Botswana may, at any time before, during or after his or her participation in such sport event, be required by a person authorised thereto, to submit himself or herself to a doping control test, whether or not such person is suspected of having or, at the time of such participation, to have had in his or her blood or urine —

(a) any substance or residue of a substance prescribed as a prohibited substance; or

(b) any substance or residue of a substance declared as a restricted substance, the level of concentration of which exceeds the prescribed maximum level, and such person shall upon such request submit, himself or herself to such a test.

(2) Where a person refuses to submit himself or herself to a doping control test when requested to do so under subsection (1), the Board —

(a) may, by written notice, prohibit such person from competing nationally or internationally, in any sport code representing Botswana, for such period as the Board may determine; and

(b) shall inform the sport association to which the person belongs, if any, of such person's refusal to submit himself or herself to a doping control test.

(3) Any person who fails to comply with any provision under this Part, commits an offence and shall be banned from participating in any national or international sport event for such period as may be determined by the Board.

Power of  
Minister to  
enter into  
agreements  
regarding  
doping  
control test

**40.** The Minister may upon such terms and conditions as may mutually be agreed upon, enter into an agreement with any person, body or institution, whether inside or outside Botswana, to perform doping control tests or to analyse any substance for the purposes of any such test.

PART XI – *Miscellaneous*

**41.** (1) Notwithstanding any provision to the contrary in any written law, if a person has been selected to a national team to represent Botswana at a sports event, the appointing authority of the person shall be formally notified in writing and shall release the person.

Sports leave

(2) A person released in accordance with subsection (1) shall not suffer any reduction in seniority, leave, salary or other benefits or be discharged from his or her employment or victimized on the ground that such person is required to be away from his or her place of employment for the purposes of such representation.

**42.** No matter or thing done or omitted to be done by a member or staff of the Commission shall, if the matter or thing is done or omitted to be done in good faith in the course of the performance of the functions of the Commission, render that member or staff liable to an action, claim or demand.

Indemnity

**43.** (1) The Minister may, after consultation with the Board, make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations —

- (a) relating to the form of any application which may be made in terms of this Act, and the particulars to be furnished in connection with any such application;
- (b) relating to the selection criteria and procedures to be applied in the selection of national teams or persons for participation in international sports events;
- (c) declaring any procedure or practice to be applied to, or used by, any person with a view to enhance such person's performance in any sports event as a prohibited procedure or practice;
- (d) declaring any substance or its metabolites as a prohibited or restricted substance;
- (e) prescribing the maximum level of concentration of a restricted substance or residue thereof which a sports person is allowed to have in a specified specimen of his or her blood or in a specified specimen of his or her urine, while participating in a sport event;
- (f) relating to the persons who shall be authorised to demand that sports persons submit themselves to doping control tests and —
  - (i) the procedure for such tests,
  - (ii) the procedure to be followed in cases where the results of such tests show the presence of a prohibited or restricted substance in contravention of regulations made under paragraph (d) or (e), and
  - (iii) the penalties which may be imposed in cases of such contravention;
- (g) for implementing various programmes for sport and recreation;
- (h) for recreation support services;

Repeal of  
Cap. 60:01

Savings and  
transitional

- (i) for programmes to promote engagement in sport and recreation;
- (j) for the funding of sport and recreation;
- (k) for the incentives for sport achievers and recreation practitioners;
- (l) for professional sport;
- (m) for ethics and conduct;
- (n) safety standards in sport and recreation
- (o) for bidding and hosting of international events; and
- (p) for any other matter required or permitted to be prescribed under this Act.

**44.** The Botswana National Sports Council Act is hereby repealed.

**45.** (1) Any subsidiary legislation made under the repealed Act, and in force immediately prior to the coming into operation of this Act shall, in so far as such legislation is consistent with the provisions of this Act, continue to be in force as if made under this Act.

(2) All rights, obligations, assets and liabilities which have accrued to the Council in terms of the repealed Act, shall, upon this Act coming into force, simultaneously pass and accrue to the Commission and be dealt with in terms of this Act.

(3) Any disciplinary proceedings which, before the coming into operation of this Act, were pending shall be continued or enforced by or against the Commission in the same manner as they would have been continued or enforced before the coming into operation of this Act.

(4) Any legal proceedings which, before the coming into operation of this Act, were pending shall be continued or enforced by or against the Commission in the same manner as they would have been continued or enforced before the coming into operation of this Act.

(5) Members of the Executive Committee appointed under the repealed Act, shall serve as if appointed under this Act, for the remainder of tenure of their office.

(6) All employees of the Botswana National Sports Council shall become the corresponding employees of the Commission and shall continue in office for the period for which, and be subject to the conditions under which, they were appointed, as employees of the Botswana National Sports Council, for the remainder of the appointed period.

(7) Notwithstanding the repeal effected under section 44, any sport associations which were members of the Council under the repealed Act shall continue to be members of the Commission as if registered under this Act.

PASSED by the National Assembly this 17th day of July, 2014.

BARBARA N. DITHAPO,  
*Clerk of the National Assembly.*