

#### Amendment of section 8 of Act 14 of 1997

4. Section 8 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

- "(b) **[is , subject to the Exchequer Act, 1975 (Act No. 66 of 1975)—**
- (i) **charged with the responsibility of accounting for money received from whatever source, or paid out by or on account of the Institute;**
  - (ii) **charged with the duty to cause the necessary accounting and other related records to be kept; and]**
- must ensure that all functions of the Institute are performed in accordance with the provisions of the Public Finance Management Act and any other applicable legislation."

#### Amendment of section 10 of Act 14 of 1997

5. Section 10 of the principal Act is hereby amended by—
- (a) the substitution in subsection (1) for paragraph (d) of the following paragraph:
 

"(d) to **[bring about the introduction of]** promote and ensure the adoption of a centralised doping control programme, which may subject any **[sportsperson]** athlete to **[dope]** testing at **[short]** advance notice, or **[without]** no advance notice, both in and out of competition";
  - (b) the substitution in subsection (1) for paragraphs (e) and (f) of the following paragraphs:

- "(e) to **[encourage]** ensure that [the South African] national sports federations and other sports organisations **[to]** adopt **[uniform independent internationally acceptable sample collection and testing procedures]** and implement anti-doping policies and rules which conform with the Code and with the requirements set out in the anti-doping policy and rules of the Institute;
- (f) to **[encourage]** ensure **[as far as reasonably possible]**, the **[development]** establishment and maintenance of a **[sport drug testing laboratory or]** WADA accredited laboratory in the Republic."
- (c) the deletion of subsection (1)(g); and
- (d) the substitution for subsection (2) of the following subsection:

"(2) The Institute shall operate independently, but **[in close conjunction]** may co-operate with [SISA] the SASCOG and SRSA from time to time as the need arises in order to achieve the objects of the Institute as contemplated in this Act."

#### **Amendment of section 11 of Act 14 of 1997**

6. Section 11 of the principal Act is hereby amended by—
- (a) the substitution for subsection (1) of the following subsection:
- "(1) The Institute must comply with the provisions of the Public Finance Management Act."
- (b) the substitution of subsection (2) for the following subsection:

"(2) The Institute shall—

- (a) **[draw up] adopt and implement anti-doping rules and policies which conform with the Code including the WADA Prohibited List [and maintain a list of prohibited substances and practices complementing the "List of Doping Classes and Methods", published annually by the International Olympic Committee and other relevant sporting Federations];**
- (b) establish and maintain a Register of Notifiable Events;
- (c) notify relevant persons and organisations of entries into the Register of Notifiable Events;
- (d) disseminate information relating to the **[penalties] sanctions** likely to be imposed if **[sportspersons] athletes [test positive for doping, or if they fail to comply with requests to provide samples for testing] violate anti-doping rules;**
- (e) select **[sportspersons who are to be requested to provide samples for testing] athletes for doping control according to a test distribution plan;**
- (f) collect samples from **[sportspersons in accordance with approved guidelines, and secure the safe and tamper-free transit of samples to IOC-accredited laboratories for testing] athletes and secure the safe and tamper-free transit of samples to WADA-accredited laboratories in accordance with the World Anti-Doping Code International Standard for Testing;**
- (g) develop and implement educational programmes to discourage the practice of doping in sport;

- (h) consult with, assist, co-operate with and provide relevant information to governmental and non-governmental anti-doping organisations and other persons within South Africa and internationally, where appropriate;
- (i) take steps aimed at ensuring that South Africa complies with **[international agreements]** ~~the Code, the UNESCO Convention~~ and any other anti-doping agreements or arrangements [concerning the use of drugs and doping in sport] to which South Africa is a party;
- (j) undertake research, or co-ordinate and arrange for research to be undertaken in the field of performance-enhancing substances and methods;
- (k) encourage the pursuit of optimal sports performance in an environment free from doping;
- (l) establish and maintain a Registered Testing Pool of top level athletes who shall be subject to both in competition and out of competition testing;
- (m) require that athletes who have been included in the ~~out of competition~~ testing pool provide accurate, current whereabouts information which shall be made available to WADA and to other Anti-Doping Organisations having authority to test the athletes;  
and
- (n) ensure that a process for all athletes ~~[who are not international level athletes, is in place whereby athletes]~~ with documented medical conditions requiring the use of a prohibited substance or



a prohibited method may request a therapeutic use exemption:  
Provided that such requests shall be evaluated by a therapeutic  
use exemption committee in accordance with the International  
Standard for Therapeutic Use: Provided further that the Institute  
shall promptly report in writing to the WADA such granting of  
therapeutic use exemptions [to any athlete included in the  
registered testing pool.]".

(c) the substitution of subsection (3) for the following subsection:

"(3) Any failure of any **[Federation]** national sports  
federation and sports organisation to co-operate with the Institute shall  
be reported to the Minister, who will, subject to section 13(5) to (10)  
??? of the National Sport and Recreation Act, 1998 (Act No. 110 of  
1998) address the issue with the **[relevant macro sporting**  
**organisations]** SASCOC or any other relevant sports body and  
organisation as he or she deems fit."

#### Insertion of sections 11A to 11C in Act 14 of 1997

7. The following sections are hereby inserted after section 11 of principal  
Act:

#### "Doping control programme

**11A.** A doping control programme is a programme that:

(a) applies to all athletes;

- (b) adopts and implements the applicable mandatory International Standards, including the Prohibited List, the Therapeutic Use Exemptions Standard and the International Standard for Testing in compliance with WADA requirements;
- (c) authorises the Institute to request an athlete to provide a sample for the purpose of doping control;
- (d) requires the Institute to establish and maintain a doping register for the programme;
- (e) requires the Institute to enter the name of an athlete or other person on the doping register when the athlete or other person is found guilty of violating an anti-doping rule as defined in section 1;
- (f) requires the Institute to give written notice of the making, and particulars, of an entry in the doping register to:

  - (i) each relevant sports federation in relation to the athlete concerned; and
  - (ii) each relevant sports federation in relation to any athlete whose interests may have been affected by the anti-doping rule violation referred to in paragraph (d): Provided that such notice of information of an entry in the doping register shall be subject to the provisions of the Promotion of Access to Information Act and may include any or all of the following:

    - (aa) failure by an athlete to provide a sample;
    - (bb) failure by an athlete to complete or sign any form or to perform any action during sample collection as required by the doping control programme;

- (cc) any attempt, whether successful or not, by an athlete or any other person to tamper with the doping control process;
- (dd) any other interference with the doping control process;
- (ee) the results of laboratory analyses;
- (ff) any failure by an athlete to provide his or her whereabouts information for out of competition testing;  
and
- (gg) any information relating to an athlete's adverse analytical finding or the failure by an athlete to comply with a request by the Institute to provide a sample;
- (g) authorises the Institute, subject to the Promotion of Access to Information Act, to disclose information—
  - (i) to the South African Police Service and the South African Customs Service on any of the following:
    - (aa) the use by a person of a prohibited substance or method;
    - (bb) the possession by a person of a prohibited substance or method;
    - (cc) trafficking by a person in a prohibited substance or method;
    - (dd) the administration by a person of a prohibited substance or method;
    - (ee) a person attempting to engage in any conduct referred to in paragraphs (a) to (c); and

- (ff) a person aiding, abetting, covering up, or being involved in any other type of complicity relating to, any conduct referred to in paragraphs (a) to (d);
- (ii) relating to the return by an athlete of an adverse or negative analytical finding, or to an anti-doping rule violation by an athlete or any other person, to the public; or
- (h) may make provision for the application, adoption or incorporation, with or without modification, of any other instrument made by a sports administration body.

#### **Failure to comply with a request to provide a sample**

**11B.** For the purposes of this Act, an athlete fails to comply with a request by the Institute to provide a sample if—

- (a) he or she refuses or fails to submit to sample collection as required by the doping control programme;
- (b) he or she fails to complete or sign any form required by the doping control programme to be completed or signed by the athlete; or
- (c) after providing the sample, he or she fails to comply with the required additional sample collection requirements.

#### **Testing by other sports administration bodies**

**11C.** Subject to the Promotion of Access to Information Act, the Institute may request a sports administration body in writing to arrange for—



- (a) an athlete to undergo doping control in order to determine whether he or she has been using prohibited substances or methods;
- (b) the laboratory analysis of the sample for that purpose; and
- (c) the Institute to be given information arising out of the making of such a request, including information relating to:
  - (i) an evasion, or an attempted evasion, by the person, of a request to provide a sample;
  - (ii) the aiding, abetting, counselling or procuring of such an evasion, or attempted evasion, by the person;
  - (iii) any failure by the person to provide such a sample;
  - (iv) any interference with the provision, collection or testing of the sample; or
  - (v) the results of the testing."

#### **Substitution of section 12 of Act 14 of 1997**

8. The following section is hereby substituted for section 12 of the principal Act:

#### **"Preparation and approval of strategic plans and budget**

**12.** Strategic plans and budgets of the Institute must be prepared and approved in accordance with the Public Finance Management Act and the Treasury Regulations."

**Repeal of sections 13, 14 and 15 of Act 14 of 1997**

9. Sections 13, 14 and 15 of the principal Act are hereby repealed.

**Amendment of section 17 of Act 14 of 1997**

10. Section 17 of the principal Act is hereby amended by the substitution for the said section of the following section:

**"Appeals [to Appeal Board and resolution of disputes]**

17. (1) (a) There is hereby established **[a]** an independent board which shall be known as the **[Institute]** Anti-Doping Appeal Board, and which shall consist of a panel of not **[fewer]** more than **[10]** eight persons possessing special knowledge and expertise **[of the subject matter]** relevant to doping, from which at least three members shall be appointed by the Minister on the recommendation of the Institute and the SASCOC to constitute **[a hearing]** an appeal tribunal to hear and decide upon **[a dispute]** appeals against decisions made in terms of article 13 of the Code where appropriate: Provided that at least **[one]** two **[member]** members so appointed by the Minister shall **[have a legal background]** be admitted and practicing attorneys or advocates with at least seven years experience in their relevant fields of expertise.

(b) Before an appeal may be lodged, an amount of one thousand rand shall be deposited by the appellant with the Anti-Doping

Appeal Board, which amount shall be refundable in full only after the said Appeal Board has reached a verdict in favour of the appellant: Provided that the said deposit shall be forfeited by the appellant in the event of the appeal being unsuccessful.

(c) The Anti-Doping Appeal Board may with a view to the personal circumstances of a prospective appellant modify or waive the requirement of a deposit referred to in paragraph (b).

(2) (a) The Anti-Doping Appeal Board may hear **[and decide on any dispute relating to drug-taking or doping in sport.]**

appeals involving national level athletes arising from decisions regarding:

- (i) sanctions for anti-doping rule violations, including disqualification, ~~[provincial] provisional~~ suspension or period of ineligibility;
- (ii) the granting or denying a Therapeutic Use Exemption (TUE); or
- (iii) any other dispute relating to doping in sport: Provided that appeals involving international level athletes shall be heard by the Court of Arbitration for Sport (CAS).

(b) The Anti-Doping Appeal Board may confirm or set aside any sanction imposed by a **[sporting]** sports administration body in respect of **[drug taking or]** doping, and may in the place of any sanction so set aside, impose any sanction which in its opinion **[should and could lawfully have been imposed]** is appropriate.

(3) A member of the Anti-Doping Appeal Board shall, subject to such member's right to resign on one month's written notice, remain a member for such period as the Minister may determine at the time of the member's appointment.

(4) A member of the Anti-Doping Appeal Board shall be eligible for reappointment.

(5) The procedure to be followed in connection with appeals to the Anti-Doping Appeal Board shall be determined by the said Board in consultation with the Minister, and every party to an appeal[, **including the Institute,**] shall be entitled to be represented by a person of his or her own choice[.]: Provided that a member of the Institute shall also be entitled to attend any hearing of an appeal as an observer.

(6) The sanctions which may be imposed on persons guilty of **[taking drugs]** anti-doping rule violations shall be in accordance with the **[penalties]** sanctions laid down in the **[constitutions]** anti-doping rules and regulations of the respective sports federations.".

#### **Insertion of section 17A of Act 14 of 1997**

11. The principal Act is hereby amended by the insertion of the following section after section 17:

#### **"Punitive measures**

**17A.** (1) SRSA, on the written recommendations of the SASCO,  
may cause an investigation to be conducted as it deems fit to ascertain  
whether all national sports federations have complied with the provisions  
contained in this Act.



(2) SRSA must, after consultation with the Institute and the SASCOC, identify any non-compliant national sports federations where after it may, amongst others—

- (a) withdraw or reduce its or the Government's funding of any such federation;
- (b) bar any such federation from administering its sport in the Republic; or
- (c) recommend that the SASCOC, refuse to award national colours to the members of any such federation.

(3) SRSA may only act against a federation in terms of subsection (2) after it has given that federation an opportunity to make representations in writing with regard to any proposed action."

#### **Short title**

12. This Act is called the South African Institute for Drug-Free Sport Amendment Act, 2006.