

THE SPORTS (AMENDMENT) BILL
(No. XXV of 2018)

Explanatory Memorandum

The main object of this Bill is to amend the Sports Act 2016 to bring it in line with the World Anti-Doping Code of the World Anti-Doping Agency (WADA), and to provide for matters related thereto.

J. C. S. TOUSSAINT
Minister of Youth and Sports

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ARRANGEMENT OF CLAUSES

Clause

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A BILL

To amend the Sports Act 2016 to bring it in line with the World Anti-Doping Code of the World Anti-Doping Agency (WADA) and to provide for matters related thereto

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Sports (Amendment) Act 2018.

2. Interpretation

In this Act –

“principal Act” means the Sports Act 2016.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) by deleting the definitions of “athlete”, “doping”, “professional athlete”, “prohibited substance” and “team sport” and replacing them by the following definitions –

“athlete” –

- (a) means a person engaged in sports activities with or without a disability; and

- (b) in relation to anti-doping, includes an athlete as defined in Appendix 1 of WADA Code;

“doping” means the violation of one or more of the anti-doping rules specified in Article 2.1 of WADA Code;

“professional athlete” –

- (a) means an athlete who is employed by a sports club and whose main occupation is the practice of a sport against remuneration; and

- (b) in relation to anti-doping, includes an international-level athlete and a national-level athlete, as defined in Appendix 1 of WADA Code;

“prohibited substance” means a substance, or class of substances, described in the Prohibited List defined in Appendix 1 of WADA Code and issued by WADA;

“team sport” –

- (a) means a sport which a group of persons forming a team practises; and

- (b) in relation to anti-doping, includes a team sport as defined in Appendix 1 of WADA Code;

- (b) by inserting, in the appropriate alphabetical order, the following new definitions –

“CAS” means the Court of Arbitration for Sport, having its headquarters in Lausanne, Switzerland;

“Major Event Organizations” has the same meaning as in WADA Code;

“prohibited method” has the same meaning as in WADA Code;

- (c) by adding the following new definition, the full stop at the end of the definition of “WADA” being deleted and replaced by a semicolon –

“WADA Code” means the World Anti-Doping Code of WADA.

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended, in subsection (1)(d), by inserting, after the words “competition rules”, the words “, rules and regulations adopted by NADO”.

5. Section 4 of principal Act amended

Section 4 of the principal Act is amended, in subsection (3), by inserting, after paragraph (b), the following new paragraph –

- (ba) be subject to the jurisdiction of NADO and abide by the rules and regulations adopted by NADO;

6. Section 5 of principal Act amended

Section 5 of the principal Act is amended, in paragraph (a), by inserting, after the words “comply with”, the words “the rules and regulations adopted by NADO and”.

7. Section 7 of principal Act amended

Section 7 of the principal Act is amended –

- (a) in the heading, by deleting the words “**by National Sports Federations**”;
- (b) by repealing subsection (1) and replacing it by the following subsection –
 - (1) A National Sports Federation shall –
 - (a) be subject to the exclusive jurisdiction of NADO regarding the control of anti-doping and the carrying out of doping tests, except in cases where an International Sports Federation has, or Major Event Organizations have, jurisdiction under WADA Code;
 - (b) take such measures as may be necessary to ensure that its licensees comply with directives issued by IOC or WADA against the use of any prohibited substance.
- (c) in subsection (2) –
 - (i) in paragraph (a), by inserting, after the words “prohibited substance”, the words “prohibited method”;
 - (ii) by deleting the words “such person shall be sanctioned by NADO in accordance with the WADA code.” and replacing them by the words “Articles 7, 8 and 10 of WADA Code shall apply.”.

8. Section 11 of principal Act amended

Section 11 of the principal Act is amended, in subsection (2) –

- (a) in paragraph (h), by deleting the words “prohibited substance” and replacing them by the words “prohibited substance or prohibited method”;
- (b) in paragraph (i), by deleting the words “or Tribunal” and replacing them by the words “, NADO, WADA or the Tribunal”.

9. Section 14 of principal Act amended

Section 14 of the principal Act is amended, in subsection (2), by inserting, after paragraph (a), the following new paragraph –

- (aa) comply with the relevant provisions of WADA Code, including Article 20.4;

10. Section 15 of principal Act amended

Section 15 of the principal Act is amended, in subsection (1), by adding the following new paragraph –

- (d) The Mauritius Paralympic Committee shall comply with the relevant provisions of WADA Code, including Article 20.4.

11. Section 21 of principal Act amended

Section 21 of the principal Act is amended –

- (a) in subsection (1), by adding the following new paragraphs, the existing provision being lettered paragraph (a) –
 - (b) NADO shall be an independent organisation, as provided for in Article 20.5.1 of WADA Code.
 - (c) Every athlete and every National Sports Federation and its licensees shall be subject to the exclusive jurisdiction of NADO in relation to anti-doping matters and shall comply with any anti-doping rules and regulations of NADO.

- (b) in subsection (2) –
 - (i) in paragraph (a) –
 - (A) by repealing subparagraphs (i) and (ii) and replacing them by the following subparagraphs –
 - (i) an independent chairperson who shall be a registered medical practitioner, pharmacist or chemist from the public or private sector and having wide knowledge and experience in his respective field, to be appointed by the Minister;
 - (ii) 4 other members, who shall have expertise in the field of anti-doping, to be appointed by the Minister.
 - (B) by repealing subparagraph (iii);
 - (ii) by adding the following new paragraphs –
 - (c) (i) A member of NADO shall not have any direct or indirect interest in relation to any matter which he has to deal with in the discharge of his functions.
 - (ii) Where a member of NADO finds himself in a situation of conflict of interest in relation to any matter he has to deal with in the discharge of his functions, he shall follow and abide by the procedures specified in the rules of NADO regarding conflict of interest and replacement of members.
 - (d) Every member of NADO shall abide by the rules on confidentiality specified in the rules of NADO.
- (c) in subsection (3)(b), by deleting the words “subsection (2)(a)(iii)” and replacing them by the words “paragraph (a)”;

- (d) by repealing subsections (5) and (6) and replacing them by the following subsections –

(5) The Minister shall designate a public officer to act as secretary to NADO.

(6) The Ministry may require NADO to furnish such information in such manner and at such time as it may determine in respect of its activities and NADO shall supply that information.

12. Section 22 of principal Act amended

Section 22 of the principal Act is amended by inserting, after paragraph (a), the following new paragraph, the word “and” at the end of paragraph (a) being deleted –

- (aa) be the sole anti-doping authority responsible for the adoption and implementation of anti-doping rules, direct collection of blood and urine samples from athletes for the purpose of analysis, management of test results of samples taken from athletes in accordance with WADA Code and hearing cases of violation of anti-doping rules at the national level; and

13. Section 23 of principal Act amended

Section 23 of the principal Act is amended –

- (a) by repealing paragraph (b) and replacing it by the following paragraph –

(b) be responsible for results management relating to anti-doping tests, in accordance with WADA Code;

- (b) by repealing paragraph (d) and replacing it by the following paragraph –

(d) set up a centralised independent sample collection and testing programme, in accordance with the WADA Code, which may subject any athlete to anti-doping tests, both in and out of competition;

- (c) by repealing paragraph (h) and replacing it by the following paragraph –
 - (h) deal with any potential anti-doping rule violation in its jurisdiction, impose appropriate sanctions on athletes and persons found guilty of violating any anti-doping rule and ensure their enforcement in accordance with WADA Code;
- (d) in paragraph (i), by deleting the words “doping in sports.” and replacing them by the words “doping in sports, in accordance with WADA Code;”;
- (e) by adding the following new paragraphs –
 - (j) adopt rules and regulations;
 - (k) every year, in accordance with Article 14.4 of WADA Code, publish a general statistical report on its doping control activities and submit a copy of the report to WADA;
 - (l) have such other functions, roles and responsibilities which are attributed to national anti-doping organisations under WADA Code and which are relevant to it, including those specified in Article 20.5.

14. Section 24 of principal Act amended

Section 24 of the principal Act is amended –

- (a) in subsection (1)(a), by deleting the words “WADA code” and replacing them by the words “Article 12 of WADA Code”;
- (b) by repealing subsection (2) and replacing it by the following subsection –
 - (2) NADO shall inform the athlete, the person found guilty of a violation of an anti-doping rule, the National Sports Federation, the International Sports Federation, WADA and any other person or entity having a right of appeal under Article 13.2.3 of WADA Code of –

- (a) the outcome of any anti-doping test effected or any anti-doping rule violation; and
- (b) any decision regarding an atypical finding or adverse analytical finding.

15. Section 45 of principal Act amended

Section 45 of the principal Act is amended –

- (a) in subsection (2), by inserting, after the words “Mauritius Olympic Committee”, the words “or NADO”;
- (b) by inserting, after subsection (2), the following new subsection –

(2A) (a) Any dispute relating to doping shall be referred to the Tribunal.

(b) Any person aggrieved by a decision of the Tribunal, relating to doping, and who –

(i) wishes to appeal against the decision; and

(ii) is entitled to appeal to CAS under WADA Code and the rules of NADO,

may appeal to CAS in the manner and within the time provided for in WADA Code and the rules of NADO.

16. Section 46 of principal Act amended

Section 46 of the principal Act is amended, in subsection (3), by inserting, after the words “a sports organisation”, the words “, other than a decision or dispute related to doping,”.

17. Second Schedule to principal Act amended

The Second Schedule to the principal Act is amended, in paragraph 1 –

- (a) in subparagraph (b), by inserting, after the word “disputes”, the words “, other than disputes related to doping,”;

- (b) in subparagraph (f), by deleting the words “disciplinary subcommittee” and replacing them by the words “disciplinary subcommittee to deal with disciplinary matters other than matters related to doping”;
- (c) in subparagraph (k), by inserting, after the words “Sports Act 2016”, the words “, the World Anti-Doping Code, the NADO Anti-Doping Rules”.

18. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
