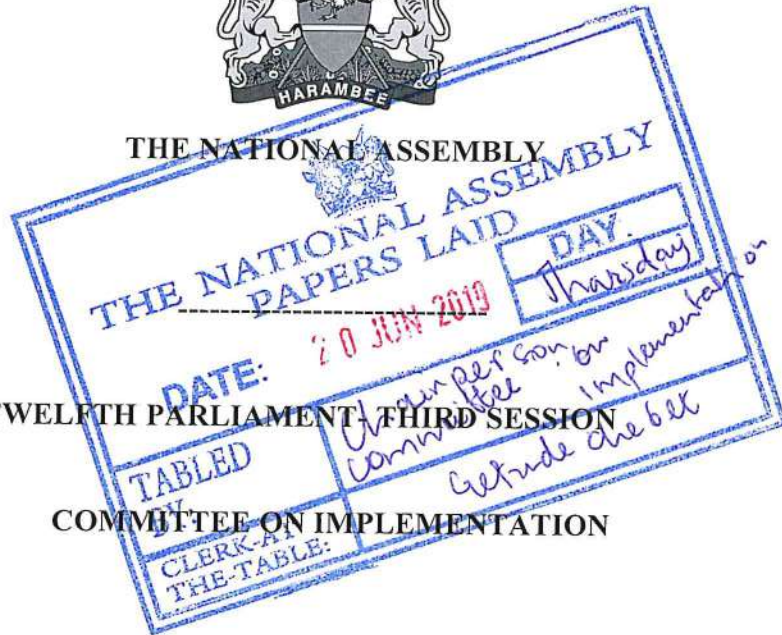


Approved for tabling. *Bat* SWA  
20/6/19

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY



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REPORT ON IMPLEMENTATION STATUS OF

1. RESOLUTION ON ESTABLISHMENT OF SPORTS ACADEMIES IN EVERY CONSTITUENCY; AND
  2. OPERATIONALIZATION THE SPORTS ACT, 2013; NATIONAL SPORTS FUND
- 

Clerk's Chambers  
Directorate of Committee Services  
National Assembly  
Parliament Buildings  
NAIROBI

JUNE, 2019



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## **ABBREVIATION AND ACRONYMS**

Amb.	Ambassador
CS	Cabinet Secretary
Dr	Doctor
EOI	Expression of Interest
Hon.	Honourable
MP	Member of Parliament
MTPII	Medium Term Plans II
NSA	National Sports Academies
PFM Act	Public Finance Management Act



## **CHAIRPERSON'S FOREWORD**

The Committee on Implementation is mandated to scrutinize resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether such decisions and undertakings have been implemented within the sixty (60) days as provided for in the Standing Orders and whether such implementation has taken place within the minimum time necessary.

The House adopted the resolution for the establishment of sports academies in every Constituency on 4<sup>th</sup> July 2018 cognizant of the benefits whether social or economic that sports provide to the society. The Sports Act, 2013 sought to harness sports for development, encourage and promote drug-free sports and recreation; provide for the establishment of sports institutions, facilities, administration and management of sports in the Country. The National Sports Fund is established under section 12 of the Sports Act, No. 5 of 2013.

The Committee expresses concern at the slow pace of implementation of House Resolutions long after the lapse of the sixty days provided for in the Standing Orders. Indeed, it has been noted that the implementing agencies usually begin taking action on Parliamentary resolutions after the Committee seeks information on the implementation status of resolutions. In certain cases, there has been complete policy shift as in the case in this matter. It is noted that after the Committee began follow ups on the implementation of the Resolution on establishment of sports academies in every Constituency and the Sports Act, 2013 (including the operationalization of the National Sports Fund), the Cabinet Secretary for National Treasury and Planning established another Fund through the Public Finance Management (Sports, Culture & Social Development) Regulations, 2018 with similar financial sources. Whereas the Committee is cognizant of possible and constant policy changes, such changes have had an impact on the Committee's work as it discharges its mandate of following up on implementation of House Resolutions including legislation passed by the House.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for necessary facilitation and support in the production of this report.

Pursuant to Standing Order 199(6), it is, therefore, my pleasant duty and privilege, on behalf of the Committee on Implementation, to lay this report on the Table of the House.

**Hon. Moitalel Ole Kenta, MP**

## **EXECUTIVE SUMMARY**

The National Assembly on 4<sup>th</sup> July 2018 adopted the resolution for the establishment of sports academies in every Constituency cognizant of the benefits whether social or economic that sports provide to the society.

The Sports Act, No. 5 of 2013, an Act of Parliament which commenced on 1<sup>st</sup> August 2013 sought to harness sports for development, encourage and promote drug-free sports and recreation; provide for the establishment of sports institutions, facilities, administration and management of sports in the Country. The National Sports Fund is established under section 12 of the Sports Act, 2013. It is worth noting that at the time of compilation of this report, there is before the National Assembly, the Sports (Amendment) Bill, 2018 which seeks to abolish the National Sports Fund. Further under the Public Finance Management (Sports, Culture & Social Development) Regulations, 2018 has been established.

The Committee as per its mandate and guided by the Article 153(4)(b) of the Constitution and Standing Order 201 resolved to appraise itself on the implementation status of resolution and the operationalization of the Act. The Committee invited submissions from the Cabinet Secretary Sports and Heritage, the National Treasury and Planning and the National Sports Fund.

The Committee observed that on the resolution for establishment of sports academies in the constituency, the implementation of the same may face challenges of viability considering that the Government has failed to implement its planned establishment of five (5) National Stadia in the Country.

The Committee observed that on the operationalization of the Sports Act, 2013 and as regards funding of sports, at the time of compiling the report, there existed two Funds to support sports, namely, the National Sports Fund established by the Sports Act, 2013 and the Sports, Arts and Development Fund established under the Public Finance Management (Sports, Arts and Development Fund) Regulations, 2018. It was noted that the National Sports Fund deals exclusively with sports and its related activities, while the Sports, Arts and Development Fund deals not only with sports but also includes universal health care, arts and Government strategic interventions.

It was further observed that there is a lack of clarity on funds raised during the FY 2017/2018. The Cabinet Secretaries were directed to meet, harmonize the records and report back to the Committee. However, at the time of compilation of this report, the Committee had not received

any progress on the same. The Committee noted that the Sports (Amendment) Bill, 2018 will effectively abolish the National Sports Fund, which was created after extensive stakeholder engagement. There is no tangible evidence that the same was done to the Sports, Arts and Social Development Fund.

The Committee recommends that on the establishment of Sports Academies, the Ministry of Sports and Heritage should place focus on development of soft skills for instance training of coaches or trainers and nurturing of talents to impact the youth besides construction of facilities. The Ministry of Sports and Heritage in collaboration with the Ministry of Education enhances sports facilities in colleges and schools, as an extension of sports facilities for efficiency and effective utilization of resources as well as one means towards a multi-sectoral concept involving all relevant stakeholder for ease of coordination and faster implementation.

The Committee recommends that on the operationalization of the Sports Act, 2013 the amendments to the Sports Act, 2013 should address the issue of the role of the Administrator, the Chief Executive Officer, and the staff of the National Sports Fund. in the event that the National Sports Fund is repealed by the House, these officers should be absorbed into the Sports, Arts and Development Fund.

The Committee recommends that in order ensure that the purpose for which the National Sports Fund was established is not lost to other Government projects and in the event the National Sports Fund under the Sports Act, 2013 is repealed by the House, then any other Fund established to replace the same, including the Sports, Arts and Development Fund should appropriate and commit at least thirty-five percent (35%) of its proceeds towards promotion and development of sports. The National Sports Fund was created after extensive stakeholder engagement and it is noted that the current Sports Bill, 2018 seeks to abolish the National Sports Fund. Indeed it follows that any amendments to the Act ought to be subjected to thorough stakeholder consultations. The Cabinet Secretaries responsible for matters relating to sports and finance should provide clarity by way of a report to the House regarding the funds raised during the 2017/2018 financial year from betting and lotteries and whether these funds were remitted to the consolidated Fund or the National Sports Fund.

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

The Committee on Implementation is a Select Committee of the House established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders, with the following terms of reference:-

1. The Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine-
  - a) whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and
  - b) whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.
2. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant committee of the House in accordance with Article 153(4) (b) of the Constitution.
3. The Committee may, therefore, propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons

## 1.2 Committee Membership

### Chairperson

Hon. Moitalel Ole Kenta, MP  
Narok North Constituency

**Orange Democratic Party**

### Vice Chairperson

Hon. Godfrey Osotsi, MP  
Nominated

**Amani National Congress**

### Members

Hon. Maj. (Rtd) John Waluke Koyi, MP  
Sirisia Constituency  
**Jubilee Party**

Hon. Alois Lentoimaga, MP  
Samburu North Constituency  
**Jubilee Party**

Hon. (Dr.) James Murgor, MP  
Keiyo North Constituency  
**Jubilee Party**

Hon. Onesmas Kimani Ngunjiri, MP  
Bahati Constituency  
**Jubilee Party**

Hon. Francis Munyua Waititu, MP  
Juja Constituency  
**Jubilee Party**

Hon. Paul Odalo Abuor, MP  
Rongo Constituency  
**Orange Democratic Party**

Hon. Hassan Oda Hulufu, MP  
Isiolo North Constituency  
**Kenya Patriots Party**

Hon. Paul Simba Arati, MP  
Dagoretti North Constituency  
**Orange Democratic Party**

Hon. Joseph Wathigo Manje, MP  
Kajiado North Constituency  
**Jubilee Party**

Hon. Johnson Many Naicca, MP  
Mumias West Constituency  
**Orange Democratic Party**

Hon. George Theuri, MP  
Embakasi West  
**Jubilee Party**

Hon. Richard Onyonka, MP  
Kitutu Chache South Constituency  
**Ford Kenya**

Hon. Owen Yaa Baya, MP  
Kilifi North Constituency  
**Orange Democratic Party**

Hon. Michael Thoya Kingi, MP  
Magarini Constituency  
**Orange Democratic Party**

Hon. Nelson Koech, MP  
Belgut Constituency

**Jubilee Party**

Hon. Joshua Mbithi Mwalyo, MP  
Masinga Constituency

**Wiper Democratic Movement-Kenya**

Hon. (Dr.) Daniel Kamuren Tuitoek, MP  
Mogotio Constituency

**Jubilee Party**

Hon. Silvanus Osoro, MP  
South Mugirago Constituency

**Kenya National Congress**

Hon. Generali Nixon Kiprotich Korir, MP  
Langata Constituency

**Jubilee Party**

Hon. Charles Ngusya Nguna, MP  
Mwingi West Constituency

**Wiper Democratic Movement-Kenya**

Hon. Jared Okello, MP  
Nyando Constituency

**Orange Democratic Party**

### **1.3 Committee Secretariat**

Ms. Rose M. Wanjohi  
Clerk Assistant I /Team Leader

Mr. Abdirahman Hassan  
Clerk Assistant III

Mr. Denis Abisai  
Principal Legal Counsel 1

Mr. Joseph Okong'o  
Senior Media Relations Officer

Ms. Doreen Karani  
Legal Counsel I

Mr. Eugene Akaa  
Research Officer III

Mr. James Muguna  
Research Officer III

Ms. Jane Serem  
Audio Officer I

Mr. Moses Kariuki  
Sergeant-at-Arms

## **2.0 INTRODUCTION**

### **2.1. MOTION ON ESTABLISHMENT OF SPORTS ACADEMIES IN EVERY CONSTITUENCY**

1. The resolution to establish a Sports Academy in every Constituency through the Ministry of Sports, Culture and Heritage was adopted by the House on 4<sup>th</sup> July 2018.
2. This is pursuant to Section 33(4) of the Sports Act, 2013 that establishes the Kenya Academy of Sports, and, further, Section 34(a) of the Act that provides that the functions of the Academy shall be to among other things, establish and manage sports training academies.
3. This is in light of the recognized socio-economic benefits of sports with great and positive impacts on the economic, health, social and cultural status of individuals, communities and the society generally.
4. Sports can be a major source of employment and a foreign exchange earner for Kenya. It is noted that there is inadequate investment, lack of scouting and nurturing of talent in Kenya.
5. The main objectives of the establishment of Sports Academies in each Constituency are to help identify, nurture and develop talent. Further, this will ensure that the youth to engage in sporting activities instead of idling or engaging in illegal activities. This, therefore, requires a framework of systems and structures upon which this undertaking will be anchored.

#### **2.1.2 EVIDENCE FROM THE MINISTRY OF SPORTS, CULTURE AND HERITAGE**

**In their meeting with the Committee held on 11<sup>th</sup> October 2018, the Principal Secretary for Sports Development, Ministry of Sports, Culture and Heritage, Amb. Peter Kirimi Kaberia, accompanied by Mr. Mark Wambugu, Acting Chief Executive Officer, National Sports Fund and two others submitted the following on the implementation status:**

6. A Committee on the establishment of the Constituency Sports Academies has been formed by the Ministry whose Terms of Reference are as follows: -
  - a) Review literature on the existing policy documents including the Sports Act 2013, Vision 2030. Medium Term Plans II(MTPII), the Constitution of Kenya 2010 and other relevant documents;
  - b) Propose a framework for setting up the two hundred and ninety (290) Constituency Sports Academies;



- c) Establish a draft cost of the implementation of the two hundred and ninety (290) Constituency Sports Academies;
  - d) Prepare and hand in a comprehensive report to the Appointing Authority.
7. The Kenya Academy of Sports is the institution best placed to carry out this mandate since section 33(4) of the Sports Act provides that the function of the Academy shall be among other things to establish and manage sports training academies.
  8. A proposed structure of the sports academies in the Country shall be in four (4) levels namely: Constituency level two hundred and ninety (290); Regional level ten (10); National level four (4), in Nairobi, Mombasa, Kisumu and Eldoret) and a High-Performance Centre in Nairobi.
  9. It is envisaged that the Sports Academies at the Constituency level shall be the entry point and main conduit of athletes to the mainstream sports academy structures. The proposed functions of the Sports Academy at the Constituency level shall include; to scout and recruit talented athletes at the constituency level; create and operate a Constituency database of talented athletes; provide facilities for training at the Constituency level; provide opportunities for athletes to progress from the constituency level to the regional academy level; and provide mainstream professional level of training in sports development through well motivated staff.
  10. The proposed Sports Academies at Regional level shall enroll athletes from the Constituency Sports Academies through a competitive process. The proposed functions of the Sports Academies at regional level shall include: to admit athletes from Constituency Sports Academies; operate a database of athletes admitted at the Sports Academy at regional level; provide exposure of athletes through competitions in tournament ; provide highly specialized training of sports through professional sports personnel, i.e. coaches, instructors; organize regional level sports activities for exposure of Constituency Level sports academies; be the main conduit to the sports academies at National level; and provide a forum for capacity building of sports technical personnel. The regional sports academies shall be set up in ten (10) Counties.
  11. The National Sports Academies (NSAs) are proposed to be located in four (4) major towns in Kenya, which is, Kisumu, Eldoret, Nairobi and Mombasa. The NSAs shall have a minimum of at least ten (10) Sports disciplines as per the guidance provided by the sports talent mapping feedback carried out by the academy every five (5) years. The functions of NSA shall include: to be a conduit to the High Performance Centre; liaise with Sports Academies at regional and constituency among key stakeholders; facilitate

- capacity building of sports technical personnel; organize the functions of the Regional academies through monitoring and evaluation of programmes and implementation; coordinate research in sports in liaison with Kenya Academy of Sports, head office; and ensure quality assurance of private and public sports academies.
12. The proposed Constituency sports academy could have basic sports facilities as follows; Land being at least ten acres; football/athletic track; administrative facilities i.e. classes, offices, library/resource center; sports facilities i.e. volleyball, basketball pitches, changing rooms, swimming pool, multi-purpose gym; accommodation facilities; multipurpose indoor games hall; sports equipment; and infrastructure , that is water, electricity, sanitation, accessible roads among others.
  13. The Ministry of Sports, Culture and Heritage has completed the first phase of construction of the Kenya Academy of Sports, although they faced challenges of funding and exchequer releases. The State Department for Sports Development has proposed to the Ministry of National Treasury and Planning to receive money up front instead of on a quarterly basis to avoid the stalling of the project.
  14. The Ministry proposed that talents are identified and refined at early stages and standards set from the Constituency level. Further, it was proposed that the kind of local activities in a region can provide a guide of the disciplines to be provided by the sports academies in a region for example, athletics in the Rift Valley region.
  15. The Committee proposed that the Ministry may seek to make collaborations with the Constituency Development Fund Committees for ease of establishment of the Sports Academies at the Constituency level and any legislative or policy changes to effect this may be proposed.
  16. The Ministry has invited input from the Council of Governors in order to address priorities on a need basis and nurturing games that require less space.
  17. The Ministry has also rolled out feasibility studies, considered the availability of land and identified gaps to address shortfalls that delay implementation.
  18. The Committee on the establishment of the Constituency Sports Academies set up by the Ministry recommended that the immediate programs and activities to be implemented are: curriculum competition; talent mapping and survey; public participation; training of instructors/coaches; and a pilot study of the curriculum.
  19. The Committee further recommended that immediate funding sourced is used for the rolling out of recurrent programmes as the infrastructural development are undertaken.

20. The implementation of the two hundred and ninety (290) Constituency Sports Academies shall be staggered over a period of four (4) years.

### **2.1.3 COMMITTEE OBSERVATIONS ON IMPLEMENTATION STATUS OF THE ESTABLISHMENT OF SPORTS ACADEMIES IN EVERY CONSTITUENCY**

**The Committee observed THAT —**

1. It is apparent that training has not been handled consistently and efficiently at the grassroots level.
2. The establishment of the Sports Academies may face challenges of viability considering that the Government has failed to implement its planned establishment of five (5) National Stadia in the Country.
3. Engaging with local leaders and other stakeholders will increase visibility and uptake of the proposed project.
4. There is need to reduce timelines for developing soft skills to the first year of the program.
5. There is a need for the Ministry of Sports, Culture & Heritage to identify personnel with skills required and establish a framework between the source of funding and expenditure.
6. The current number of activities in the stadia are few and conversely expensive and therefore, an increase in sports activities in each stadium would make it a more cost-efficient facility.
7. The establishment of Sports Academies may face possible funding challenges in light of the proposed amendments to the Sports Act, 2013 to repeal the National Sports Fund. In effect, the funding available for development of sports from the Sports, Arts and Social Development Fund will be reduced to more than thirty-five percent to the proceeds of that Fund.
8. The Constituency Development Fund Committees would play a key role in the establishment of the Sports academies at the Constituency level.

#### **2.1.4 COMMITTEE RECOMMENDATIONS ON IMPLEMENTATION STATUS**

**The Committee recommends that—**

1. The Ministry of Sports, Culture and Heritage focuses on the development of soft skills. For instance, training of coaches or trainers and nurturing of talents to impact the youth besides construction of facilities.
2. The Ministry of Sports, Culture and Heritage in collaboration with the Ministry of Education enhances sports facilities in colleges and schools, as an extension of sports facilities for efficiency and effective utilization of resources as well as one means towards a multi-sectoral concept involving all relevant stakeholder for ease of coordination and faster implementation.
3. The Ministry of Sports and Heritage develops opportunities for the development of talents and professionals starting at a young age.
4. A specific sports discipline should not be limited to a particular Constituency or region.
5. The National Sports Fund should fund sports academies.
6. The Ministry of Sports, Culture and Heritage rationalizes the acreage of land required for the development of academies to at least five acres.
7. The Ministry of Sports, Culture and Heritage should seek to make collaborations with the Constituency Development Fund Committees for ease of establishment of the Sports Academies at the Constituency level and any necessary legislative or policy changes to effect this be proposed by the Ministry.

## **2.2 OPERATIONALIZATION OF THE SPORTS ACT, 2013 AND THE NATIONAL SPORTS FUND**

21. The Sports Act, No. 25 of 2013, was enacted to harness sports for development, encourage and promote drug-free sports and recreation and provide for the establishment of institutions, facilities, administration and management of sports in the country among other connected purposes. To this end, there was established the Sports Kenya, the National Sports Fund, the Academy of Sports, the office of the Sports Registrar and the Sports Disputes Tribunal.
22. The National Sports Fund is a State Corporation under part III of the Sports Act 2013. Section 12(2) outlines the sources of funds to include proceeds of any sports lottery, taxes levied under the Betting, Lotteries and Gaming Act, investments and any other payments required to be paid into the Fund. The monies out of the Fund are to be utilized for financial support for sports persons and sports organizations, administrative fees and other payments authorized under the Act.
23. The Fund is managed by the Board of Trustees established under section 13 of the Act and administratively, the CEO of the Board of Trustees is responsible for the management of the affairs and the transactions of the Board of Trustees. The Act does make provision for recruitment of staff of the Board to assist it discharge its functions.
24. The Sports Act, 2013 was amended vide the Finance Act (*No 15 of 2017*) to include the proceeds of any sports lottery, taxes levied under the Betting, Lotteries and Gaming Act as part of the funds of the National Sports Fund.

### **The Sports, Arts and Social Development Fund**

25. Pursuant to his powers under section 24(4) of the Public Finance Management Act, 2012 (“the PFM Act”), on 10<sup>th</sup> August 2018, the Cabinet Secretary for National Treasury and Planning published the Public Finance Management (Sports, Arts and Social Development Fund) Regulations (Legal Notice No. 174 of 2018) that sought to establish the Sports, Arts and Social Development Fund. Section 24(4) states that the Cabinet Secretary for matters relating to finance may establish a national government public Fund with the approval of the National Assembly.
26. When the Public Finance Management (Sports, Arts and Social Development Fund), Regulations, 2018 (Legal Notice No. 174 of 2018), were tabled before Parliament for scrutiny on 15th August 2018 in compliance with the Statutory Instruments Act, 2013,

the Regulations were annulled in entirety in October 2018 for the reason they were inconsistent with the Sports Act, 2013 for the following reasons:

- (a) the sources of funds being the proceeds of the taxes paid under Betting, Lotteries and Gaming Act was inconsistent with section 12 of the Sports Act, 2013 which provides for similar source of funds;
- (b) the Sports, Arts and Social Development Fund provide for the Oversight Board composed of eight members whereas the Sports Act, 2013 also establishes a Board of Trustees; and
- (c) the country runs the risk of duplication between the Fund and the existing entities under the Sports Act, 2013.

27. Subsequently, on 25<sup>th</sup> October, 2018, the Cabinet Secretary published new Public Finance Management (Sports, Arts and Social Development Fund), Regulations, 2018 (Legal Notice No. 194 of 2018) which were submitted to the House for scrutiny and acceded to by the Committee on Delegated Legislation since the issues raised that had led to the earlier annulment had been addressed. The Public Finance Management (Sports, Arts and Social Development Fund) (Amendment) Regulations, 2018 were also published in the *Kenya Gazette* under legal notice 236 of 2018 on 13<sup>th</sup> December, 2018.
28. The Administrator of the Fund is the Principal Secretary, State Department of Sports Development while management of the Fund is placed under the Sports, Arts and Social Development Fund Oversight Board. Regulation 12 provides for the secretariat of the Fund, being the Chief Executive Officer and other staff. As provided under Regulation 12(3), the Chief Executive Officer shall, subject to the direction of the Administrator, be responsible for the day to day running of the affairs of the Fund.
29. The sources of funds are listed as all the proceeds required to be paid into the Fund under the Betting, Lotteries and Gaming Act, all the proceeds required to be paid into the Fund under the Income Tax Act, such monies as may be appropriated by the National Assembly, grants and donations and income generated from the proceeds of the Fund. Notably, a similar funding model is provided for the National Sports Fund under the Sports Act, 2013 where both Funds are to benefit from the proceeds under the Betting, Lotteries and Gaming Act.
30. Regulation 4(2) provides that proceeds of the Fund shall be appropriated as follows:
- a) An amount not exceeding 60% to social development including universal health care.



- b) An amount not exceeding 35% to the promotion and development of sports.
  - c) An amount not exceeding 20% to promotion and development of arts.
  - d) An amount not exceeding 5% to the Government strategic interventions.
31. Under the regulations, the Cabinet Secretary may, on the advice of the Board, vary the apportionments, which may result in funding challenges to sports development.
  32. The monies under the Sports, Arts and Social Development Fund will be shared among the Ministry of Sports, Culture and Heritage, the Ministry of Education, the Ministry of Health, the Ministry of Environment & Forestry and the Ministry of Information Communication and Technology.
  33. This, therefore, has created two Funds for purposes of supporting sporting activities, that is, the National Sports Fund under the Sports Act, 2013 and the Sports, Arts and Social Development Fund under the Public Finance Management (Sports, Arts and Social Development Fund) Regulations 2018.
  34. There is presently pending for consideration by the House, the Sports (Amendment) Bill, No. 25 of 2018, that seeks to, *inter alia*, repeal the National Sports Fund as established under the Sports Act, 2013 and will take away guaranteed funding model that is in place under the Sports Act, 2013.

### **2.2.1 EVIDENCE FROM THE MINISTRY OF SPORTS, CULTURE AND HERITAGE**

**In the same meeting with the Committee held on 11th October 2018, the Principal Secretary for Sports Development, Ministry of Sports, Culture and Heritage, Amb. Peter Kirimi Kaberia submitted as follows:**

35. The Finance Act (No. 15 of 2017) amended the Betting and Gaming Act by providing that betting companies pay a uniform tax rate of 35% on Betting, Lottery and Prize completion tax respectively. The tax took effect on 1<sup>st</sup> January, 2018.
36. Matters falling under the ambit of the Act are domiciled in the Ministry of Sports, Culture & Heritage and management of the National Sports Fund is placed under a Board of Trustees established under Section 13 of the Sports Act.
37. The Fund was identified as a flagship project in the Vision 2030 and given prominence in the 1<sup>st</sup> and 2<sup>nd</sup> Medium Term Plans.
38. The National Sports Fund is mandated to among others raise funds through sports lottery, investments and other legal means; disburse the funds for the development of



sports and recreation in Kenya, and make recommendations relating to the provision of financial grants to National Sports organizations.

### **Implementation Status**

39. The National Sports Fund is now operational and received better funding in 2018/2019 financial year, hence it is currently in a better financial position.
40. The Fund is in the process of operationalizing a National Lottery with the name “Michezo National Lottery” which the Fund has commenced trademarking. The Fund has developed an Expression of Interest (EOI) document to facilitate the procurement of a lottery operator. In addition, a Cabinet memorandum has been drafted seeking Cabinet approval for the provision of a one-off capital financing of Kshs. 647 million to establish the lottery. The Fund awaits gazettelement of its full Board.
41. The Ministry in its written submissions to the Committee dated 11<sup>th</sup> December, 2018 reported that it had held a joint sectoral meeting with the National Treasury and Planning, the Ministry of Health and the Ministry of Education to discuss the criteria of sharing monies among the relevant Ministries, the amount received and the process of accessing monies collected since January, 2018. In the aforementioned joint sectoral meeting, it was proposed and agreed that policy guidelines be prepared to provide that the criteria shall include giving priority to projects aligned to the Big Four Agenda or giving preference to projects/programs whose implementation is nearing completion.
42. In a further communication on its progress dated 4<sup>th</sup> February 2019, the Ministry of Sports, Culture and Heritage informed the Committee that together with other key stakeholders, the Ministry was in the process of operationalizing the Sports, Arts and Social Development Fund after the acceding of the PFM (Sports, Arts & Social Development) Regulations 2018, with a formal Board Meeting set to take place.

## **2.2.2 EVIDENCE FROM THE NATIONAL TREASURY AND PLANNING**

**In the meeting with the Committee held on 13<sup>th</sup> December, 2018, the Cabinet Secretary for National Treasury and Planning, Mr. Henry Rotich, accompanied by Dr. Kamau Thugge, Principal Secretary; the Hon. Nelson Gaichuhie, the Chief Administrative Secretary and other officers of the Ministry submitted that:**

43. It's not good practice under financial management to create a separate Fund for each sub-sector but noted that there is a trend by various Ministries to create Funds yet they receive money through appropriation.
44. The Ministry was in the process of reviewing all existing Funds in order to establish how they are funded, the justification for existence and thereafter create a centralized Fund while collapsing existing Funds that are related in nature for ease of coordination.
45. The Committee questioned under what circumstances the National Treasury and Planning had set up the Sports, Arts and Social Development Fund Board yet the regulations on the same have yet to be approved by Parliament. The Committee was notified that after annulment in October, the Regulations were republished by the Cabinet Secretary and acceded to by the Committee on Delegated Legislation.
46. Further, the Sports, Arts and Social Development Fund was operationalized when the National Treasury and Planning was aware of the existence of the National Sports Fund which in addition had received funding in the 2018/2019 financial year.

The Committee did invite the National Sports Fund to provide submissions, but the Fund had not submitted any at the time of compiling this Report.

### **2.2.3 COMMITTEE OBSERVATIONS ON THE IMPLEMENTATION OF THE SPORTS ACT, 2013 AND THE NATIONAL SPORTS FUND**

#### **The Committee observed THAT:-**

1. At the time of compilation of this Report, there exists the National Sports Fund established under the Sports Act, 2013 and the Sports, Arts and Social Development Fund established under the Public Finance Management (Sports, Arts & Social Development) Regulations 2018.
2. The Sports, Arts and Social Development Fund will appropriate not more than 35% of the monies received to the promotion and development of sports which goes against the original aims of the National Sports Fund.
3. At the time of compiling this Report, a Sports (Amendment) Bill, 2018, which seeks to abolish the National Sports Fund is before the House for consideration.
4. The Administrator of the Sports, Arts and Social Development Fund is the Principal Secretary of the State Department of Sports Development. The roles of the Administrator and the Chief Administrative Officer are unclear and need to be clarified.
5. The National Sports Fund had already been operationalized including the employment of staff to the Board of Trustees.
6. In light of the proposed amendments seeking to repeal the National Sports Fund, the fate of the Chief Executive Officer and staff of the Board of Trustees of the National Sports Fund hangs in the balance as the transition mechanisms provided for are inadequate to protect the interests of the Secretariat of the National Sports Fund Board of Trustees.
7. The amendments to the Sports Act, 2013 will take away the guaranteed funding model that was in place to offer financial support to sports persons and sports organizations since the Cabinet Secretary for Treasury & Planning may vary the allocations for sports under the new Fund at any time.
8. Besides sports development, the Sports, Arts and Social Development Fund was established to promote and develop universal health care, arts and Government strategic interventions. The relevant Ministries include the Ministries of Sports, Culture & Heritage, Environment & Forestry, Health, Information, Communication & Technology and Education.

## **2.2.4 COMMITTEE RECOMMENDATIONS ON THE IMPLEMENTATION OF THE SPORTS ACT, 2013 AND THE NATIONAL SPORTS FUND**

### **The Committee recommends THAT:-**

1. In order to ensure that the purpose for which the National Sports Fund was established is not lost and that sporting activities do continue to receive adequate funding, in the event the National Sports Fund under the Sports Act, 2013 is repealed, then any other Fund established to replace the same, including the Sports, Arts and Social Development Fund should apportion at least thirty-five percent (35%) of its proceeds towards promotion and development of sports. Additionally, it would be prudent to provide for these apportionments in substantive law and retain the existing National Sports Fund which guarantees funding of sports development to safeguard against arbitrary variations of the apportionments.
2. The funds apportioned to sports development should further be apportioned for purposes of talent development, sports academies, sports research, finance of sports federations, national teams participating in national competitions, community sports clubs and sports infrastructure.
3. Any amendments to the National Sports Fund by the House should take cognizance of the Chief Executive Officer and staff of the Board of Trustees of the Fund with possibility of absorption of current staff by the new Fund, if the National Sports Fund is repealed. Also, the roles of the Chief Executive Officer and the Fund Administrator of the Sports, Arts and Social Development Fund should be clearly defined;
4. In operationalizing the establishment of Sports Academies, the Ministry of Sports, Culture and Heritage should place focus on development of soft skills, for instance training of coaches or trainers and nurturing of talents to impact the youth besides construction of facilities.
5. The Ministry of Sports, Culture and Heritage in collaboration with the Ministry of Education should enhance sports facilities in colleges and schools, as an extension of sports facilities for efficient and effective utilization of resources as well as one means towards a multi-sectoral concept involving all relevant stakeholders for ease of coordination and faster implementation.
6. The Cabinet Secretaries responsible for matters relating to sports and finance should provide clarity by way of a report to the House on the funds raised during the 2017/2018

financial year from betting and lotteries and whether these funds were remitted to the National Sports Fund.

SIGNED:  DATE: 18/06/2019.

**HON. MOITALEL OLE KENTA, MP**  
**CHAIRPERSON OF THE COMMITTEE ON IMPLEMENTATION**



# ADOPTION LIST





The National Assembly



12<sup>th</sup> Parliament-3<sup>rd</sup> Session-2019

Committee on Implementation

**AGENDA: Adoption of the Report on Implementation status of:**

1. The Resolution on Establishment of Sports Academies in every constituency; and
2. Operationalization of the Sports Act, 2013 and the National Sports Fund.

VENUE: *5<sup>th</sup> floor, committee room, continental house* DATE: Thursday 14.03.2019

NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP - Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Alois Musa Lentoimaga, MP	
4.	The Hon. Maj. (Rtd) John Waluke Koyi, MP	
5.	The Hon. Paul Simba Arati, MP	
6.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
7.	The Hon. Onesmas Kimani Ngunjiri, MP	
8.	The Hon. Francis Munyua Waititu, MP	
9.	The Hon. Richard Onyonka, MP	
10.	The Hon. Johnson Naicca, MP	
11.	The Hon. George Theuri, MP	
12.	The Hon. Joseph Wathigo Manje, MP	
13.	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP	
14.	The Hon. Hassan Oda Hulufu, MP	

15.	The Hon. Nelson Koech, MP	
16.	The Hon. Generali Nixon Korir, MP	
17.	The Hon. Owen Yaa Baya, MP	
18.	The Hon. Paul Abuor, MP	<i>Paul Abuor</i>
19.	The Hon. Silvanus Osoro, MP	
20.	The Hon. Michael Thoya Kingi, MP	
21.	The Hon. Jared Okello, MP	
22.	The Hon. Joshua Mwalyo, MP	<i>J. Mwalyo</i>
23.	The Hon. Charles Ngusya Nguna, MP	<i>Charles Ngusya Nguna</i>

# MINUTES



**MINUTES OF THE 13<sup>TH</sup> SITTING OF THE COMMITTEE ON  
IMPLEMENTATION HELD ON THURSDAY 14<sup>TH</sup> MARCH 2019, IN THE  
COMMITTEE ROOM, 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE,  
PARLIAMENT BUILDINGS AT 12:00 PM.**

**PRESENT**

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. Richard Onyonka, MP
4. The Hon. Alois Musa Lentoimaga, MP
5. The Hon. (Dr.) James Kipkosgei Murgor, MP
6. The Hon. Johnson Many Naicca, MP
7. The Hon. Joseph Wathigo Manje, MP
8. The Hon. Paul Odalo Abuor, MP
9. The Hon. Maj. (Rtd) John Waluke Koyi, MP
10. The Hon. Joshua Mbithi Mwalyo, MP
11. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
12. The Hon. Charles Ngusya Nguna, MP
13. The Hon. Hassan Oda Hulufu, MP

**APOLOGIES**

1. The Hon. Francis Munyua Waititu, MP
2. The Hon. Onesmas Kimani Ngunjiri, MP
3. The Hon. George Theuri, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. Nelson Koech, MP
6. The Hon. Generali Nixon Kiprotich Korir, MP
7. The Hon. Jared Okello, MP
8. The Hon. Michael Kingi, MP
9. The Hon. Owen Yaa Baya, MP
10. The Hon. Silvanus Osoro, MP

**IN-ATTENDANCE**

**THE NATIONAL ASSEMBLY**

1. Mr Abdirahman G. Hassan - Third Clerk Assistant
2. Ms. Jane Serem - Audio Officer

**MIN. NO.NA/COI/2019/55:**

**PRELIMINARIES**

The Chairperson called the meeting to order at twelve minutes past twelve o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by the Hon. Hassan Hulufu, MP and the Hon. (Dr.) James Murgor, MP respectively.

**MIN. NO.NA/COI/2019/56:**

**CONFIRMATION OF MINUTES**

The Minutes of the 5<sup>th</sup> Sitting held on Thursday 28<sup>th</sup> February, 2019 were confirmed as a true record of the proceedings as proposed and seconded by the Hon. (Dr.) Daniel Kamuren Tuitoek, MP and the Hon. Charles Ngusya Nguna, MP respectively.

The Minutes of the 12<sup>th</sup> Sitting held on Tuesday 12<sup>th</sup> March, 2019 were confirmed as a true record of the proceedings as proposed and seconded by the Hon. Richard Onyonka, MP and the Hon. (Dr.) James Murgor, MP respectively.

**MIN. NO.NA/COI/2019/57:**

**MATTERS ARISING**

*Under Minute No. MIN. NO.NA/COI/2019/54 of the 12<sup>th</sup> Sitting: -*

The Committee was informed that the Central Bank of Kenya (CBK) had proceeded to court and sought for conservatory orders on implementing the sections of the Finance Act 2018 under its purview. During the court proceedings, the CBK informed the court that the Committee on Implementation had invited the Governor of Central Bank to appear before it to deliberate on operationalization of the Finance Act, 2018.

The CBK requested the court for more time to implement the Finance Act, 2018 but the court declined the request to give orders and the case is slated for hearing on March 29<sup>th</sup>, 2019.

The Committee queried why the CBK has yet to operationalize the Finance Act, 2018.

**MIN. NO.NA/COI/2019/58:**

**CONSIDERATION OF PENDING BUSINESS**

The Committee resolved to prioritize and conclude the following pending business once it receives submissions from the relevant stakeholders: -

- i. The Report by the Departmental Committee on Administration and National Security on the matter of the inquiry into the tender for the proposed national surveillance, communication, command and control system for the National Police Service;
- ii. The Report by the Departmental Committee on Lands on ownership of Mombasa Cement Limited land in Kilifi County;
- iii. The Report by the Departmental Committee on Lands on the Petition by Maanoni Dam Displaced Persons on delayed land and crop compensation;
- iv. The Resolution on payment of stipend to village elders;



- v. The Resolution on a review of terms and conditions for recruitment, remuneration and deployment of the Kenya Police Reservists in arid and semi-arid areas; and
- vi. The Resolution to change the name of Kitale Technical Training Institute to Kijana Wamalwa University of Science and Technology.

**MIN. NO.NA/COI/2019/59:**

**ADOPTION OF REPORT**

The Committee Members present unanimously adopted the Report on the Resolution on establishment of Sports Academies in every constituency; and Operationalization of the Sports Act, 2013 and the National Sports Fund.

**MIN. NO.NA/COI/2019/60:**

**ANY OTHER BUSINESS**

**The following issues were raised: -**

**1) Inspection visit**

The Committee resolved to undertake an inspection visit to Kwale International Sugar Company Limited to appraise itself on implementation status of the Departmental Committee on Labour and Social Welfare Report on the petition on deplorable working conditions of workers at the Kwale International Sugar Company. The inspection visit will be undertaken from Thursday 28<sup>th</sup> March to Sunday 31<sup>st</sup> March, 2019.

The following members of the confirmed their participation: -

1. Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. Hon. Richard Onyonka, MP
4. Hon. (Dr.) James Murgor, MP
5. Hon. Johnson Many Naicca, MP
6. Hon. Charles Ngusya Nguna, MP
7. Hon. Hassan Oda Hulufu, MP

**2) Tabled Committee Reports**

The Committee noted the need to fast track consideration and adoption of reports the committee tabled before the House. This is meant to bring the House up to speed on implementation status of reports/resolutions and businesses the committee concluded.

**MIN. NO.NA/COI/2019/61:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at seven minutes to one o'clock.

Sign.....

(Chairperson)

Date.....

25/04/2019 .





**MINUTES OF THE 11<sup>TH</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION  
HELD ON THURSDAY 7<sup>TH</sup> MARCH, 2019, IN THE NEW MEMBERS LOUNGE,  
MAIN PARLIAMENT BUILDINGS AT 12.00 PM.**

**PRESENT**

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Paul Simba Arati, MP
4. The Hon. Maj. (Rtd) John Waluke Koyi, MP
5. The Hon. Joseph Wathigo Manje, MP
6. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
7. The Hon. Michael Kingi, MP
8. The Hon. Jared Okello, MP
9. The Hon. Generali Nixon Kiprotich Korir, MP

**APOLOGIES**

1. The Hon. (Dr.) James Kipkosgei Murgor, MP
2. The Hon. Johnson Many Naicca, MP
3. The Hon. George Theuri, MP
4. The Hon. Francis Munyua Waititu, MP
5. The Hon. Alois Lentoimaga, MP
6. The Hon. Richard Onyonka, MP
7. The Hon. Onesmas Kimani Ngunjiri, MP
8. The Hon. Joshua Mbithi Mwalyo, MP
9. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
10. The Hon. Hassan Oda Hulufu, MP
11. The Hon. Silvanus Osoro, MP
12. The Hon. Charles Ngusya Nguna, MP
13. The Hon. Owen Yaa Baya, MP
14. The Hon. Nelson Koech, MP

**IN-ATTENDANCE**

**NATIONAL ASSEMBLY**

1. Mr James Muguna - Research Officer III
2. Mr Moses Kariuki - Sergeant-at-arms
3. Ms Jane Serem - Audio Officer
4. Mr Samuel Sunkuli - Intern-research

**MIN. NO.NA/COI/2019/47:**

**PRELIMINARIES**

The Chairperson called the meeting to order at ten minutes past twelve o'clock. Thereafter a prayer was said.

MIN. NO.NA/COI/2019/48:

**CONSIDERATION OF THE DRAFT  
REPORT ON THE IMPLEMENTATION  
STATUS OF THE RESOLUTION ON THE  
ESTABLISHMENT OF SPORTS  
ACADEMIES IN EVERY CONSTITUENCY  
AND OPERATIONALIZATION OF THE  
SPORTS ACT, 2013 AND THE NATIONAL  
SPORTS FUND.**

The Committee considered the draft report on the implementation status of the resolution on the establishment of sports academies in every constituency and operationalization of the Sports Act, 2013 and the National Sports Fund.

During its consideration of the section of the Report on the implementation status of the Sports Act and the National Sports Fund the Committee made the following observations and recommendations: -

The Committee observed that:

1. At the time of compilation of this Report, there exists the National Sports Fund established under the Sports Act, 2013 and the Sports, Arts and Social Development Fund established under the Public Finance Management (Sports, Arts and Social Development Fund), Regulations, 2018 (Legal Notice No. 174 of 2018).
2. Besides sports development, the Sports, Arts and Social Development Fund was established to promote and develop universal health care, arts and government strategic interventions. The relevant Ministries include the Ministries of Sports, Culture and Heritage, Environment and Forestry, Health, ICT and Education.
3. The Sports, Arts and Social Development Fund will appropriate not more than 35% of the monies received to the promotion and development of sports which goes against the original aims of the National Sports Fund;
4. At the time of compiling this Report, a Sports (Amendment) Bill, 2018, which seeks to abolish the National Sports Fund was before the House for consideration.
5. The administrator of the Sports, Arts and Social Development Fund is the Principal Secretary of the State Department of Sports Development. The roles of the Administrator and the Chief Administrative Officer are unclear and need to be clarified.
6. The National Sports Fund had already been operationalized including the employment of staff to the Board of Trustees.
7. In light of the proposed amendments seeking to repeal the National Sports Fund, the fate of the Chief Executive Officer and staff of the Board of Trustees of the National Sports Fund hangs in the balance as the transition mechanisms provided for are inadequate to protect the interests of the secretariat of the National Sports Fund Board of Trustees.
8. The amendments to the Sports Act, 2013 will take away the guaranteed funding model that was in place to offer financial support to sportspersons and sports

organizations since the Cabinet Secretary for the National Treasury and planning may vary the allocations for sports under the new Fund at any time.

### **Committee Recommendations**

The Committee recommended that:

1. In order to ensure that the purpose for which the National Sports Fund was established is not lost and that sporting activities do continue to receive adequate funding, in the event the National Sports Fund under the Sports Act, 2013 is repealed, then any other fund established to replace the same, including the Sports, Arts and Social Development Fund should apportion at least thirty-five per cent (35%) of its proceeds towards promotion and development of sports. Additionally, it would be prudent to provide for these apportionments in substantive law and retain the existing National Sports Fund which guarantees funding of sports development to safeguard against arbitrary variations of the apportionments.
2. The funds apportioned to sports development should further be apportioned for purposes of talent development, sports academies, sports research, finance of sports federations, national teams participating in national competitions, community sports clubs and sports infrastructure.
3. Any amendments to the National Sports Fund by the House should take cognizance of the Chief Executive Officer and staff of the Board of Trustees of the Fund with the possibility of absorption of current staff by the new Fund, if the National Sports Fund is repealed. Also, the roles of the Chief Executive Officer and the Fund administrator of the Sports, Arts and Social Development Fund are clearly defined.
4. In operationalizing the establishment of sports academies in every Constituency, the Ministry of Sports, Culture and Heritage should place focus on the development of soft skills, for instance, training of coaches or trainers and nurturing of talents to impact the youth besides construction of facilities.
5. The Ministry of Sports, Culture and Heritage in collaboration with the Ministry of Education should enhance sports facilities in colleges and schools, as an extension of sports facilities for efficient and effective utilization of resources as well as a step towards a multi-sectoral concept involving all relevant stakeholders for ease of coordination and faster implementation.
6. The Cabinet Secretaries responsible for matters relating to sports and finance should provide clarity by way of a report to the House on the funds raised during the 2017/2018 financial year from betting and lotteries and whether these funds were remitted to the National Sports Fund.

The Committee considered the draft report on the implementation status of the resolution on the establishment of sports academies in every constituency and operationalization of the Sports Act, 2013 and the National Sports Fund, but could not adopt the report due to lack of the requisite quorum for adoption.

MIN. NO.NA/COI/2019/49:

ADJOURNMENT

There being no other business, the meeting was adjourned at twelve minutes to one o'clock.

Signed: , \_\_\_\_\_ Date: 25/04/2019,  
(Chairperson)



**MINUTES OF THE 10<sup>TH</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION  
HELD ON TUESDAY 5<sup>TH</sup> MARCH, 2019, IN THE COMMITTEE ROOM 12, NEW  
WING, MAIN PARLIAMENT BUILDINGS, AT 12.00 PM.**

**PRESENT**

- |  |   |                         |
|--|---|-------------------------|
| 1. The Hon. Moitalel Ole Kenta, MP           | - | <b>Chairperson</b>      |
| 2. The Hon. Godfrey Osotsi, MP               | - | <b>Vice Chairperson</b> |
| 3. The Hon. Alois Lentoimaga, MP             |   |                         |
| 4. The Hon. Joseph Wathigo Manje, MP         |   |                         |
| 5. The Hon. Richard Onyonka, MP              |   |                         |
| 6. The Hon. Onesmas Kimani Ngunjiri, MP      |   |                         |
| 7. The Hon. Joshua Mbithi Mwalyo, MP         |   |                         |
| 8. The Hon. Paul Odalo Mak'Ojuando Abuor, MP |   |                         |
| 9. The Hon. Michael Kingi, MP                |   |                         |

**APOLOGIES**

1. The Hon. (Dr.) James Kipkosgei Murgor, MP
2. The Hon. Paul Simba Arati, MP
3. The Hon. Maj. (Rtd) John Waluke Koyi, MP
4. The Hon. Johnson Many Naicca, MP
5. The Hon. George Theuri, MP
6. The Hon. Francis Munyua Waititu, MP
7. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
8. The Hon. Jared Okelo, MP
9. The Hon. Hassan Oda Hulufu, MP
10. The Hon. Generali Nixon Kiprotich Korir, MP
11. The Hon. Silvanus Osoro, MP
12. The Hon. Charles Ngusya Nguna, MP
13. The Hon. Owen Yaa Baya, MP
14. The Hon. Nelson Koech, MP

**IN-ATTENDANCE**

**NATIONAL ASSEMBLY**

- |                      |   |                  |
|----------------------|---|------------------|
| 1. Mr James Muguna   | - | Research Officer |
| 2. Mr Moses Kariuki  | - | Sergeant-at-arms |
| 3. Ms. Jane Serem    | - | Audio Officer    |
| 4. Mr Samuel Sunkuli | - | Intern-research  |

**MIN. NO.NA/COI/2019/43:**

**PRELIMINARIES**

The Chairperson called the meeting to order at fifteen minutes past twelve o'clock. Thereafter a prayer was said.

MIN. NO.NA/COI/2019/44:

**CONSIDERATION OF THE DRAFT REPORT ON THE IMPLEMENTATION STATUS OF RESOLUTION ON THE ESTABLISHMENT OF SPORTS ACADEMIES IN EVERY CONSTITUENCY AND OPERATIONALIZATION OF THE SPORT ACT, 2013 AND THE NATIONAL SPORTS FUND.**

The Committee was taken through the report on the implementation of the status of resolution on the establishment of sports academies in every constituency and operationalization of the Sport Act, 2013 and the National Sports Fund.

On the implementation status of the resolution on the establishment of sports academies in every constituency, the Committee observed THAT:-

- i. It is apparent that training has not been handled consistently and efficiently at the grassroots level.
- ii. The establishment of the Sports Academies may face challenges of viability considering that the Government has failed to implement its planned five (5) National Stadia in the Country.
- iii. Engaging with local leaders and other stakeholders will increase visibility and uptake of the proposed project.
- iv. There is need to reduce timelines for developing soft skills to the first year of the program.
- v. There is need for the Ministry of Sports, Culture and Heritage to identify personnel with skills required as well as establish a framework between the source of funding and expenditure.
- vi. The current number of activities in the stadia are few and conversely expensive and therefore, an increase in sports activities in each stadium would make it a more cost-efficient facility.
- vii. The establishment of Sports Academies may face possible funding challenges in light of the proposed amendments to the Sports Act to repeal the National Sports Fund. In effect, the funding available for development of sports from the Sports, Arts and Social Development Fund will be reduced to no more than thirty-five percent of the proceeds of that Fund.
- viii. The Constituency Development Fund Committees would play a key role in the establishment of the Sports academies at the Constituency level.

### Committee Recommendations

On Implementation Status of the Resolution on the establishment of sports academies in every constituency, the Committee recommends THAT:-

- i. The Ministry of Sports, Culture and Heritage focus on the development of soft skills. For instance, training of coaches or trainers and nurturing of talents to impact the youth besides construction of facilities.
- ii. The Ministry of Sports, Culture and Heritage in collaboration with the Ministry of Education enhances sports facilities in colleges and schools, as an extension of sports facilities for efficiency and effective utilization of resources as well as a step towards a multi-sectoral concept involving all relevant stakeholder for ease of coordination and faster implementation.
- iii. The Ministry of Sports, Culture and Heritage develops opportunities for the development of talents and professionals starting at a young age.
- iv. A specific sports discipline should not be limited to a particular constituency or region.
- v. The National Sports Fund funds sports academies.
- vi. The Ministry of Sports, Culture and Heritage rationalizes the acreage of land required for the development of academies to at least five acres.
- vii. The Ministry of Sports, Culture and Heritage seeks to make collaborations with the Constituency Development Fund Committees for ease of establishment of the Sports Academies at the Constituency level and any necessary legislative or policy changes to effect this be proposed by the Ministry.

MIN. NO.NA/COI/2019/45:

ANY OTHER BUSINESS

The Committee resolved to invite the Governor, Central Bank of Kenya, to consider operationalization of the Finance Act, 2018, with specific focus on matters that fall under the purview of the Central Bank of Kenya, in particular Section 65 of the Act.

MIN. NO.NA/COI/2019/46:

ADJOURNMENT

There being no other business, the meeting was adjourned at 12.50 PM.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

25/04/2019.

(Chairperson)





**MINUTES OF THE 3<sup>RD</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 21<sup>ST</sup> FEBRUARY 2019, IN THE NEW MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS AT 12:30 PM**

**PRESENT**

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Johnson Many Naicca, MP
5. The Hon. Alois Musa Lentoimaga, MP
6. The Hon. Onesmas Kimani Ngunjiri, MP
7. The Hon. George Theuri, MP
8. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
9. The Hon. Charles Ngusya Nguna, MP
10. The Hon. Owen Yaa Baya, MP
11. The Hon. Michael Kingi, MP

**APOLOGIES**

1. The Hon. Richard Onyonka, MP
2. The Hon. Paul Simba Arati, MP
3. The Hon. Francis Munyua Waititu, MP
4. The Hon. Maj. (Rtd) John Waluke Koyi, MP
5. The Hon. Joseph Wathigo Manje, MP
6. The Hon. Nelson Koech, MP
7. The Hon. Joshua Mbithi Mwalyo, MP
8. The Hon. Hassan Oda Hulufo, MP
9. The Hon. Jared Okello, MP
10. The Hon. Silvanus Osoro, MP
11. The Hon. Generali Nixon Kiprotich Korir, MP
12. The Hon. Paul Odalo Abuor, MP

**IN-ATTENDANCE**

**THE NATIONAL ASSEMBLY**

1. Mr Abdirahman G. Hassan - Third Clerk Assistant
2. Mr James Muguna - Research Officer III
3. Mr Moses Kariuki - Serjeant at Arms



**MIN. NO.NA/COI/2019/12:**

**PRELIMINARIES**

The Chairperson called the meeting to order at thirty minutes past twelve o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by the Hon. (Dr.) Daniel Kamuren Tuitoek, MP and the Hon. Michael Kingi, MP, respectively.

**MIN. NO.NA/COI/2019/13:**

**CONFIRMATION OF MINUTES**

The Minutes of the 2<sup>nd</sup> Sitting held on Tuesday 19<sup>th</sup> February, 2019 were confirmed as a true record of the proceedings as proposed and seconded by the Hon. Godfrey Osotsi, MP, Vice-Chairperson, and the Hon. Charles Ngusya Nguna, MP, respectively.

**MIN. NO.NA/COI/2019/14:**

**MEETING WITH THE  
CHAIRPERSON, MULTI-AGENCY  
TASKFORCE**

The Committee was scheduled to meet with the Chairperson Multi-Agency Taskforce on Report on the crisis facing the sugar industry in the Kenya by the Departmental Committee on Agriculture, Livestock & Cooperatives. However, the Chairperson of the Taskforce did not appear before the Committee as scheduled nor communicate in writing on the same.

The Committee resolved to write to the Multi-Agency Taskforce about the persistent non-appearance, whether they are gazetted and that they make submissions to the Committee regarding the work they have done so far.

**MIN. NO.NA/COI/2019/15:**

**ANY OTHER BUSINESS**

**Study Visits**


The Committee noted the contents of a letter it received from the Ministry of Foreign Affairs requesting the Committee to reschedule the proposed study visit to Zambia to 3<sup>rd</sup> to 9<sup>th</sup> March, 2019 due to prior commitments. The Committee agreed on the dates suggested by the Ministry and nominated the following Members to be accompanied by one staff to undertake the visit: -

- |                                    |                                  |
|------------------------------------|----------------------------------|
| 1. Hon. Paul Simba Arati, MP       | 4. Hon. Charles Ngusya Nguna, MP |
| 2. Hon. Francis Munyua Waititu, MP | 5. Hon. Owen Yaa Baya, MP        |
| 3. Hon. Johnson Manya Naicca, MP   | 6. Hon. Nelson Koech, MP         |
|                                    | 7. Hon. Silvanus Osoro, MP       |

**MIN. NO.NA/COI/2019/16:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at one o'clock. The next meeting is scheduled for Tuesday 26<sup>th</sup> February 2019 at 11:00 am.

Sign.....  ..... Date **26/02/2019.**

(Chairperson)



**MINUTES OF THE 2<sup>ND</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON TUESDAY 19<sup>TH</sup> FEBRUARY 2019, IN THE COMMITTEE ROOM, 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:30 PM**

**PRESENT**

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Joseph Wathigo Manje, MP
4. The Hon. (Dr.) James Kipkosgei Murgor, MP
5. The Hon. Johnson Many Naicca, MP
6. The Hon. Alois Musa Lentoimaga, MP
7. The Hon. Nelson Koech, MP
8. The Hon. Onesmas Kimani Ngunjiri, MP
9. The Hon. Paul Odalo Abuor, MP
10. The Hon. Charles Ngusya Nguna, MP
11. The Hon. Owen Yaa Baya, MP
12. The Hon. Michael Kingi, MP

**APOLOGIES**

1. The Hon. Richard Onyonka, MP
2. The Hon. Paul Simba Arati, MP
3. The Hon. George Theuri, MP
4. The Hon. Francis Munyua Waititu, MP
5. The Hon. Maj. (Rtd) John Waluke Koyi, MP
6. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
7. The Hon. Joshua Mbithi Mwalyo, MP
8. The Hon. Hassan Oda Hulufu, MP
9. The Hon. Jared Okello, MP
10. The Hon. Silvanus Osoro, MP
11. The Hon. Generali Nixon Kiprotich Korir, MP

**IN-ATTENDANCE**

**THE NATIONAL ASSEMBLY**

1. Mr Abdirahman G. Hassan - Third Clerk Assistant
2. Ms Doreen Karani - Legal Counsel
3. Mr Collins Mahamba - Audio Officer
4. Mr Moses Kariuki - Serjeant at Arms





**MIN. NO.NA/COI/2019/05:**

**PRELIMINARIES**

The Chairperson called the meeting to order at half-past twelve o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by the Hon. Johnson Naicca, MP and the Hon. Godfrey Osotsi, MP, Vice-Chairperson, respectively.

**MIN. NO.NA/COI/2019/06:**

**CONFIRMATION OF MINUTES**

The Minutes of the 1<sup>st</sup> Sitting held on Thursday 14<sup>th</sup> February, 2019 were confirmed as a true record of the proceedings as proposed and seconded by the Hon. Michael Kingi, MP, and the Hon. Charles Nguna, MP, respectively.

**MIN.NO.NA/COI/2019/07:**

**MATTERS ARISING**

The proposed report writing retreat of the Committee scheduled from Thursday 28<sup>th</sup> February to 3<sup>rd</sup> March 2019 was erroneously missing from the records of the minutes of the 1st Sitting.

**MIN.NO.NA/COI/2019/08:**

**COMMITTEE PROPOSED SCHEDULE OF  
ACTIVITIES AND PENDING BUSINESS  
BEFORE IT**

The Committee considered and adopted the proposed Committee activities schedule presented until June 2019.

After scrutinizing the list of pending business before it, the Committee noted the need to schedule meetings on Fridays, beginning from the week of 4<sup>th</sup> March, 2019, to conclude pending business before it and reduce its workload, giving priority to reports of the Public Accounts and the Public Investment Committees.

**MIN. NO.NA/COI/2019/09:**

**MEETING WITH THE CEO,  
NATIONAL SPORTS FUND**

The Committee was scheduled to meet with the Acting Chief Executive Officer (CEO), National Sports Fund on operationalization of the National Sports Fund.

The Committee was informed that the Principal Secretary for Sports, Arts & Heritage together with the Acting CEO of the National Sports Fund were appearing before the Departmental Committee on Sports, Culture & Tourism that was considering the Budget Policy Statement and an amendment to the Sports Act.

However, the Vice Chairperson clarified that he received a call from the said CEO who informed him that the Principal Secretary had expressed concerns with the CEO of the National Sports Fund appearing before the Committee on Implementation. The Acting CEO did not appear before the Committee as scheduled nor communicate in writing on the same.





There is currently, the Sports (Amendment) Bill, No. 25 of 2018, that seeks to *inter alia*, repeal the National Sports Fund as established under the Sports Act. If enacted, the amendment will address the apparent legal challenges of having different funds that serve similar purpose.

The Committee also noted that the said amendments to the Sports Act came much later, after the Committee on Implementation has started the process of implementation of the Sports Act, hence the need to conclude its report post haste.

**MIN. NO.NA/COI/2019/10:**

**ANY OTHER BUSINESS**

**Sharing of Venues**

The Committee, noting the inadequate venues for meetings, reiterated that there was need to ensure that committees of the House strictly work within their allotted time to avoid inconveniencing other committees.

**MIN. NO.NA/COI/2019/11:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at eleven minutes past one o'clock. The next meeting is scheduled for Thursday 21<sup>st</sup> February 2019 at 12:00 pm.

Sign...  ..... Date 21/2/2019.  
(Chairperson)



**MINUTES OF THE 66<sup>TH</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 11<sup>TH</sup> OCTOBER, 2018, AT 5<sup>TH</sup> FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.30 AM.**

**PRESENT**

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Paul Simba Arati, MP
4. The Hon. Alois Musa Lentoimaga, MP
5. The Hon. Francis Munyua Waititu, MP
6. The Hon. Onesmas Kimani Ngunjiri, MP
7. The Hon. Johnson Many Naicca, MP
8. The Hon. Richard Onyonka, MP
9. The Hon. (Dr.) James Kipkosgei Murgor, MP
10. The Hon. Joseph Wathigo Manje, MP
11. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
12. The Hon. Jared Okelo, MP
13. The Hon. Michael Kingi, MP
14. The Hon. Joshua Mbithi Mwalyo, MP

**APOLOGIES**

1. The Hon. Maj. (Rtd) John Waluke Koyi, MP
2. The Hon. George Theuri, MP
3. The Hon. Hassan Oda Hulufu, MP
4. The Hon. Silvanus Osoro, MP
5. The Hon. Generali Nixon Kiprotich Korir, MP
6. The Hon. Owen Yaa Baya, MP
7. The Hon. Nelson Koech, MP
8. The Hon. Charles Ngusya Nguna, MP
9. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

**IN-ATTENDANCE**

**THE MINISTRY OF SPORTS, CULTURE AND HERITAGE**

1. Amb. Peter Kirimi Kaberia - Principal Secretary, Sports Development
2. Mr. Mark Wambugu - Acting Chief Executive Officer, National Sports Fund
3. Mr. Peter Ngantu - Assistant Secretary Administrative
4. Mr. Peter K. Mbugwa - Personal Assistant to Principal Secretary, Sports Development

**THE NATIONAL ASSEMBLY**

1. Mr. Abdirahman Gele Hassan - Clerk Assistant III
2. Ms. Doreen Karani Nkatha - Legal Counsel

- |                     |   |                      |
|---------------------|---|----------------------|
| 3. Mr. Eugene Apaa  | - | Research Officer III |
| 4. Ms. Zeinab Wario | - | Serjeant-at-arms     |
| 5. Mr. John N'ganga | - | Audio Officer        |

**MIN. NO.COI/338/2018: PRELIMINARIES**

The Chairperson called the meeting to order at forty-five minutes past ten o'clock followed by a word of prayer by the Hon. (Dr.) James Murgor, MP. Self-introductions were made thereafter. The agenda of the day was adopted having been proposed and seconded by the Hon. (Dr.) James Murgor, MP and the Hon. Johnson Naicca, MP, respectively. The Chairperson informed the witnesses the agenda of the meeting and the mandate of the Committee which was to implement resolutions and reports adopted by the House in order to ensure that the House does not act in vain.

The Principal Secretary gave apology on behalf of the Cabinet Secretary indicating that the CS was attending a Cabinet meeting.

**MIN. NO.COI/339/2018: CONFIRMATION OF MINUTES**

The agenda item was deferred.

**MIN. NO.COI/340/2018: MEETING WITH THE MINISTRY OF SPORTS, CULTURE AND HERITAGE**

The Principal Secretary for Sports Development, Ministry of Sports, Culture and Heritage, Amb. Peter Kirimi Kaberia, accompanied by Mr. Mark Wambugu, Acting Chief Executive Officer, National Sports Fund; Mr. Peter Ngantu, Assistant Secretary Administrative and Mr. Peter K. Mbugua, Personal Assistant to Principal Secretary, Sports Development appeared before the Committee and informed them as follows: -

**MOTION ON ESTABLISHMENT OF SPORTS ACADEMIES IN EVERY CONSTITUENCY**

The Ministry informed the Members that a committee on establishment of the Constituency Sports Academies has been formed, whose Terms of Reference are as follows: -

1. Review literature on the existing policy documents including the Sports Act 2013, Vision 2030. MTPII, the Constitution of Kenya 2010 and other relevant documents;
2. Propose a framework for setting up the 290 Constituency Sports Academies;
3. Establish a draft cost of the implementation of the 290 Constituency Sports Academies;
4. Prepare and hand in a comprehensive report to the Appointing Authority.

The Report on establishment of Sports Academies in every Constituency, to be handed in to the appointing Authority, has been necessitated by the motion by Hon.

Godfrey Osotsi, MP, which requires the Government through the Ministry of Sports, Culture and Heritage to establish a Sports Academy in every Constituency.

This is in light of the recognised socio-economic benefits of sports with great and positive impacts on the economic, health, social and cultural on individuals, community and wider society.

In addition, sports can be a major source of employment and a foreign exchange earner for Kenya. It is noted that there is inadequate investment, lack of scouting and nurturing of talent in Kenya.

The Constituency Sports Academies will help identify, nurture and develop talent. Therefore there is need to come up with a framework of systems and structures upon which this undertaking will be anchored.

The Kenya Academy of Sports is the institution best placed to carry out this mandate since section 33(4) of the Sports Act provides that the function of the Academy shall be among other things to establish and manage sports training academies.

The proposed structure for implementation of the establishment of sports academies in the country shall be in four (4) levels namely: Constituency level (290); Regional level (10); National level (4, Nairobi, Mombasa, Kisumu and Eldoret) and High Performance Centre – Nairobi

Constituency Sports Academies shall be the entry point and main feeder of athletes to the mainstream of the sports academy structures. The functions of the Constituency Sports Academy shall include; to scout and recruit talented athletes at the constituency level; create and operate a Constituency database of talented athletes; provide facilities for training at the Constituency level; provide opportunities for athletes to progress from the constituency level to the regional academy level; and mainstream professional level of training in sports development through well motivated staff.

The Regional Sports Academies shall enroll athletes from the Constituency Sports Academies through a competitive process guided by the principles and values of meritocracy and transparency. The functions of the Regional Sports Academies shall include: to admit athletes from Constituency Sports Academies; operate a database of athletes at the Regional Level Sports Academy; provide exposure of athletes through tournament competitions; provide highly specialized training of sports through professional sports personnel, i.e. coaches, instructors; organize regional level sports activities for exposure of Constituency Level Academies; be the main feeder to the National level sports academy; and capacity build sports technical personnel. The regional sports academies shall be set up in the counties.



National Sports Academies (NSAs) shall be in four (4) major towns in Kenya. The NSAs shall have a minimum of at least 10 disciplines as per the guidance provided by the sports talent mapping feedback carried out by the academy every five (5) years. The functions of NSA shall include: be a feeder to the High performance Centre; liaise with Regional Constituency Sports Academies and key stakeholders; facilitate capacity building of sports technical personnel; organize the functions of the Regional academies through monitoring and evaluation of programmes and implementation; co-ordinate research in sports in liaison with Kenya Academy of Sports, head office; and ensure quality assurance of private and public sports academies within their jurisdiction.

The proposed constituency sports academy could have the basic sports facilities as follows; Land (10) acres; football/athletic track; administrative facilities i.e. classes, offices, library/resource centre; sports facilities i.e. volleyball, basketball pitches, changing rooms, swimming pool, multi-purpose gym; accommodation facilities; multipurpose indoor games hall; sports equipment; and Infrastructure – water, electricity, accessible roads. The meeting was informed that the Committee on establishment of the Constituency Sports Academies noted that the immediate programs and activities to be implemented are: curriculum competition; talent mapping and survey; public participation; training of instructors/coaches; and a pilot of the curriculum. The implementation of the 290 Constituency Sports Academies shall be staggered over 4 years.

The Ministry of Sports, Culture and Heritage had completed construction of the Kenya Academy of Sports and invited the Committee to make a tour of the facilities at their convenience. The Ministry faced challenges due to limitation of funding but have completed the first phase of the project which was fully funded by the Government. The State Department for Sports Development is liaising with the National Treasury to get money upfront instead of quarterly basis to avoid installing of the project.

The Ministry indicated the need to identify and refine talents at early stages and set standards from constituency level. The Ministry noted the need to match local activities and needs to developing academies of sports in regions. For example, Rift Valley- Athletics. The motion was to ensure that the youth do engage in sporting activities instead of idling around and engaging in illegal activities.

#### The Committee

1. noted that trainings has not been handled properly at the grassroots level and the Ministry should start the program from constituency level instead of counties.
2. queried the practicability and viability aspect of the project considering that the Government has failed to implement its planned establishment of five (5) National Stadia in the country.

3. urged the Ministry to focus on development of soft skills like trainings of coaches and nurturing of talents to impact the youth heavily instead of merely building facilities. The Ministry should also enhance facilities in colleges and schools, create extension of those facilities for efficiency and effective utilization of resources and work on a multi-sectoral concept involving all relevant stakeholder for ease of coordination and faster implementation. The Ministry of Sports to develop talents and professionals at a tender age and should not limit a specific discipline to a particular constituency or region.
4. urged the Ministry to liaise with and engage Members of Parliament to ensure that money is allocated to Constituency Development Fund to help in development of academies of sports and bring in certain percentage to make the project feasible. The Ministry promised to engage Members of Parliament representing constituencies and local leaders in order to agree on modalities of consolidating funds.
5. proposed to the Ministry to rationalize the acres of land required for development of academies and to consider reducing the land required to 5 acres.
6. noted the need to reduce timelines for developing soft skills to the first year of the program.
7. urged the Ministry to identify personnel and skills needed and establish framework between source of funding and expenditure.
8. urged the Ministry to increase the number of activities in stadia and to have an affordable resourced facility

The Ministry reported that it is also working with the Council of Governors in order to address priorities on need basis and nurturing games that require less space.

The Ministry has rolled out feasibility studies, considered availability of land and identified gaps to address shortfalls that delay implementation.

The National Sports Fund is now operational and received better funding in 2018/2019 financial year hence currently in a better financial position.

The Ministry is negotiating with the National Treasury to provide the money as a development grant and provide further additional funding.

The Ministry was directed to share with the Committee the proposed sporting activities to be established in various constituencies in due course.

#### **OPERATIONALIZATION OF THE NATIONAL LOTTERY**

The Lottery is currently facing challenges in terms of quorum but the federation has already sent their representative and the remaining Board Members will be gazetted in due course.

### **ACCESS BY THE NATIONAL SPORTS FUND TO THE 35% GAMING AND BETTING TAXES**

The Regulations that were gazetted recently indicated that the Ministry of Sports, Culture and Heritage would receive at least 60% of the monies collected through gaming but there are other Ministries.

The Ministry of Sports, Culture and Heritage has scheduled a joint sectoral meeting with the National Treasury and Planning, the Ministry of Education, the Ministry of Health and the Ministry of Environment on 11<sup>th</sup> October, 2018 to discuss criteria of sharing monies amongst the relevant Ministries, the amount of money received and the process of accessing monies collected since January, 2018.

The Ministry of Sports, Culture and Heritage is the administrator of the Fund, in-charge of monies received and collected through gambling hence convened the said meeting and the relevant stakeholders confirmed their attendance.

The Sports Act clearly stipulated that the money collected would be domiciled at the National Sports Fund and there was need to ensure that betting taxes are utilized significantly.

The Ministry of Sports, Culture and Heritage was requested by the Committee to report progress and outcome of the planned meeting with the relevant Ministries in due course.

### **RECRUITMENT OF STAFF TO OPERATIONALIZE NATIONAL SPORT'S FUND MANDATE**

The Inspectorate of State Corporations has approved the organizational structure of the National Sports Fund while the Salaries and Remuneration Commission has accepted the staff establishment. The process of recruiting a substantive Chief Executive Officer and Directors for the National Sports Fund is ongoing.

The Board will have a meeting in the coming week on recruitment of a substantive Chief Executive Officer for the Fund.

### **APPOINTMENT OF BOARD OF TRUSTEES FOR THE BOARD OF SPORTS KENYA**

The Chairperson of the Board was appointed while the remaining Board Members would be appointed in due course. The Principal Secretary could not however give a timeframe on recruitment of the other Board Members since he was not the appointing Authority.



**MINUTES OF THE 63<sup>RD</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON TUESDAY 2<sup>ND</sup> OCTOBER, 2018, IN THE BOARDROOM ON 2<sup>ND</sup> FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 12.00 PM.**

**PRESENT**

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Joseph Wathigo Manje, MP
4. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
5. The Hon. Michael Kingi, MP
6. The Hon. Charles Ngusya Nguna, MP
7. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
8. The Hon. (Dr.) James Kipkosgei Murgor, MP
9. The Hon. Hassan Oda Hulufu, MP
10. The Hon. Joshua Mbithi Mwalyo, MP

**APOLOGIES**

1. The Hon. Nelson Koech, MP
2. The Hon. Francis Munyua Waititu, MP
3. The Hon. Alois Musa Lentoimaga, MP

**ABSENT**

1. The Hon. Onesmas Kimani Ngunjiri, MP
2. The Hon. Johnson Manyua Naicca, MP
3. The Hon. Owen Yaa Baya, MP
4. The Hon. Jared Okelo, MP
5. The Hon. Richard Onyonka, MP
6. The Hon. Generali Nixon Kiprotich Korir, MP
7. The Hon. Silvanus Osoro, MP
8. The Hon. Paul Simba Arati, MP
9. The Hon. Maj. (Rtd) John Waluke Koyi, MP
10. The Hon. George Theuri, MP

**IN-ATTENDANCE**

**THE NATIONAL ASSEMBLY**

1. Ms Rose M. Wanjohi - First Clerk Assistant
2. Mr Abdirahman Gele Hassan - Clerk Assistant III
3. Mr James Muguna - Research Officer III
4. Mr Moses Kariuki - Sergeant-at-arms
5. Ms. Jane Serem - Audio Officer

**MIN. NO. COI/324/2018:****PRELIMINARIES**

The Chairperson called the meeting to order at fifteen minutes past twelve o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by Hon. Godfrey Osotsi, MP, Vice-Chairperson and Hon (Dr.) Daniel Tuitoek, MP respectively.

**MIN. NO. COI/325/2018:****CONFIRMATION OF MINUTES**

The Minutes of the 51<sup>st</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. Godfrey Osotsi, MP and The Hon. (Dr) Daniel Tuitoek MP respectively.

The Minutes of the 52<sup>nd</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. Joshua Mwalyo, MP and The Hon. Joseph Manje, MP respectively.

The Minutes of the 53<sup>rd</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. (Dr) Daniel Tuitoek, MP and The Hon. Joshua Mwalyo, MP respectively.

The Minutes of the 54<sup>th</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. Joshua Mwalyo, MP and The Hon. (Dr) Daniel Tuitoek, MP respectively.

The Minutes of the 55<sup>th</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. Joseph Manje, MP and The Hon. (Dr) Daniel Tuitoek, MP respectively.

The Minutes of the 56<sup>th</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. Hassan Hulufu, MP and The Hon. Godfrey Osotsi, MP respectively.

The Minutes of the 57<sup>th</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. Michael Kingi, MP and The Hon. Joseph Manje, MP respectively.

The Minutes of the 58<sup>th</sup> Sitting were confirmed as a true record of the deliberations having been proposed and seconded by The Hon. (Dr) Daniel Tuitoek, MP and The Hon. Joshua Mwalyo, MP respectively.

**MIN.NO. COI/326/2018:    MATTERS ARISING**

In the 54<sup>th</sup> Sitting Hon. Joseph Manje, MP was inadvertently recorded as absent from the meeting

**MIN. NO. COI/327/2018: CONSIDERATION OF SUBMISSIONS FROM THE MINISTRY OF SPORTS, CULTURE AND HERITAGE**

The Committee deliberated on the submissions received from the Ministry of Sports, Culture and Heritage in particular

1. The resolution for the establishment of Sports Academies in every Constituency
2. The implementation of the Sports Act 2013 with the operationalization of Sports Kenya and the National Sports Fund

The Committee was informed that Sports Kenya is a successor of Sports Stadia Management Board and assumed all assets and liabilities of Sports Stadia Management Board. However land titles for Nyayo National Stadium and Moi International Sports Centre are yet to be transferred to Sports Kenya Management Board. Further, the term of office of Chairman of Sports Kenya was renewed in July 2018 but the other independent Directors expired on 17<sup>th</sup> April 2018 and 30<sup>th</sup> June, 2017 respectively thus affecting delivery of its mandate.

The Committee were informed that Sports Fund was in the process of operationalizing the "Michezo" National Lottery which required seed money. The Finance Act 2017 amended the Betting Lotteries and Gaming Act by providing that betting companies shall pay a uniform tax rate of 35% on Betting, Lottery, Gaming and Prize competition tax respectively. The Fund however is yet to receive the 35% tax imposed on betting companies by the Finance Act 2017 even though the tax to effect on 1<sup>st</sup> January 2018.

The challenges being faced include

1. Lack of seed capital to operationalize the National Lottery.
2. The terms of office for the independent Board of Trustees members have expired. The Fund needs to have independent Board of Trustees members in order to form Board Committees and operate at full capacity.
3. Absence of key staff to fully operationalize the Fund's mandate.
4. Insufficient funding for personal emoluments and other operational costs.

**Committee Observation**

The Committee observed that the 35% tax should be remitted to the Sports Fund as provided by the Finance Act 2017.

**Committee Recommendations**

The Committee recommends that

1. The Cabinet Secretary, Sports, Culture and Heritage appears before the Committee to confirm the implementation status of the Sports Act 2013 and the Sports Fund; the gazette of the Public Finance Management (Sports Regulations) and the staffing of Sports Kenya including the Board of Trustees.

**MIN.NO. COI/328/2018: SITE VISIT TO MUMIAS SUGAR COMPANY AND CHEMILIL SUGAR COMPANY**

During a site visit from 25<sup>th</sup> to 27<sup>th</sup> October, 2018, the Committee visited the sugar belt which included visits to Mumias Sugar Company and Chemilil Sugar Company as well as meetings with farmers' representatives and visits to nuclear farms in the area.

During the visit the Committee noted that some sugar companies had been licensed irregularly to operate in the area without having zones they have contracted farmers. This has led to poaching of cane contracted by public owned sugar millers in their zones. This in turn has caused the public owned sugar millers to have difficulties meeting their obligations including payment to farmers some of whose debts are over two years and to Kenya Power which recently disconnected power to Mumias Sugar Company. The farmers during the visits have requested that their debts be urgently settled as it has reduced their standards of living. Although zoning appears to work in some areas, say around Mumias Sugar Company, the same cannot be said of other areas the public sugar millers grappling with cane poaching and delayed payments to farmers.

The Committee noted the need to confirm the status of the Sugar regulations which should include stakeholders' views. There are divergent views on whether zoning should continue or not. However, it was noted that more consultations need to be done, before a decision can be arrived at.

On the matter of Kenya Power disconnecting power to Mumias Sugar Company, it was noted that KPLC had a contract with MSC on co-generation of the power that MSC generates, which however, has not been beneficial to MSC. The Committee also noted the need to revisit the matter of sugar development levy.

The Committee recommends that

The private owned sugar companies are invited on varying dates to apprise the Committee how they continue to operate without zoning and the impact it has had on the public sugar millers. The Companies include

1. Tues 16<sup>th</sup> October, 2018 – KIBOS and Sony Sugar Company
2. Thursday 18<sup>th</sup> October, 2018 Kwale International Sugar Company and Sukari Industries
3. Tuesday 23<sup>rd</sup> October, 2018, Western Kenya Sugar and Butali Sugar Company
4. Thursday 25<sup>th</sup> October, 2018, A sugar expert

MIN. NO.COI/329/2018:

ADJOURNMENT

There being no other business, the meeting was adjourned at thirty-five minutes past one o'clock.

Sign.....



Date.....

4/10/2018.

(Chairperson)



# ANNEXURES





REPUBLIC OF KENYA

Telegraphic Address  
"Bunge" Nairobi  
Telephone: +254 020 221291/ 2848000  
Fax: +254-020-243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)



OFFICE OF THE CLERK  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

When replying, please quote

THE NATIONAL ASSEMBLY

KNA/L&P/2018/RES. 14/ (028)

11<sup>th</sup> July 2018

Amb. Peter K. Kaberia, CBS  
The Principal Secretary  
State Department for Sports  
Ministry of Sports, Culture & Heritage  
Kencom House  
NAIROBI

Dear

RE: MOTION PASSED BY THE NATIONAL ASSEMBLY – ESTABLISHMENT  
OF SPORTS ACADEMIES IN EVERY CONSTITUENCY

---

On Wednesday, 4<sup>th</sup> July, 2018, the National Assembly passed a Motion sponsored by a Nominated Member, the Hon. Osotsi Godfrey, which urges the Government to establish sports academies in every Constituency.

Enclosed herewith is the Motion as passed by the House for your action.

Yours

JEREMIAH NDOMBI  
FOR: CLERK OF THE NATIONAL ASSEMBLY

Copies to: Dr. Joseph Kinyua, EGH  
Head of the Public Service  
State House  
NAIROBI

Mr. Rashid Echesa Mohammed  
Cabinet Secretary  
Ministry of Sports, Culture & Heritage  
Kencom House  
NAIROBI

Hon. Richard Moitalel Ole Kenta, MP  
Chairperson, Committee on Implementation  
National Assembly  
Parliament Buildings  
NAIROBI

A handwritten signature in dark ink, appearing to be 'R. Moitalel'.



REPUBLIC OF KENYA



TWELFTH PARLIAMENT (SECOND SESSION)

THE NATIONAL ASSEMBLY

MOTION AS PASSED

Motion Passed on: Wednesday, 4<sup>th</sup> July, 2018

ESTABLISHMENT OF SPORTS ACADEMIES IN EVERY CONSTITUENCY

THAT, aware of the socio-economic benefits of sports; recognizing that sports can, and does, make great and positive economic, health, and social and cultural impacts on individuals, communities and wider society; further aware that sports can be a major source of employment and foreign exchange earnings in the Kenya with potential to improve the country' economy on a large scale, if it well harnessed; deeply concerned that the standards of sports in Kenya in many disciplines remain low due to among other things, inadequate investment, scouting and nurturing of talent; cognizant that Section 33(4) of the Sports Act, 2013 establishes the Kenya Academy of Sports, and further Section 34(a) of the Act provides that the functions of the Academy shall be to among other things, establish and manage sports training academies; appreciating that Article 6(3) of the Constitution provides that a national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do having regard to the nature of the service, this House urges that the Government through the Ministry of Sports, Culture and Arts to establish sports academies in every Constituency.

Sponsor: THE HON. OSOTSI GODFREY, MP  
NOMINATED MEMBER



835

# REPUBLIC OF KENYA



① Discontinue  
7/12/19

## MINISTRY OF SPORTS, CULTURE AND HERITAGE STATE DEPARTMENT FOR SPORTS

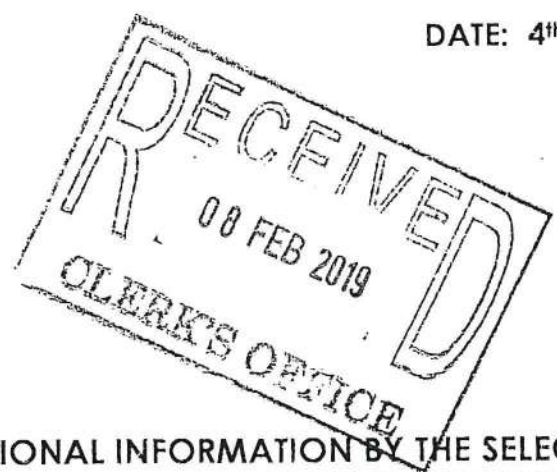
Telegrams: "HOME" Nairobi  
Tel. +254-020-250576  
When replying please quote:

KENCOM HOUSE  
P.O. Box 30478-00100  
NAIROBI

REF: SDSD 1/90 VOL. 1 (20)

DATE: 4<sup>th</sup> February, 2019

The Clerk,  
National Assembly  
Parliament Buildings  
P. O. Box 41842-00100  
NAIROBI



② Rost  
pls deep  
FA  
11/2/19

**RE: REQUEST FOR ADDITIONAL INFORMATION BY THE SELECT COMMITTEE ON IMPLEMENTATION REGARDING HOUSE RESOLUTIONS UNDER THE PURVIEW OF MINISTRY OF SPORTS, CULTURE AND HERITAGE**

The Ministry is in receipt of your letter Ref. NA/DCS/COI/2019 (183) dated 21<sup>st</sup> January, 2019 regarding the above referenced matter.

In this respect, we wish to inform the committee that the Ministry together with other Key stake holding Ministries are in the process of operationalizing the Sports, Culture and Social Fund with the first formal board meeting set to take place shortly.

The Ministry remains committed to appraise the Committee on the progress regarding matter as and when called upon to do so.

**Peter Ng'entu**  
FOR: PRINCIPAL SECRETARY





**SPECIAL ISSUE**

3099

Kenya Gazette Supplement No. 133

25th October, 2018

(Legislative Supplement No. 64)

LEGAL NOTICE NO. 194

THE PUBLIC FINANCE MANAGEMENT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24 (4) of the Public Finance Management Act, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (SPORTS, ARTS AND SOCIAL DEVELOPMENT FUND) REGULATIONS, 2018

PART I-PRELIMINARY

1. These Regulations may be cited as the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018.

Citation.

2. In these Regulations, unless the context otherwise requires—

Interpretation.

“Administrator of the Fund” means a person designated as such under regulation 11;

“Board” means the Sports, Arts and Social Development Fund Oversight Board constituted in accordance with regulation 8;

“Fund” means the Sports, Arts and Social Development Fund established under regulation 3; and

“Government implementing agency” means a government agency established by legislation and whose mandate extends to the promotion of the objects and purposes of this Fund.

PART II —ESTABLISHMENT OF THE FUND

3. There is established a Fund to be known as the Sports, Arts and Social Development Fund.

Establishment of the Fund.

4. (1) The Fund shall consist of—

Sources of the Fund.  
Cap. 131

(a) all the proceeds required to be paid into the Fund under section 69A of the Betting, Lotteries and Gaming Act;

(b) all the proceeds required to be paid into the Fund under section 35 (5A) of the Income Tax Act;

Cap. 470.

(c) all the proceeds required to be paid into the Fund under section 36 (5) of the Excise Duty Act, 2015;

(d) such moneys as may be appropriated by the National Assembly;

(e) grants and donations;

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- (f) income generated from the proceeds of the Fund; and
- (g) any moneys accruing to or received by the Fund from any other source.

(2) The proceeds of the Fund shall be apportioned as follows—

- (a) an amount not exceeding sixty percent to social development including universal health care;
- (b) an amount not exceeding thirty five percent to the promotion and development of sports;
- (c) an amount not exceeding twenty percent to the promotion and development of arts; and
- (d) an amount not exceeding five percent to government strategic interventions whose expenditure shall be subject to approval by Cabinet.

(3) The Cabinet Secretary may, on the advice of the Board, vary the apportionments specified in paragraph (2) of this regulation.

5. (1) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.

Expenditure on the Fund.

(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the Administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate.

(3) Any revision of the approved annual work programmes, and of any cost estimate, shall be referred to the Board for approval.

6. The initial capital of the Fund shall be twenty million Shillings appropriated by Parliament in the financial year 2018/2019.

Capital of the Fund.

7. (1) The object and purpose of the Fund is to provide funding to support the development and promotion of sports and arts and the promotion of social development including universal health care.

Objects and purpose of the Fund.

(2) Without prejudice to the generality of paragraph (1), the Fund shall provide for—

- (a) promote social development including universal health care;
- (b) financing the development of sports and recreation facilities including stadia, gymnasiums, buildings, tracks;
- (c) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions;
- (d) facilitation for the acquisition and provision of equipment to sports and recreation facilities;
- (e) support for the identification, nurturing and development of talent in sports and arts;

- (f) facilitation of training and capacity building programmes for persons involved in sports and recreation, creative arts, artistic production, contemporary and cultural practitioners;
- (g) facilitation for the identification, development and capacity building of technical personnel and sports support personnel involved in sports and recreation;
- (h) support for the promotion and development of artistic production of contemporary or cultural goods and services;
- (i) facilitation for the marketing and promotion of artistic productions and contemporary or cultural goods and services;
- (j) support linkages with domestic, regional and international markets for sports, artistic productions and contemporary or cultural goods and services;
- (k) facilitation for exhibition and promotion of contemporary or cultural artistic production of goods and services for national identity and pride;
- (l) financing the acquisition, development and preservation of, among others, heritage sites, cultural centres, national monuments, tangible and intangible heritage and culture and heritage equipment and tools; and
- (m) facilitate innovation, research and documentation in arts, culture and the creative industry, sports and social development.

#### PART III – MANAGEMENT OF THE FUND

8. (1) There is established a Board to be known as the Sports, Arts and Social Development Fund Oversight Board.

Establishment of the Sports, Arts and Social Development Fund Oversight Board.

- (2) The Board shall consist of—
- (a) the Principal Secretary for the time being responsible for matters relating to finance;
  - (b) the Principal Secretary for the time being responsible for matters relating to sports;
  - (c) the Principal Secretary for the time being responsible for matters relating to arts;
  - (d) the Principal Secretary for the time being responsible for matters relating to health

- (e) the Principal Secretary for the time being responsible for matters relating to education;
- (f) one person not being a public officer nominated by the Cabinet Secretary responsible for sports with competence in matters relating to sports;
- (g) one person not being a public officer nominated by the Cabinet Secretary responsible for health with competence in matters relating to health; and
- (h) one person not being a public officer nominated by the Cabinet Secretary with competence in matters relating to finance.

(3) The persons nominated under paragraph (2) (f), (g) and (h) shall be appointed by the Cabinet Secretary.

(4) The President shall appoint one of the members appointed under this regulation to be the Chairperson of the Board.

(5) In the absence of the Chairperson in any meeting of the Board, the members present shall elect one of the members under paragraph (2)(a) to (e) present to chair the meeting.

(6) The members under paragraph (2)(a) to (e) may attend in person or through a designated representative.

(7) The Board may, from time to time, co-opt other members as it may deem necessary, for the proper and efficient discharge of its oversight functions over the Fund.

(8) The quorum for the conduct of meetings of the Board shall be four members.

(9) The Board shall regulate its own procedure.

9. A person shall be eligible for appointment as a member of the Board under regulation 8(2) (a) and (e) if that person—

Qualifications of members of the Advisory Board.

- (a) holds a university degree from a recognized university in Kenya;
- (b) has knowledge and experience of not less than ten years in any of the following fields—
  - (i) sports management;
  - (ii) administration;
  - (iii) finance;

- (iv) law;
- (v) accounting;
- (vi) Health; or
- (vii) economics; and

(c) meets the requirements of Chapter Six of the Constitution.

10. The Board shall—

Functions of the Board.

- (a) provide overall oversight of the Fund;
  - (b) approve the ceilings for funding under sports, arts and social development in each financial year;
  - (c) develop policy guidelines relating to disbursements by the Fund;
  - (d) prescribe other guidelines for the administration of the Fund;
  - (e) review the estimates of annual revenue and expenditure of the Fund and recommend them to the Cabinet Secretary responsible for Sports for approval and submission to the Cabinet Secretary responsible for finance;
  - (f) review guidelines on the fund priorities and criteria for allocation and disbursement of funds to implementing agencies in furtherance of the objects of the Fund;
  - (g) monitor and evaluate the programmes and activities under the Fund;
  - (h) facilitate and develop sectoral linkages to the Fund;
  - (i) review the performance of the Fund and make recommendations on the operations of the Fund to the administrator of the Fund;
  - (j) review and approve the financial statements of the Fund before submission to the Auditor General;
  - (k) review policy on the management of assets, equipment and all properties under the Fund;
  - (l) receive reports on the performance of the Fund; and
  - (m) any other activity that in the opinion of the Board, will promote and facilitate the realization of the objects and purposes of the Fund.
- (2) The Oversight Board shall prepare and submit a quarterly report to the Cabinet Secretary responsible for finance on the

performance of the Fund with copies to the Cabinet Secretaries responsible for sports, arts, health and education.

(3) The Cabinet Secretary responsible for finance shall prepare and submit a quarterly report to the Cabinet on the performance of the Fund.

11. (1) The administrator of the Fund shall be the accounting officer responsible for matters relating to sports or any other person designated by the Cabinet Secretary, in writing, for that purpose.

Administration of  
the Fund.

(2) The Administrator of the Fund shall—

- (a) open and operate a separate bank account or accounts at the Central Bank of Kenya or a bank to be approved by the Board and the National Treasury in accordance with the Act;
- (b) supervise and control the administration of the Fund;
- (c) consult with the Board on matters relating to the administration of the Fund;
- (d) cause to be kept proper books of accounts and other books and records relating to all activities and undertakings financed from the Fund;
- (e) prepare, sign and transmit to the Auditor-General, upon the approval by the Board, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and submit a copy to the National Treasury and the statements shall be prepared in such a manner as the Accounting Standards Board shall prescribe in accordance with the provisions of the Public Finance Management Act and Public Audit Act;
- (f) furnish additional information to the Auditor General as he or she may consider to be proper and sufficient for the purpose of examination and audit by the Auditor-General in accordance with the provisions of the Public Audit Act, 2015;
- (g) prepare a quarterly report on financial and non-financial activities of the Fund in accordance with the provisions of the Public Finance Management Act, 2012, and as may be prescribed from time to time by the Accounting Standards Board and submit the report to the Board for approval and subsequent transmission to the National Treasury and the Controller of Budget; and
- (h) be the custodian of all the assets, equipment and properties under the Fund.

No. 18 of 2012  
No. 34 of 2015

No. 34 of 2015.

No. 18 of 2012

(3) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the quarter concerned.

12. (1) There shall be a secretariat of the Fund which shall consist of a Chief Executive Officer and such other staff as are necessary for the proper discharge of the functions of the Fund.

Secretariat.

(2) The Chief Executive Officer and other staff of the secretariat shall be appointed competitively in consultation with the Public Service Commission.

(3) The Chief Executive Officer shall, subject to the direction of the Administrator, be responsible for the day-to-day running of the affairs of the Fund.

(4) Parliament shall appropriate administration expenses not exceeding three percent of the annual budgetary allocations of the Fund.

13. A sports organization, professional sports person or government implementing agency shall be eligible to apply for funding from the Fund if—

Funding eligibility criteria.

(a) in the case of a sports organization if the organization—

(i) is registered under the Sports Act, 2013;

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(ii) has an annual work programme aligned to the strategic plan of the organizations and the medium term plan approved by the governing body of the sports organization;

(iii) has, in the case of an infrastructure development project, prepared project designs, plans and bills of quantities, approved by the governing body and the requisite regulatory approvals from relevant government institutions; and

(iv) meets any other criteria prescribed by the Board.

(b) for a professional sportsperson, he or she —

(i) has a valid license issued under the Sports Act, 2013;

(ii) has met the criteria for participation for competition in the respective sport, nationally, regionally and internationally; and

(iii) meets any other criteria prescribed by the Board.

- (c) for a government implementing agency the agency—
- (i) is established by legislation;
  - (ii) has an annual work programme aligned to the strategic plan of the agency and the medium term plan approved by the governing body of the government implementing agency;
  - (iii) has, in the case of an infrastructure development project, prepared project designs, plans and bills of quantities, approved by the governing body and the requisite regulatory approvals from relevant government institutions; and
  - (iv) meets any other criteria prescribed by the Board.

14. (1) The Administrator of the Fund shall by the 30<sup>th</sup> August of each year issue a budget circular for the Fund to the eligible persons indicating—

Application for funding.

- (a) the ceilings for funding under sports, arts and social development;
- (b) priority programmes, projects and activities to be funded in that financial year; and
- (c) any other information that the Board may consider necessary.

(2) A person who wishes to receive funding from the Fund and meets the criteria set out under regulation 13 shall at least six months before the commencement of a financial year apply to the Administrator of the Fund in such a manner as may be prescribed by the Board.

(3) An application for funding under paragraph (2) shall be accompanied by—

- (a) in case of a sports organisation—
  - (i) the certificate of registration issued under the Sports Act, 2013;
  - (ii) the minutes of a properly constituted meeting of the governing body of the organization containing the resolution to apply for funding from the Fund;
  - (iii) an annual work programme aligned to the strategic plan of the organizations and the medium term plan approved by the governing body of the sports organization;

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- (iv) the project designs, plans and bills of quantities, approved by the governing body and the requisite regulatory approvals from relevant government institutions, where applicable;
  - (v) a statutory declaration of programmes funded through other sources;
  - (vi) the details and signatories of the bank account in the name of the organization where the funds shall be channeled; and
  - (vii) any other information as may be required by the Board.
- (b) in the case of a professional sportsperson —
- (i) a valid licence issued under the Sports Act, 2013;
  - (ii) proof that he or she has met the criteria for participation for competition in the respective sport, nationally, regionally and internationally;
  - (iii) a statutory declaration of his or her programmes funded through other sources;
  - (iv) a written confirmation from the accounting officer responsible for matters relating to sports that the professional sportsperson has met the criteria set under paragraph (ii); and
  - (v) the details and signatories of the bank account where the funds shall be channeled;
- (c) in the case of a government implementing agency—
- (i) a copy of the legislation establishing the agency;
  - (ii) an annual work programme aligned to the strategic plan of the agency and the medium term plan approved by the governing body of the government implementing body;
  - (iii) the minutes of a properly constituted meeting of the governing body of the government implementing agency containing the resolution to apply for funding from the Fund;
  - (iv) the project designs, plans and bills of quantities, approved by the governing body and the requisite regulatory approvals from relevant government institutions, where applicable;

- (v) a statutory declaration of programmes funded through other sources;
- (vi) the details and signatories of the bank account in the name of the agency where the funds shall be channeled; and
- (vii) any other information as may be required by the Board.

15. (1) The funds under the Fund shall be disbursed under the following conditions—

Fund  
disbursements.

- (a) all disbursements from the Fund shall be approved and recorded in minutes of the Board;
  - (b) disbursements from the Fund shall be to support the objects and purpose of this Fund;
  - (c) transfers to defray the expenses in respect of the administration of the Fund shall be as approved by the Board for the respective financial year;
  - (d) the Board shall set out other conditions and requirements for release of funds, to ensure efficient and effective management of resources.
- (2) A recipient shall—
- (a) submit quarterly and annual progress reports of the programmes, projects and activities funded by the Fund; and
  - (b) allow staff of the secretariat to monitor and evaluate programmes, projects and activities funded by the Fund.
- (3) A recipient shall return any unutilized funds disbursed in accordance with paragraph (1) where—
- (a) the purpose for which the funds were disbursed was not undertaken; or
  - (b) the purpose for which the funds were disbursed was undertaken but the funds were not fully utilized; or
  - (c) savings are realized as a result of change in circumstances.
- (4) Unutilized funds returned under paragraph (2) shall be recorded as receipts of the Fund.
- (5) A recipient who fails to comply with paragraph (2) and (3) shall not be eligible for any subsequent disbursement until full compliance.

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|--|--|
| <p>16. The Administrator may, with the approval of the Board, invest any of the funds of the Fund which are not immediately required for its purposes in accordance with the provisions of the Public Finance Management Act, 2012.</p>  | <p>Investment of funds.<br/>No. 18 of 2012</p>               |
| <p>17. All receipts, earnings and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.</p>  | <p>Retention of receipts.</p>                                |
| <p>18. Subject to the provisions of the Act, existing government regulations and procedures shall apply in the administration of the Fund.</p>   | <p>Application of Government regulations and procedures.</p> |
| <p>19. The Administrator of the Fund shall prepare a work plan, projects and quarterly reports in respect of a financial year and in preparing the work plan, projects and quarterly reports and ensure the work plan, projects and quarterly reports-</p> <ul style="list-style-type: none"> <li>(a) contain information on the financial and non-financial performance of the Fund; and</li> <li>(b) are in a form that complies with the standards prescribed and published by the Accounting Standards Board from time to time.</li> </ul>   | <p>Preparation and submission of work plans, etc.</p>        |
| <p>20. The work plans, projects, procurement plans and quarterly reports shall be prepared by the administrator of the Fund before submission to the Board for approval.</p>   | <p>Approval of reports.</p>                                  |
| <p>21. (1) The administrator of the Fund shall prepare annual financial and non-financial reports in accordance with the provisions of the Public Finance Management Act, 2012 and as may be prescribed from time to time by the Accounting Standards Board.</p> <p>(2) In addition, the administrator of the Fund shall prepare an annual general performance report of the Fund to be submitted with the report under paragraph (1).</p> <p>(3) The annual financial and non-financial statements under paragraph (1) shall be approved by the Board and submitted to the Auditor General for audit within three months after the end of the financial year in accordance with the Public Audit Act, 2015 and a copy thereof submitted to the Cabinet Secretary responsible finance, Cabinet Secretary responsible for sports and arts and Cabinet Secretary responsible for health.</p> | <p>Annual reports.</p>                                       |
| <p>22. A person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in these Regulations, commits an offence and shall, upon conviction, be liable to imprisonment for a term of not less than five years or to a fine not exceeding ten million shillings or to both.</p>   | <p>Offences and penalties.</p>                               |

23. (1) In the event of winding up of the Fund, the administrator of the Fund shall pay any amount remaining in the Fund into the National Exchequer Account for the credit of the national government while other assets of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to sports.

Winding-up of the Fund.

(2) The administrator of the Fund shall prepare the final winding up report not later than six months from the date of the decision to wind up the Fund and submit the financial and non-financial reports to the Auditor General for audit with a copy to the National Treasury.

(3) The Auditor General shall after audit, submit the final report to the National Assembly within three months of the receipt of the initial report under paragraph (2).

24. The Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018 are revoked.

Revocation of L.N. 174/2018.

Dated the 25th October, 2018.

HENRY ROTICH,  
*Cabinet Secretary for the National Treasury and Planning.*



MINISTRY OF SPORTS,  
CULTURE AND HERITAGE

**PROGRESS REPORT ON THE JOINT SECTORAL  
MEETING BETWEEN THE STATE DEPARTMENT  
FOR SPORTS, NATIONAL TREASURY AND  
PLANNING, MINISTRY OF HEALTH AND  
MINISTRY OF EDUCATION**

**Presented to The  
Select Committee On Implementation**

**By the  
Principal Secretary, State Department for Sports**

**December 2018**

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## **1. BACKGROUND**

During the meeting held on 11<sup>th</sup> October 2018, the Select Committee on Implementation was informed that the State Department for Sports Development would be holding a joint sectoral meeting with the National Treasury and Planning, the Ministry of Health and the Ministry of Education to discuss criteria of sharing monies among the relevant Ministries, the amount received and the process of accessing monies collected since January 2018.

## **2. PROGRESS REPORT**

I wish to confirm to the Committee that the joint sectoral meeting with the aforementioned Government ministries was held. Specifically, consultations were held with the following government officials:

- a) Eng. Peter K. Tum - Principal Secretary, Ministry of Health
- b) Ms. Josepheta Mukobe - Principal Secretary, State Department for Culture and Heritage
- c) Dr. Kamau Thugge - Principal Secretary, The National Treasury
- d) Dr. Belio Kipsang - Principal Secretary, State Department for Early Learning and Basic Education

The discussions of this joint sectoral meeting included:

- i. **The criteria of sharing monies among the relevant ministries-** It was agreed that policy guidelines would be prepared on the criteria of sharing monies. Such criteria shall include giving priority to projects that are aligned to the Big Four Agenda, or giving preference to projects/programs whose implementations is at an advanced stage and/or nearing completion. The relevant Ministries would approve the ceilings for funding for each beneficiary in a given financial year. It was also agreed that the monies would be shared among the ministries on the basis of and limited to approved annual work programmes and cost estimates as per the published guideines.
- ii. **The amount received-** The Ministry has been holding discussions with the National Treasury and the Betting, Control and Licensing Board to confirm and reconcile the

amount received since January 2018. This process is at an advanced stage and is expected to be completed soon.

- iii. **Process of accessing monies collected since January 2018-** Through amendments and provisions contained in various laws, including the Finance Act 2018 and the Betting, Lotteries and Gaming Act, the Government has secured/ring-fenced the monies collected for this purpose. This is evidenced by the fact that these monies shall not to be remitted to the Exchequer but shall instead be remitted directly to a Fund that has been established under Section 24(4) of the Public Finance Management (PFM) Act 2012.
- iv. **Money Collected from Betting-** As explained above, the monies collected from betting shall be remitted straight to the Sports, Arts and Social Development Fund. This Fund succeeds the National Sports Fund, and is domiciled in the Ministry of Sports, Culture and Heritage. Its Administrator is the Principal Secretary in the State Department for Sports. The Administrator shall be assisted by the Secretariat of the National Sports Fund whose transition to the new Fund has been provided in law. The new Fund is fully delinked from the National Treasury and its operations shall be autonomous.

### **3. CONCLUSION**

The State Department for Sports undertakes to provide reports to the Select Committee on implementation on the matters highlighted above, and is available should additional information be required on the matters referred to in this report.

Amb. Kiriimi P. Kaberia, CBS  
Principal Secretary- Sports  
**Fund Administrator**





**REPUBLIC OF KENYA**



**MINISTRY OF SPORTS, CULTURE AND HERITAGE  
STATE DEPARTMENT FOR SPORTS**

**REPORT ON THE IMPLEMENTATION OF THE SPORTS ACT 2013 AND  
THE ANTI-DOPING ACT 2016**

**SUBMITTED TO THE SELECT COMMITTEE ON IMPLEMENTATION**

**JULY 2018**



## **1. INTRODUCTION**

The State Department for Sports is one of the two State Departments in the Ministry of Sports, Culture and Heritage. It was established under the Executive Order No. 2 of 20<sup>th</sup> May 2013. The Executive Order No. 1 of 2018 further spells out about the establishment of the State Department for Sports.

### **1.1 FUNCTIONS OF THE STATE DEPARTMENT FOR SPORTS**

The following are the functions of the State Department for Sports:

- i. To develop, manage and implement the Sports Policy
- ii. To develop and manage Sports facilities
- iii. To enforce and implement the World Anti-Doping Code and Convention against doping
- iv. To promote and coordinate Sports Training and Education
- v. To establish and manage sports academies to nurture talent
- vi. To expand the Sports industry for sustainable livelihood

## **2. IMPLEMENTATION OF THE ANTI-DOPING ACT, 2016 AND ADAK RULES**

The State Department for Sports enforces and implements the World Anti-Doping Code and Convention against Doping through the Anti-Doping Agency of Kenya (ADAK), which is a body corporate established under the Anti-Doping Act no. 5 of 2016. This is by virtue of being a signatory to the UNSECO Convention against Doping in Sports.

One of the key goals for establishing the Agency was to protect athletes' fundamental rights to participate in doping-free sports and thus promoting good health, fairness and equality for athletes in Kenya.

The Agency's Mandates are:

1. To carry out fight against Doping in Sports through anti-doping values based education, sensitization and awareness campaigns
2. To protect the 'clean athlete' by carrying out effective doping tests among all Kenyan Athletes
3. To uphold the integrity of sports through Intelligence Gathering, Investigations and Results Management of Anti-Doping Rules Violations (ADRVs)

The Anti-Doping Agency of Kenya has designed five strategic themes namely Compliance, Education and Research, Testing and Investigations, Therapeutic Use Exemption, Results Management and Institutional Strengthening to enable it implement its mandate

### **A. Anti-Doping Education**

The Directorate is charged with the following responsibilities:

#### **I. Anti-Doping Information Sharing to the Athletes:-**

It involves sensitization and awareness campaigns in form of outreach programme during sports competitions as well as conducting deliberate workshops to share anti-doping information with key target groups.



### **E. Institutional Strengthening**

The Agency adopted various strategies to ensure there is continual improvement in implementing its management, the strategies include:

- i. Introduction of performance management by institutionalizing performance contracting and the appraisal systems
- ii. Making deliberate efforts to ensure adequate funding for anti-doping functions
- iii. Ensuring that there is capacity building of staff in the Agency for efficiency
- iv. The Agency has developed key policy guidelines to realize its mandate and core functions, such as the Human Capital Policy Documents, 2016; the ADAK workplace policy; technical manual work procedures and manuals
- v. ADAK has also begun the ISO certification process to ensure that the Agency and its procedures are in tandem with the International Standards of Quality Assurance.

### **2.1 ASSESSMENT ON THE IMPLEMENTATION OF THE PROVISIONS OF THE LEGAL FRAMEWORK**

The intention of the World Anti-Doping code was to have timely disposal of matters that generate into an anti-doping rule violation. However, the provisions of section 31 of the Act give the Sports Tribunal the sole mandate to hear all anti-doping rule violations. The nature of the Sports Disputes Tribunal as established under the Sports Act but works under the normal operations of the Judiciary. The Agency has noted that the adversarial nature of the tribunal and its operations becomes hostile to implementation of Article 3 of the ADAK rules.

### **2.2 Challenges**

There is need for conceptual clarity on the provisions of the WADC and the Constitution of Kenya. The Constitution dismisses the need for ignoring procedural defects over justice. But it is the very practice that has been inverted by pursuing procedure over the interest of the athletes. There are several ADRV case filed at the Tribunal that have been pending attention by the Tribunal as they question the procedure of the initial review.

There is no clear distinction on the First instance hearing panel and Appeal panel at the Tribunal.

Procedurally, we have a results management process but attitudinally and behaviorally the Act allows for injustice to the athletes who are bogged down by unnecessary civil procedure spirit at the Tribunal.

It is for this reason that ADAK is proposing amendment to the Anti-Doping Act and the ADAK rules.

### **2.3 Proposed Amendments**

**Set up an Anti-Doping Administrative and Review Committee:** The World Ant-Doping Code provide for prompt and speedy disposal of the adverse analytical findings. On issues of prompt admission, the WADC provides that a reasoned decision should be prepared and shared with WADA and sanctions delivered. But with the current procedure prompt admissions still go through the civil procedure look alike procedure. Protracting matters to a level that now the athlete spends a lot of money to attend and losing a lot of time which would have been used to serve as sanction.





**Appellate Powers to the Sports Disputes Tribunal:** The amendments should encompass granting the Sports Dispute Tribunal appellate powers to hear all appeals for national level athletes. The current practice does not ensure neutrality and impartiality of the decisions by the panel as they easily get influenced by having interacted or listened into the mentions when doing the diary management.

### **3.0 IMPLEMENTATION OF THE SPORTS ACT 2013 BY SPORTS KENYA**

Sports Kenya is a Body Corporate created by the Sports Act 2013 which became operational on 1<sup>st</sup> August, 2013. It is the successor of Sports Stadia Management Board and also took up the functions of the Department of Sports as provided in the fourth schedule of the Sports Act 2013.

#### **3.1 Functions of Sports Kenya**

The functions of Sports Kenya are to:

- Promote, co-ordinate and implement grassroots, National and International Sports programs for Kenyans, in liaison with the relevant Sports Organizations and facilitate the active participation of Kenyans in Regional, Continental and International Sports, including in sports administration.
- Manage and maintain Sports facilities i.e. Moi International Sports Centre, Kasarani, Nyayo National Stadium and any other facilities which the Cabinet Secretary may declare to be sports facilities through a gazette notice.
- Establish, manage, develop and maintain the sports facilities, including convention centres, indoor sporting and recreational facilities.
- Adopt, develop, plan, set stadia standards and licence and regularly inspect stadia for sporting and recreational use.
- Establish and maintain a sports museum; participate in the promotion of sports tourism.
- Collaborate with County Governments, learning institutions and other stakeholders concerned with sports and recreation, in the search, identification and development of sporting talent, provision of sports equipment, facilities and technical training.
- Inculcate the sense of patriotism and national pride through sports and recreation, create awareness on matters of national interest through Sporting events.
- Create awareness on the benefits of regular participation in sports for healthy living and provide advisory and counselling services to athletes.
- Facilitate the preparation and participation of Kenyan teams in various International events and the hosting of similar events in the Country and recommend members of Steering Committees for International Sports competitions, in consultation with the relevant National Sports Organizations.



- Approve, at the request of the respective National Sports Organization, the clearance of foreign sports technical personnel before engagement by National Sports Organizations and other sporting bodies.
- Organize and co-ordinate training, conduct research, maintain a resource centre and provide and engage consultancy services for sports development programmes, in consultation with the respective national sports organizations.

#### **Staff Establishment**

- a) As per the fourth schedule of the Act, all Sports Stadia Management Board staff became Sports Kenya staff.
- b) Some Department of Sports staff were devolved to the Counties as per the 2010 constitution where some sports functions and programs were devolved.
- c) Sports Kenya is developing operational policies and guidelines for standardization and quality assurance
- d) Sports Kenya has in this regard prepared a Draft Human Resource Manual and Organizational structure which is awaiting approval by the State Corporation Advisory Committee (SCAC). The career progression guidelines are underway.

#### **Transfer of Assets and Liabilities**

Sports Kenya assumed all assets and liabilities of Sports Stadia Management Board. Land Titles Deeds for Nyayo National Stadium and Moi International Sports Centre are yet to be transferred to Sports Kenya Management Board.

#### **Challenges in Implementing the Sports Act, 2013**

Sports Kenya has some challenges in the performance of its functions as per the Sports Act 2013

- i. The Chairman's term was renewed in July, 2018. However, that of other independent Directors expired on 17<sup>th</sup> April, 2018 and 30<sup>th</sup> June, 2017 respectively. This has affected the Organization in delivery of its mandate.
- ii. The delays in transfer of assets need to be addressed. The Cabinet memo for asset transfer from the Parent Ministry and land titles be prioritized for discussion and conclusion. Some of the assets have become obsolete and require disposal but the process cannot be initiated without asset transfer.



- iii. Whereas the Act allows the absorbing of former Department of sports officials into Sports Kenya, the 2010 Constitution has devolved Sports. This in essence required Sports officers to be retained at the Counties whereas some Counties preferred to employ new employees. This has therefore caused sports officers to sue Sports Kenya for lack of implementation of the Act. An attempt by Sports Kenya to recruit the said officers has met resistance from Treasury since their payroll is at the Counties.

#### **4.0 IMPLEMENTATION OF THE SPORTS ACT, 2013 BY THE KENYA ACADEMY OF SPORTS**

The Kenya Academy of Sports is a state corporation established under section 33 of the Sports Act 2013. The Academy is mandated to pursue elite sports performance through talent identification and development; training/capacity-building of sports technical & administration personnel and conducting/promoting research in sport. The Academy is under construction at the Moi International Sports Centre, Kasarani. The temporary offices of the Academy are also housed in Kasarani.

##### **4.1 Project Implementation**

Construction Works of the Kenya Academy of Sports Complex started in March, 2013. This was after the feasibility studies conducted by Sports Kenya. The entire Master Plan of the Project envisages the construction of State-of-the-Art multi-sport sports facilities including;

- i. A Hostel Block
- ii. 36 Playgrounds/Pitches/Courts
- iii. An Indoor Sports Hall
- iv. Aquatic Training Facilities/Swimming Pools
- v. An Auditorium
- vi. A 3-Star Hotel
- Vii. Residential Apartments

Phase One of the Project began in 2013 and comprises;

- i. A Seven Storey Hostel Building
- ii. Construction of Access Road, Gate House and Parking
- iii. Construction of 5 playgrounds
- iv. Erection of water tank and standby generator room

So far, Phase One of the project stands at 70% complete at a cost of Kshs 641,157,075.06 with Kshs 218,657,694.94 outstanding for completion of Phase I.

##### **4.2 Programmes**

Even though construction of infrastructure is not yet complete, the Academy is endeavouring to run programmes in order to fulfil its mandate. This is however, adversely affected by the low level of Recurrent budgetary funding. Some of the programmes underway include;

- i. Conducting recruitment of 300 Under 13 teenage participants for specialized training in football at the Academy in collaboration with the Football Kenya Federation (FKF).
- ii. Establishing 5 satellite sports centres through partnerships with UNICEF and other stakeholders. The Centre offer training in diverse sports disciplines.





- iii. The Academy is partnering with Chess Kenya and the Kasparov Foundation in supporting Chess training in 10 Primary and Secondary schools in Nairobi. The Chess in Schools programme aims at offering training to over 10,000 children in Primary and Secondary schools within Nairobi before it is rolled out across the country.
- iv. The Academy organises Sports Camps during school holidays. The Camps act as scouting platforms for talent in various sports disciplines.
- v. The Academy is working closely with County Governments in forging partnerships to foster sports talent development programmes in the Counties.
- vi. Established FC Talanta as a football incubator platform where talented graduates from the Academy football trainees showcase their talent before transiting into professional football. Currently, the club is playing in the FKF National Super League with sponsorship from the Communications Authority of Kenya (CA).

#### **4.3 Strengthening Institutional Capacity**

The Kenya Academy of Sports is in the process of developing relevant Administrative and Management Structures as required. Key among them include;

- i. The Kenya Academy of Sports Strategic Plan 2017-2022 (due for revision to align with the Government's Big Four agenda).
- ii. Human Resource Manual (completed);
- iii. Staff Establishment and Career Progression Guidelines (completed);
- iv. Salary Structure (completed);
- v. Standards and Regulations for Establishment and Management of Sports Academies in Kenya (currently on-going);
- vi. Curriculum for training of athletes and technical personnel (on-going); and
- vii. Research Policy Framework (on-going).

When fully operational, with branches in all the Counties and constituencies, the Academy will completely transform the output of quality sportsmen and women and increase the number of sports disciplines and activities in which Kenyan sportspersons participate locally and internationally. It will greatly improve the potential of Kenyan athletes to get medals in international championships and put Kenya on a much higher international sports platform.

#### **5.0: IMPLEMENTATION OF THE SPORTS ACT, 2013 BY THE NATIONAL SPORTS FUND**

The National Sports Fund was identified as a flagship project in the Vision 2030 and given prominence in the 1st and 2nd Medium Term Plans. This is a clear testimony of the Government's commitment to elevate the sports industry which has a huge potential of empowering the youth through sports professionalism. Over the years, Kenya has participated in major international championships including national, regional as well as world championships and other competitions through which Team Kenya has demonstrated exemplary performance albeit preparations for most of the aforementioned events are at times curtailed due to insufficient funding.





The National Sports Fund is a State Corporation established by the Sports Act 2013 under the Ministry of Sports, Culture and the Arts. The Fund is mandated to

1. Raise funds through sports lottery, investments and any other legal means and
2. Disburse the funds for the development of sports and recreation in Kenya.
3. Make recommendations relating to the provision of financial grants to national sports organizations.

## **5.1: KEY MILESTONES ACHIEVED BY THE NATIONAL SPORTS FUND**

### **i. Policy Development:**

The Fund commenced its operations by development of various policies to facilitate smooth running of the organization. These documents include:

- a) Strategic Plan and Service Charter
- b) Resource Mobilization policy
- c) NSF Funding policy
- d) Resource mobilization and partnership policies
- e) Monitoring and Evaluation policy

### **ii. Resources Mobilization:** Through sports lotteries, gifts, grants, donation, endowments investment and any other means (Sports Act 2013, Sec 17)

#### **a) National Lottery:**

The Fund is in the process of operationalizing a National Lottery. To this effect, the Fund has achieved the following:

Lottery name: Michezo National Lottery has been reserved and trademarking is ongoing.

Requisite documentation: The Fund has developed an Expression of Interest (EOI) document to facilitate the procurement of a lottery operator.

Cabinet Memorandum: A Cabinet Memo has been drafted seeking Cabinet approval for the establishment of the National Lottery through the provision of KES 674 Million as a one-off capital financing to operationalize the National Lottery.

#### **b). Betting Lotteries and Gaming Act**

The Finance Act of 2017 amended the Betting Lotteries and Gaming Act by providing that betting companies shall pay a uniform tax rate of 35% on Betting, Lottery, Gaming and Prize competition tax respectively. The Fund is yet to receive the 35% tax imposed on betting companies by the Finance Act 2017. The tax took effect on 1st January 2018.

#### **c). Partnerships**

The Fund has undertaken donor and strategic partner mapping and engaged various strategic partners for resource mobilization.

- iii. Receive any special contribution paid into the Fund by the Government for purposes of facilitating sports persons and disburse the funds for the development of sports and recreation.



The Fund has received grants from the Ministry of Sports and Heritage to facilitate various programs and activities. These include:

- a) Federation of Kenya Football: Disbursed KES 3 M
- b) Kenya Rugby Union: Disbursed KES. 31.7 M
- c) Kenya Wrestling Federation: Disbursed KES 3.2 M
- d) Kenya Golf Open (Kenya Golf Union): Disbursed KES 30M
- e) Kenya Roller Skating Federation: Disbursed KES 3.5 M
- f) World Rally Championship Project: Disbursed KES 187 M
- g) Commonwealth Games 2018: Disbursed KES 50M

- iv. Make recommendations relating to the provision of financial grants to national sports organizations.
  - a. The Fund has developed a framework to guide in the application and disbursement of funds to all sports agencies and organizations. To this end, the Fund has:
  - b. Developed Funding framework which details the priority areas of funding and criteria for resource allocation.
  - c. Developed appraisal and evaluation procedures for NSF funding process
  - d. Developed an accountability framework for beneficiaries of the Fund.

The PS-National Treasury subsequently established a joint committee to align the proposed Draft National Sports Fund Funding Regulations with various other legislation, and specifically the PFM Act 2012. This resulted in the Proposed Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018 that have already been approved by Cabinet.

## **CHALLENGES**

- a) Lack of seed capital to operationalize the National Lottery.
- b) The terms of office for the independent Board of Trustees members have expired.  
The Fund needs to have independent Board of Trustee members in order to form Board Committees and operate at full capacity.
- c) Absence of key staff to fully operationalize the Fund's mandate.
- d) Insufficient funding for personal emoluments and other operational costs

## **WAY FORWARD**

- i. Seek for lottery seed capital: This will be a one-off expense and the project will start generating returns immediately. Once the lottery is operational, the revenue generated will be used to provide support to the sports and recreation sector, thereby easing pressure on the exchequer
- ii. Appointment of independent Board of Trustee members to ensure that the board is complete and is operating at full capacity.
- iii. Lobby for the Gazettement of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018.
- iv. Lobby for the National Sports Fund to access the 35% Gaming, Betting taxes that have been collected to date.
- v. Recruitment of key staff to fully operationalize the Fund's mandate.
- vi. Lobby the National Treasury to allocate the Fund sufficient Budgetary Allocation for personal emoluments, operations, maintenance, office space and motor vehicles.



**MIN. NO.COI/341/2018:**

**MEETING WITH MUMIAS SUGAR COMPANY**

The Chairperson informed the Members that the Committee had received a letter from the Acting Chief Executive Officer of Mumias Sugar Company indicating that the CEO had a scheduled meeting with Governors in Kisumu on 11<sup>th</sup> October, 2018 hence won't be available for the meeting with the Committee.

Mumias Sugar Company clarified in their letter dated 9<sup>th</sup> October, 2018 that they had not been served with a Court Order regarding the KPMG's Final Factual Finding Report as earlier indicated. However, they received a status report on defamation and other claims in relation to the Final Factual Finding Report from KPMG, which they have attached in their letter.

They further indicated in the aforementioned letter that the Capital Markets Authority (CMA) Report on the status of Mumias Sugar Company requested by the Committee was sanctioned by CMA and they do not have a copy of the same.

**MIN. NO.COI/342/2018:**

**ANY OTHER BUSINESS**


The Committee noted that the Kenya Film Classification Board has been recently moved from the Ministry of Sports, Culture and Heritage to another Ministry and the Members were worried that the National Sports Fund might be moved to the National Treasury.

The Principal Secretary assured the Committee that the move was purely a realignment of government agencies and had nothing to do with the Ministry's performance.

**MIN. NO.COI/343/2018:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at twenty five minutes past twelve o'clock.

Sign.......... Date. 29/11/2018.

(Chairperson)

