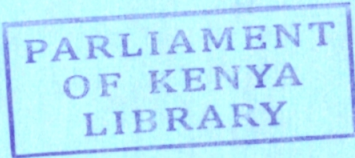


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THE SPORTS (AMENDMENT) (NO. 2) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Sports Act to create county academies of sports, to protect minors in sports and for connected purposes.

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Sports (Amendment) (No. 2) Act, 2024.

Short title.

2. Section 2 of the Sports Act, in this Act referred to as the “principal Act”, is amended by inserting the following new definitions in their proper alphabetical sequence—

Amendment of section 2 of Cap 223.

“child abuse” has the meaning assigned to it under section 2 of the Children Act (Cap. 141);

“committee” means a committee constituted under section 38C to manage a county academy;

“county academy” means a county sports academy established under section 38A;

“county executive committee member” means the county executive committee member responsible for matters relating to sports;

“minor” means an individual who has not attained the age of eighteen years;

“professional sports contract” means an agreement under which a person agrees to render services as a player on a professional sports team or as a professional athlete.

3. Section 34 of the principal Act is amended —

Amendment of section 34 of Cap 223.

(a) in paragraph (a) by inserting the words “at the national level of government” immediately after the words “sports training academies”;

(b) by inserting the following new paragraph immediately after paragraph (a) —

(aa) build the technical capacity of county academies.

4. The principal Act is amended by inserting the following new heading immediately after section 38 —

Insertion of heading in 223.

PART IVA – COUNTY SPORTS ACADEMIES

5. The principal Act is amended by inserting the following new sections immediately after section 38 —

Insertion of sections in 223.

Establishment of county academies.

38A. Each county shall establish and maintain at least one county academy within its jurisdiction.

Objectives of a county academy.

38B. (1) The objectives of a county academy shall be to —

- (a) identify and nurture sporting talent within the county;
- (b) provide specialised coaching and training in various sports disciplines; and
- (c) collaborate with the Academy in talent development within the county.

(2) In order to achieve its objectives under subsection (1), each county academy shall —

- (a) design and implement diverse sports programmes covering various disciplines and which shall cater to persons with disabilities and to individuals of different age groups and gender;
- (b) establish systems for talent identification and development, including through organization of regular talent scouting events;
- (c) involve the local community in the county academy's activities;
- (d) collaborate with local sports organisations, schools and universities;
- (e) partner with other county academies and with national and

international sports organisations for exposure, sponsorships and exchange programmes;

- (f) collate and analyse data to continuously improve the quality of training and support provided; and
- (g) create awareness about the benefits of sports and the opportunities available at the county academy.

Management of a county academy.

38C (1) Each county academy shall be managed by a county academy management committee.

(2) The committee shall comprise of—

- (a) a chairperson, who shall be a person who holds a degree from a university recognised in Kenya and is knowledgeable in sports, finance, commerce or law, appointed by the respective county governor;
- (b) the respective county executive committee member or a county public officer designated by the member in writing;
- (c) the county executive committee member responsible for matters relating to finance or a county public officer designated by the member in writing;
- (d) two persons nominated by the County Public Service Board from among persons with knowledge in sports management, management of sports facilities or coaching;
- (e) two persons nominated by county sports associations with knowledge in sports management, media studies, finance or economics; and
- (f) two persons nominated by national sports organisations at the county

level with knowledge in sports management, finance or economics.

(3) The members of the committee nominated under subsection (2) (d), (e) and (f) shall be appointed by the county executive committee member by notice in the *Gazette*.

(4) The Chairperson and the members of the committee appointed under subsection (3) shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years.

(5) In appointing persons as members of the committee under subsection (2) (d), (e) and (f), the county executive committee member shall ensure that the appointments afford equal opportunity to men and women, youth, persons with disabilities, minorities and marginalized groups and that they observe regional balance.

Qualifications for appointment to the committee.

38D. (1) A person shall be eligible for appointment as a Chairperson or member of the committee under section 38C (2) (d), (e) and (f) if that person—

- (a) is a citizen of Kenya;
- (b) holds a minimum of a bachelor's degree from a university recognized in Kenya;
- (c) has knowledge and experience of not less than five years in sports management, finance, media studies, law or economics; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) A person shall not be eligible for appointment as a member of the committee under section 38C if that person—

- (a) has at any time been convicted of a criminal offence and sentenced to a

term of imprisonment exceeding six months;

- (b) is declared to be of unsound mind;
- (c) is an undischarged bankrupt;
- (d) has been found, in accordance with any law or parliamentary report, to have misused or abused a state office or public office or in any way to have contravened the provisions of Chapter Six of the Constitution.

Vacancy of the office.

38E. (1) The office of the chairperson or member of a county academy management committee shall become vacant if the holder—

- (a) resigns from office by notice in writing to the appointing authority;
- (b) is absent from three consecutive meetings of the committee without lawful cause;
- (c) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (d) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
- (e) is incapacitated by prolonged physical or mental illness;
- (f) is otherwise unable or unfit to discharge his duties; or
- (g) dies.

Powers of a county academy management committee

38F. (1) A county academy management committee shall be responsible for policy matters and giving strategic direction to the respective county academy.

(2) The committee shall have all the powers necessary for the performance of the functions of the county academy under this

Act and in particular, but without prejudice to the generality of the foregoing, the committee shall have the power to—

- (a) manage, control and administer the assets of the county academy in such manner and for such purposes as best promote the purposes for which the county academy is established;
- (b) receive any gifts, grants, donations or endowments made to the county academy or any other monies in respect of the Academy and make disbursements therefrom in accordance with the provisions of this Act;
- (c) approve the strategic plan for the county academy; and
- (d) open a banking account or banking accounts for the funds of the Academy.

Vacancy of the office.

38G. (1) The office of the chairperson or member of a county academy management committee shall become vacant if the holder—

- (a) resigns from office by notice in writing to the appointing authority;
- (b) is absent from three consecutive meetings of the committee without a lawful cause;
- (c) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (d) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
- (e) is incapacitated by prolonged physical or mental illness;

(f) is otherwise unable or unfit to discharge his duties; or

(g) dies.

Appointment of
manager.

38H. (1) Each county academy shall have a manager, who shall be competitively recruited and appointed by the respective county public service board.

(2) The manager shall hold office on such terms as the respective county public service board may, on the advice of the Salaries and Remuneration Commission, determine.

Qualifications of
manager.

38I. (1) A person shall be qualified for appointment as the manager of a county academy if that person—

- (a) has a degree from a university recognized in Kenya;
- (b) has held a similar position or served in management level for a period of at least five years;
- (c) has at least ten years' experience and proven competence in sports and facility management and operation of commerce, industry, finance or general administration;
- (d) has not been convicted of an offence and is not serving a term of imprisonment; and
- (e) meets the requirements of Chapter Six of the Constitution.

(2) The manager of a county academy shall, subject to the general direction and control of the respective county academy management committee, be responsible for the day-to-day operations and administration of the county academy, and in particular for—

- (a) the implementation of the policies and programmes and agreed

- objectives, performance targets and service standards of the academy;
- (b) the proper management of the funds and property of the academy;
 - (c) the organization and control of the staff of the academy;
 - (d) the formulation, development and implementation of the strategic plan, business plan, annual plan and operations plan for achieving the academy's objectives;
 - (e) co-operation with other agencies, stakeholders and organizations in the sports sector;
 - (f) the development of an economic, efficient and cost effective internal management structure;
 - (g) the provision of advice as required on all matters within Committee's responsibility; and
 - (h) the performance of any other function necessary for the implementation of this Act as may be assigned to him by the Committee.

Tenure of office.

38J. The manager of a county academy shall hold office for a period of three years and shall be eligible for reappointment for one further term of three years.

Staff of a county academy.

38K. The respective county executive committee member may designate such public officers in the respective department to serve as the staff of the a county academy as may be necessary for the proper and efficient performance of its functions.

Location and facilities of a county academy.

38L. (1) Each county academy shall be located at such place as may be recommended by the respective county

executive committee member and approved by the respective county executive committee.

(2) The respective county executive committee member shall ensure that there are adequate training facilities for each county academy including training fields, facilities for indoor games, athletics tracks and any other facility that may be required for use by the county academy.

Funds of a county academy.

38M. The funds of a county academy shall comprise —

- (a) such moneys as may be appropriated by the respective county assembly for purposes of the county academy;
- (b) gifts, grants, loans and additional allocations made to the academy; and
- (c) money from any other source received by the county academy for the performance of its functions under this Act.

6. The principal Act is amended by inserting the following new heading immediately after section 54 —

Insertion of new heading in Cap 223.

PART VI(A) – PROTECTION OF MINORS IN SPORT

7. The principal Act is amended by inserting the following new sections immediately after section 54 —

Insertion of new sections in Cap 223.

Protection from child abuse and exploitation.

54A. (1) Every sports institution shall—

- (a) put in place measures to ensure the physical and emotional well-being of minors participating in sports;
- (b) conduct adequate background checks of coaches and other staff working with minors;
- (c) ensure coaches and other staff working with minors are properly

trained and accredited where necessary; and

- (d) put in place clear procedures for reporting and addressing any form of misconduct and child abuse within the institution.

education of minors. **54B.** All sports programmes targeting a minor shall—

- (a) provide the minor with an adequate sports education and training in line with the highest national standards;
- (b) in addition to sports education and training, guarantee the minor access to basic education which will allow the minor to pursue a career other than sports should the minor cease playing professional sports; and
- (c) if residential, ensure that the living standards are optimum for the development and well-being of the minor.

contracts involving minors. **54C.** (1) No contract involving a minor shall be valid unless—

- (a) signed by the minor's parent or guardian; and
- (b) if it is a professional sports contract, the minor involved has attained the age of seventeen years.

(2) The minor's parent or guardian shall be informed in writing of their rights to obtain independent legal advice prior to signing a contract under subsection (1).

Representation of minors by agents. **54D.** (1) Minors shall only be represented by agents who are accredited by—

- (a) the national sports association in charge of the relevant sport in Kenya; or

(b) the international association in charge of the relevant sport for international representation.

(2) Despite subsection (1), a person shall not be eligible to represent a minor if the person—

(a) has been convicted of human trafficking, a sexual offence or any offence involving fraud; or

(b) has previously had their accreditation withdrawn due to their involvement in human trafficking, a sexual offence or fraud.

(3) Agents representing minors shall not be entitled to any agency fees except where they represent the minor in signing their first professional sports contract.

Local transfers of minors.

54D. Any local transfer of a minor shall comply with the rules of the national sports organisation in charge of the relevant sport in Kenya.

International transfer of minors.

54E. (1) Any international transfer of a minor shall comply with the rules of —

- (a) national immigration laws;
- (b) international conventions on migration ratified by Kenya;
- (c) the national sports organisation in charge of the relevant sport in Kenya;
- (d) the international association to which the national sports organisation is affiliated; and
- (e) the national sports organisation in charge of the relevant sport in the country of transfer.

(2) All international transfer contracts shall be endorsed by the national sports organisation in charge of the relevant sport in Kenya.

Regulations

54F. The Cabinet Secretary may, in consultation with the Cabinet Secretary responsible for children matters, make regulations for safeguarding minors participating in sports.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The lack of proper talent identification and development within the Kenya is largely attributed to the concentration of sports facilities and coaching services around large cities. This means that talented persons may not get an opportunity to realise their full potential in sports due to lack of access to training facilities and coaching services.

The Bill seeks to amend the Sports Act (Cap. 223), to create county academies of sports in all the counties. This will ensure that talent can be spotted and developed at an early stage right from the grassroots, thus leading to overall sports development within each county, a greater pool of players to represent the nation in international sports competitions, and also reduce the high unemployment rate by developing careers in various sports disciplines.

The Bill also seeks to protect minors engaged in sports from all forms of abuse and exploitation, whether physical, emotional or financial.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The proposed new section 54F of the Sports Act delegates legislative powers to the Cabinet Secretary responsible for sports who is required to, in consultation with the Cabinet Secretary responsible for children matters, make regulations for safeguarding minors participating in sports.

The Bill does not limit fundamental rights and freedoms.

Statement as to whether the Bill does concerns county governments

Paragraph 4(h) of Part 2 of the Forth Schedule to the Constitution of Kenya lists sports and cultural activities and facilities as a function of county governments. Development of county academies of sports is therefore in fulfilment of the county government's responsibilities under the Constitution.

The Bill therefore concerns county governments in terms of Article 110(1) (a) of the Constitution as it affects the functions and powers of county governments set out in the Fourth Schedule.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 10th July, 2024.

TOM OJIENDA,
Senator.

RAPHAEL CHIMERA MWINZANGU,
Senator.

Section 2 of Cap. 223, which it is proposed to amend –

2. Interpretation

In this Act, unless the context otherwise requires—

(1) In this Act, unless the context otherwise requires—

“Academy” means the Kenya Academy of Sports established under section 33;

“Board” means the Board of Sports Kenya constituted in accordance with section 6(1);

“Board of Trustees” *deleted by Act No. 7 of 2019, s. 2;*

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to sports;

“club members” includes officials and member athletes;

“Council” means the Council of the Institute constituted in accordance with section 35;

“Director-General” means the Director-General of Sports Kenya appointed under section 8 or a person authorized to act on his behalf;

“Fund” means the Sports, Arts and Social Development Fund established under regulation 3 of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018;

“lottery” means a lottery as defined in the Betting, Lotteries and Gaming Act (Cap. 131);

“national sports organization” includes an umbrella body responsible for Olympic, non-Olympic, Paralympic or Deaflympic sports or multi-sport organization responsible for all sports disciplines or recreational bodies or body responsible for a particular sport nationally;

“professional sports” means sports for which a contract of engagement and remuneration has been entered into by a club or sports organization and the professional sports persons;

“professional sports person” means a person who is, on the basis of a contract for engagement and remuneration, preparing or training for the purposes of participating in the relevant sports competition;

“recreation” means voluntary participation in a physical or mental activity for enjoyment, improvement of general health, well-being and development of skills of an individual;

“Registrar” means the Sports Registrar appointed under section 45

“sport” includes all forms of physical or mental activity which, through casual or organized participation, or through training activities, aims at expressing or improving physical and mental well-being, forming social relationships or obtaining results in competition at all levels, and includes any other activity as the Cabinet Secretary may, from time to time and after consultation with the technical department responsible for sports, prescribe;

“sports agencies” includes the sports institutions and sports organizations;

“sports institutions” means the Sports Kenya, the Kenya Academy of Sports and the Sports Disputes Tribunal established under this Act;

“sporting event” means a sporting contest, competition, tournament or game open to participation and attendance by the public;

“Sports Kenya” means the Sports Kenya established by section 3;

“sportsperson’s representative” means a person who is duly authorized and registered as such according to the constitution of the respective sports organisation;

“Tribunal” means the Sports Disputes Tribunal established under section 55;

Section 34 of Cap. 223, which it is proposed to amend –

34. Functions of the Academy

The functions of the Academy shall be to—

- (a) establish and manage sports training academies;
- (b) organize, administer and co-ordinate sports courses for technical and sports administration personnel;
- (c) promote research and development of talent in sports, in collaboration with institutions of higher learning, national sports organizations and other stakeholders;
- (d) collect, collate, store and disseminate tangible and intangible historical sports material to the public, sports organizations, researchers and institutions of learning;
- (e) receive and analyze data on training requirements from sports organizations;
- (f) link with other institutions and organizations for regular updates on the current sports trends; and
- (g) perform any other function that may directly or indirectly contribute to the attainment of the foregoing.