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SPORTS (AMENDMENT) BILL, 2024**A Bill for****AN ACT of Parliament to amend the Sports Act; and for connected purposes**

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the Sports (Amendment) Act, 2024.

Short title.

2. The Sports Act, in this Act referred to as “the principal Act” is amended by inserting the following new definition immediately after the definition of the word “council”—

Amendment to section 2 of No. 25 of 2013.

“county executive committee member” means the county executive committee member responsible for matters related to sports in the county.

3. The Principal Act is amended by inserting the following new part immediately after Part VI—

Insertion of a new Part VIA.

PART VIA — ESTABLISHMENT OF A COUNTY SPORTS ASSOCIATIONS FUND.

Establishment of a County Sports Associations Fund.

54A. There is established, for each county, a fund to be known as the County Sports Associations Fund.

Sources of the Fund.

54B. (1) There shall be paid into the County Sports Associations Fund—

- (a) one percent of all monies paid into the county revenue fund;
- (b) such monies or assets as may accrue or received by the fund; and
- (c) all monies from loans, grants or donations from the national government or international agencies for purposes of supporting county sports associations;

Objects and purpose of the Fund.

54C. (1) The object of the Fund is to provide funding to support registered county sports associations.

- (2) Without prejudice to the generality of paragraph (1), the Fund shall provide for—
 - (a) facilitation for the acquisition and provision of equipment to sports facilities;
 - (b) support for the identification, nurturing and development of talent in sports;
 - (c) facilitation of training and capacity building programmes for persons involved in sports; and
 - (d) financing the development of sports facilities including stadia, gymnasiums, buildings and tracks.

Administration of the Fund.

54D. (1) The administrator of the Fund shall be the accounting officer responsible for matters relating to sports in the county or any other person designated by the county executive committee member, in writing, for that purpose.

- (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 County Treasury;
 - (b) supervise and control the administration of the Fund;
 - (c) prepare a work plan in respect of a financial year to be approved by the county executive committee member;
 - (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, 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 County Treasury; and

- (f) 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.

(2) 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.

(3) The administrator of the fund shall ensure that monies held in the fund, including any earnings or accruals, is spent only for the purposes for which the fund is established.

Funding eligibility criteria.

Cap 223.

54E. A registered county sports association, shall be eligible to apply for funding from the Fund if it—

- (a) is registered as a county sports association under the Sports Act;
- (b) has an annual work plan aligned to the strategic plan of the association and the medium-term plan approved by the governing body of the county sports associations;
- (c) 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
- (d) meets any other criteria prescribed by the Board.

Application for funding.

54F. (1) The Administrator of the Fund shall by the 30th August of each year issue a budget circular for the Fund to the eligible persons indicating—

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

(2) A person who wishes to receive funding from the Fund and meets the criteria set out under section 54E 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) the certificate of registration issued under the Sports Act (Cap 223);
- (b) the minutes of a properly constituted meeting of the governing body of the association containing the resolution to apply for funding from the Fund;
- (c) an annual work plan aligned to the strategic plan of the association and the medium-term plan approved by the governing body of the sports association;
- (d) the project designs, plans and bills of quantities, approved by the governing body and the requisite regulatory approvals from relevant government institutions, where applicable;
- (e) a statutory declaration of programmes funded through other sources;
- (f) the details and signatories of the bank account in the name of the association where the funds shall be channelled; and

Disbursement of funds.

(g) any other information as may be required.

54G. (1) The funds under the Fund shall be disbursed under the following conditions—

- (a) all disbursements from the Fund shall be approved by the county executive committee member;
- (b) disbursements from the Fund shall be utilised to support the objects and purpose of the Fund;
- (c) the county executive committee member 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 monitoring and evaluation of the 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.

Retention of receipts

54H. 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.

Regulations.

54J. The county executive committee member shall, within a period not exceeding twelve months, make rules generally for better carrying out of the provisions of this Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The purpose of this Bill is to amend the Sports Act (Cap 223). The proposed amendments primarily focus on the establishment and administration of the County Sports Associations Fund. The proposed County Sports Associations Fund is a pivotal instrument aimed at promoting sports development and enhancing community well-being within the counties.

The County Sports Associations Fund is primarily focused on nurturing and supporting county sports associations, with the intention of fostering the development of sports at the grassroots level. Secondly, the Bill seeks to define the administrative framework for the County Sports Associations Fund.

Additionally, the Bill outlines a comprehensive strategy for funding the County Sports Associations Fund, which includes a percentage of county revenue, financial accruals from departmental activities, government loans, grants, and donations, as well as contributions from sources explicitly designated for county sports associations. The legislation prescribes the specific utilization of the fund, emphasizing its allocation towards supporting duly registered county sports associations on an annual fiscal basis, thereby strategically directing resources towards grassroots sports development.

Lastly, the Bill grants regulatory oversight powers to the County Executive Committee member responsible for sports, enabling them to formulate essential rules that cover vital aspects such as eligibility criteria, fund disbursement procedures, and rigorous accountability measures. This comprehensive approach ensures the effective establishment, operation, and governance of the County Sports Associations Fund and fostering the growth and development of sports at the local level.

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

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms. Its provisions are designed to facilitate the efficient administration of the County Sports Associations Fund within the framework of existing legal and constitutional safeguards.

Statement of how the Bill concerns County Governments

The Bill primarily concerns county governments in Kenya, as it establishes the County Sports Associations Fund, which falls under the purview of county-level sports administration which is a function detailed

in the Fourth Schedule of the Constitution. It outlines the responsibilities of county government officials and seeks to enhance the capacity of counties to support sports development within their jurisdictions.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution. It primarily deals with the establishment of a fund, administrative procedures, and regulatory frameworks. While it specifies funding sources and utilization, it does not alter the national budgeting process or impose taxation measures. It ensures that existing budget allocations are directed toward sports associations within the county, without creating new taxation or expenditure obligations.

Dated the 4th December, 2023

EDWIN WATENYA SIFUNA
Senator

Section 2 of Act No. 25 of 2013 which it is proposed to amend

2. Interpretation

(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 for 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 the 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;

(2) Until after the first general elections under the Constitution, references in this Act to the expression “Cabinet Secretary” and “Principal Secretary” shall be construed to mean “Minister” and “Permanent Secretary”, respectively.

Section 54 of Act No. 25 of 2013 which it is proposed to amend

54. Intervention by Cabinet Secretary in management

(1) Where a sports organisation fails to comply with the recommendations of an inspection, the Cabinet Secretary may—

- (a) appoint any person or committee to assume the management, control and conduct of the affairs of a sports organization, to exercise the powers and functions of the sports organization to the exclusion of its officials, including the use of its corporate seal, where the sports organization concerned has been unable to conduct its affairs in a proper manner; or
- (b) remove any official of a sports organization who, in the opinion of the Cabinet Secretary, has caused or contributed to any contravention of any provision of this Act, or any regulations or directions made thereunder or to any deterioration in the financial stability of the sports organization or has conducted himself in a manner which is detrimental to the interest of the relevant sporting discipline, or which has brought the sporting discipline into disrepute.

(2) The appointment of a person or committee under this section shall be for such period as the Cabinet Secretary shall specify in the instrument of appointment, but shall not exceed six months.

(3) A person or committee shall, upon assuming the management, control and conduct of the affairs of a sports organization, discharge his or its duties with diligence and in accordance with sound management and financial principles.