

PREAMBLE

Disputes are unavoidable in sport as they are in life. The critical question is how to handle a dispute in order to minimise its destructive and negative consequences. This is a function of sports administration, which must provide effective machinery in addressing disputes as soon as they occur. The SA Sports Commission has established The SA Sports Commission's Dispute Resolution Centre, "The Centre", in response to its members' growing need for fast, economical and private dispute resolution mechanisms. This serves sport better than going to court, which can be lengthy, expensive and attract negative publicity. The Centre, has, together with dispute resolution experts, designed a set of rules which provide for a strict, fair and expeditious hearing. These rules may be used when a matter is referred by the Centre for arbitration under the aegis of The Arbitration Foundation of Southern Africa (AFSA). Such referral can be made through the office of the CEO of the Centre, or, if the Constitution of a Federation refers to AFSA as the dispute resolution body of choice, then via the Registrar of AFSA's offices.

CHAPTER 1

GUIDING PRINCIPLES

1. These Rules provide the framework and structure for resolving disputes in sport in a quick and fair manner.
2. Included in these Rules are the definitions contained in Chapter 2 to which attention is drawn.
3. These Rules apply not only to sporting and recreational bodies, but also to individuals who participate in the sporting or recreational activities provided by such bodies as well as to affiliates, office holders and employees of such bodies.
4. Where the Constitution of a Commission Member provides for internal dispute procedures which can apply to any particular dispute, those procedures must be followed to resolve that dispute. This includes all form of disciplinary proceedings and, where such Constitution itself provides for a reference to AFSA, also includes such reference and resulting resolution of the dispute.
5. Where internal dispute procedures do not apply or where the dispute cannot be resolved thereunder, the Commission Member or any person who is an affiliate or a member, participant, office holder or employee of the Commission Member, and who feels aggrieved, must submit the dispute to the Centre in terms of Chapter 3 of these Rules.
6. The Centre will decide in relation to that dispute whether:

- (i) to refer it to AFSA for appropriate arbitration or mediation or facilitation in terms of Chapter 4; or
- (ii) to refer it to a Certified Sports Leader for resolution in terms of Chapter 5; or
- (ii) to request the Minister to approach the President of the Republic to appoint a Commission of Inquiry referred to in section 84(2) of the Constitution; or
- (iv) to take such other steps as it may deem fit as best serves the interests of the Commission Member.

CHAPTER 2

DEFINITIONS

"Dispute" exists when one party maintains one point of view and the other party the contrary or a different one.

"Act" means the National Sport and Recreational Act 110 of 1998 and includes any amendment thereof or any regulation made thereunder.

"affiliate" means any regional, provincial or local body which is a constituent of any Commission Member.

"AFSA" means the Arbitration Foundation of Southern Africa, a company incorporated under section 21 of the Companies Act, being a company not for gain and carrying on the business of administering dispute resolution procedures.

"AFSA Referee" means an arbitrator, mediator or facilitator, as the case may be or any combination of such persons, appointed by the AFSA Secretariat in respect of any dispute.

"AFSA Secretariat" means the body appointed and constituted by AFSA to supervise and administer the resolution of disputes under these Rules. The current address of the AFSA Secretariat at the time of issue of these Rules is:

Arbitration House,

4 Protea Place

Sandown

or,

PO Box 653007

Benmore

2010.

Tel: (011) 320-0600,

Fax: (011) 320-0533

DX 143 Randburg

"Certified Sports Leader" means a person accredited by the Commission and the relevant Commission Member as proficient in dispute resolution.

"Commission Member" means a sport or recreation body which is a member of the Sports Commission.

"internal dispute procedure" means the procedure provided in the Constitution of a Commission Member to resolve disputes in its ranks and includes disciplinary procedures.

"office holder or employee" includes any honorary or paid official or employee; trainer, selector, umpire, referee, manager or provider of healthcare or any like form of service in any sport to any Commission Member or affiliate.

"participant" means any person playing any sport or involved in any recreational activity which is provided or controlled by a Commission Member or affiliate.

"sport" includes recreation.

"Sports Commission" means the South African Sports Commission established by the South African Sports Commission Act No 109 of 1998.

"Sports Commission's Dispute Resolution Centre", "the Centre" means the Dispute Resolution Centre created by the Sports' Commission to act in the determination and administration of sports disputes in accordance with these Rules. The current referral address of the Sports Commission at the time of issue of these Rules is:

The C.E.O.,
The S A Sports Commission's Dispute Resolution Centre
1023 Bank Street,
Centurion
0046.
PO Box 11239
Centurion
0046.
Tel: (012) 677 9700,
Fax: (012) 677 9857.

CHAPTER 3

SUBMISSION OF DISPUTES TO THE SPORTS COMMISSION'S DISPUTE RESOLUTION CENTRE

7. A dispute must be referred to the Centre by way of notification from any Commission Member, affiliate, office holder or employee or participant who is party to the dispute.

8. The notification -
 - (i) must be delivered to the offices of the Sports Commission's Dispute Resolution Centre or be transmitted by facsimile or e-mail and marked in all cases for the attention of the Chief Executive Officer;
 - (ii) must be copied to all other parties to the dispute;
 - (iii) must briefly set out the nature of the dispute so submitted.
 - (iv) must be confirmed by recipient by stamp or signature.
9. The Sports Commission's Dispute Resolution Centre may take such steps as it deems necessary to satisfy itself regarding the circumstances and nature of the dispute so notified, including consultation with the other parties to the dispute, following which it will make a decision in terms of Rule 6 of Chapter 1 above and notify the parties accordingly.
10. Such decision -
 - (i) binds the parties to the dispute; and
 - (ii) takes immediate effect; and
 - (iii) may include provisions as to how the incidence of any costs incurred in resolving the dispute must be borne or, in the case of a reference to AFSA, may reserve the matter for the decision of the AFSA Referee.

CHAPTER 4

REFERENCE TO AFSA

11. Where -
 - (i) the Constitution of the Commission Member or its affiliate refers a dispute to AFSA either directly or through the Centre; or
 - (ii) the parties to a particular dispute agree in writing to refer that dispute to AFSA through the Centre; or
 - (iii) the Centre refers the matter to AFSA under Rule6(i) of Chapter1. AFSA will resolve the dispute in accordance with these Rules or, where appropriate and in its discretion, its Expedited or Quick Rules.
12. Any reference under Rule 11(i) or 11(ii) above must be -
 - (i) in writing;
 - (ii) delivered to the offices of the SA Sports Commission's Dispute Resolution Centre or be sent by facsimile or e-mail marked in all cases for the attention of the C.E.O; and copied to the AFSA Secretariat

- (iii) copied to the other parties to the dispute;
 - (iv) must briefly set out the nature of the dispute.
13. A reference under Rule 11(iii) occurs when the Centre advises the AFSA Secretariat of its decision under Rule 6(1) of Chapter 1.
14. The AFSA Secretariat will, after consultation with the parties and the Centre.
- (i) determine whether the dispute should be resolved by way of arbitration, mediation or facilitation or any combination thereof;
 - (ii) determine the form of proceedings or steps to be followed prior to its appointment of an AFSA Referee;
 - (iii) select and appoint an appropriate AFSA Referee and, if necessary, any replacement;
 - (iv) notify the parties to the dispute as to the date they are to meet with the AFSA Referee who will instruct them regarding further steps and processes to be followed for the resolution of the dispute;
 - (v) do all things which it regards as necessary or desirable to facilitate resolution of the dispute at all stages
 - (vi) where the costs are not to be borne by the Centre or by one party to the dispute alone, the Secretariat can require a deposit from each party to the dispute for the AFSA Referee's fees, to be topped up as necessary. Should any party fail to provide any such deposit or top-up when required, that party may be excluded from further participation in the dispute should the Referee so rule but, nonetheless, that party will not be absolved from its liability for such costs. In the interim, the AFSA Secretariat will be entitled to require the remaining party to make up any deficit. The requirement as to deposit applies also where only one party is to bear the costs.
 - (vii) notify the parties of the awards or findings made;
 - (viii) liaise with the Centre and the parties as necessary
 - (ix) arrange, supervise and regulate any appeal process which the parties to the dispute may require or which the AFSA Secretariat in consultation with the Centre regards as necessary;
 - (x) do all other things which may be necessary or required to give effect to the provisions of this Chapter.
15. Where the AFSA Referee acts as arbitrator, the AFSA Referee will have all the powers allowed by law to ensure the just, expeditious, economical and final determination of all the disputes raised in the proceedings including, where required, the matter of costs. All powers and functions exercised shall be in accordance with the provisions of the Arbitration Act of 1965 or any

succeeding Act. The AFSA Referee shall, where necessary, have the power to grant any interim or temporary or interlocutory relief as may be required.

16. Where the AFSA Referee acts as mediator or facilitator he or she shall exercise such powers as the parties may determine in consultation with the Centre and the AFSA Secretariat.

CHAPTER 5

REFERENCE TO A CERTIFIED SPORTS LEADER

17. Where the dispute is in the view of the Sports Commission relatively minor and where costs are to be avoided, the Sports Commission may refer the dispute to a Certified Sports Leader for resolution in terms of Rule 6(ii).
18. In such case, the Certified Sports Leader will seek to resolve the dispute amicably by way of facilitation or mediation or in accordance with such process as the Centre determines after consultation with the parties to the dispute may direct.
19. The Certified Sports Leader must report the results of the facilitation or mediation to the Centre and if the dispute has not been resolved, then the Centre may direct another process of dispute resolution under the provisions of Rule 6 of Chapter 1 or it may adopt and implement any recommendation of the Certified Sports Leader as if it had so chosen to determine the dispute under Rule 6(iv).

CHAPTER 6

GENERAL

20. These Rules do not apply in regard to disputes falling under the provisions of the South African Institute for Drug-Free Sport Act No 14 of 1997.
21. These Rules may be amended from time to time by the AFSA Secretariat in consultation with the Sports Commission.
22. These Rules take effect from 1 January 2001.