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THE ANTI-DOPING (AMENDMENT) BILL, 2026

A Bill for

AN ACT of Parliament to amend the Anti-Doping Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Anti-Doping (Amendment) Act, 2026.

Short title.

2. The Anti-Doping Act (in this Act referred to as the “principal Act”) is amended in section 2—

Amendment of
section 2 of Cap.
245B.

- (a) by deleting the definition of “accredited laboratory”;
- (b) by deleting the definition of “anti-doping activities”;
- (c) by deleting the definition of “Anti-Doping Administration and Management System”;
- (d) by deleting the definition of “Anti-Doping Rules” and substituting therefor the following new definition—

“Anti-Doping Rules” means the anti-doping rules of the Agency adopted and implemented in conformity with the Code, as amended from time to time, and includes the Regulations made under this Act;
- (e) in the definition of “athlete”, by deleting the words “as defined by the Agency” and substituting therefor the words “within the meaning of this Act”;
- (f) by deleting the definition of “athlete biological passport”;
- (g) by deleting the definition of “athlete support personnel” and substituting therefor the following new definition—

“athlete support personnel” includes a coach, trainer, manager, agent, team staff, official, medical or paramedical personnel, parent or any other person working with, treating or assisting an athlete participating in or preparing for a sports

competition, and “athlete support person” shall be construed accordingly;

- (h) by deleting the definition of “Committee”;
- (i) by deleting the definition of “doping” and substituting therefor the following new definition—

“doping” means the occurrence of one or more anti-doping rule violations as defined in the World Anti-Doping Code;

- (j) by deleting the definition of “doping control” and substituting therefor the following new definition—

“doping control” means the steps and processes commencing with test distribution planning to the disposition of any appeal and the enforcement of consequences, including all steps and processes in between, including testing, investigations, whereabouts, therapeutic use exemptions, sample collection and handling, laboratory analysis, results management and investigations or proceedings relating to violations of status during ineligibility or provisional suspension as provided for in the World Anti-Doping Code;

- (k) in the definition of “event”, by deleting the word “separate” and substituting therefor the word “individual”;
- (l) in the definition of “in-competition”, by deleting the words “the body in charge of an event” and substituting therefor the words “as approved by the World Anti-Doping Agency”;
- (m) by deleting the definition of “institutional independence”;
- (n) in the definition of “international-level athlete”, by deleting the words “and Investigations”;
- (o) in the definition of “International Standard”, by inserting the words “and technical letters” immediately after the word “documents”;
- (p) by deleting the definition of “marker”;

- (q) by deleting the definition of “metabolite”;
- (r) by deleting the definition of “minor”;
- (s) by deleting the definition of “National Anti-Doping Organization”;
- (t) by deleting the definition of “national level athlete” and substituting therefor the following new definition—

“national level athlete” means an athlete who is not an international-level athlete and who—

 - (a) is included in the Registered Testing Pool or any other testing pool established by the Agency;
 - (b) participates in the premier division, first-tier national league competition of a team sport or the highest officially recognized national league division of a sport;
 - (c) in the case of an individual sport, is registered with a national sports organisation and is participating, or has participated in the preceding year, in the events and competitions held by the national sports organisation as set out in its annual calendar of events; or
 - (d) is a Kenyan citizen who competes at the international level or in international events but is not classified as an international-level athlete by the relevant international federation,

but does not include an athlete who is included in an international federation’s registered testing pool or other testing pool or who is defined as an international-level athlete by the relevant international federation;
- (u) by deleting the definition of “national sports organization”;
- (v) by deleting the definition of “operational independence”;
- (w) by deleting the definition of “participant”;
- (x) by deleting the definition of “professional sports”;

(y) by deleting the definition of “professional sports person”;

(z) by deleting the definition of “recreation”;

(aa) by deleting the definition of “recreational athlete” and substituting therefor the following new definition—

“recreational athlete” means any person who engages or participates in sport or fitness activities for recreational purposes and does not include any person who, within the five years prior to committing any anti-doping rule violation, has, in the same sport—

(a) been an international-level athlete, as defined by each International Federation consistent with the International Standard for Testing;

(b) been a national level athlete, as defined by each National Anti-Doping Organization consistent with the International Standard for Testing;

(c) participated in the sport in a professional capacity;

(d) competed in an international event or national event;

(e) represented any country in an international event in an open category; or

(f) been included within any Registered Testing Pool or other whereabouts information pool maintained by any International Federation or National Anti-Doping Organization;

(bb) by deleting the definition of “sports organisation” and substituting therefor the following new definition—

“sports organisation” means any body that governs, regulates, administers, organises, manages, promotes, or is responsible for sport or sporting activities in Kenya, and includes a national governing body, federation, club, league, association, event organiser and any other body

exercising authority over athletes, athlete support personnel or sporting activities in Kenya;

- (cc) by deleting the definition of “target testing”;
- (dd) by deleting the definition of “Therapeutic Use Exemption”;
- (ee) by deleting the definition of “trafficking”; and
- (ff) by inserting the following new definition in its proper alphabetical sequence—

“possession” means the actual, physical possession, or the constructive possession, of a prohibited substance or prohibited method, and for the purposes of this definition—

- (a) constructive possession shall be found only if the person has exclusive control over, or intends to exercise control over, the prohibited substance or prohibited method or the premises in which the prohibited substance or prohibited method exists;
- (b) where the person does not have exclusive control over the prohibited substance or prohibited method or the premises in which the prohibited substance or prohibited method exists, constructive possession shall be found only if the person knew about the presence of the prohibited substance or prohibited method and intended to exercise control over it;
- (c) there shall be no anti-doping rule violation based solely on possession if, before receiving notification of any kind that the person has committed an anti-doping rule violation, the person has taken concrete action demonstrating that the person never intended to have possession and has renounced possession by explicitly declaring it to an anti-doping organisation; and
- (d) notwithstanding anything to the contrary in this definition, the purchase, including by any electronic or other means, of a prohibited substance or prohibited method constitutes

possession by the person who makes the purchase;

3. The principal Act is amended by inserting the following new section immediately after section 2—

Insertion of new section in Cap. 245B.

Construction.

2A. Words and expressions used but not defined in this Act shall, unless the context otherwise requires, have the meanings assigned to them in the Code and the International Standards.

4. Section 3 of the principal Act is amended—

Amendment of section 3 of Cap. 245B.

(a) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) the following persons, whether or not they are minors—

(i) athletes and athlete support personnel who are members or licence holders of any sports organisation in Kenya, or of any member or affiliate organisation of any sports organisation in Kenya including any clubs, teams, associations or leagues;”

(ii) athletes and athlete support personnel who participate in such capacity in events, competitions and other activities organized, convened, authorized or recognized by any sports organisation in Kenya, or by any member or affiliate organisation of any sports organisation in Kenya including any clubs, teams, associations or leagues, wherever held; and”

(b) by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) sports organisations, fitness centres and gyms; and”.

5. Section 5 of the principal Act is amended by deleting subsection (2A) and substituting therefor the following new subsection—

Amendment of section 5 of Cap. 245B.

“(2A) The Agency shall be the only organisation permitted to carry out anti-doping activities in Kenya and its authority to enforce this Act, including any consequence for the breach thereof, shall be recognized by all sports organisations.”

6. Section 7 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

Amendment of
section 7 of Cap.
245B.

“(1) The functions of the Agency shall be to—

- (a) plan, conduct, coordinate and oversee in-competition and out-of-competition testing across all sports and at all levels for Kenyan athletes and athletes present within Kenya;
- (b) design, implement, evaluate and promote anti-doping education and awareness programmes aimed at preventing doping and promoting integrity, ethics, fair play and clean sport principles;
- (c) gather, receive, assess and act upon intelligence relating to suspected doping activities;
- (d) carry out investigations into violations of this Act;
- (e) prosecute anti-doping rule violations and related offences before the appropriate bodies;
- (f) undertake results management and enforce consequences in accordance with the Code and the Anti-Doping Rules;
- (g) establish and administer the Therapeutic Use Exemption process in line with international standards;
- (h) develop and implement strategies to prevent, detect and address doping in sport;
- (i) undertake or facilitate research on doping practices including prohibited substances and methods;

(j) advise the Government on all matters relating to anti-doping policies; and

(k) perform any other function conferred by this Act or any other written law.”

7. Section 9 of the principal Act is amended—

Amendment of
section 9 of Cap.
245B.

(a) by deleting the marginal note and substituting therefor the following new marginal note—

“Independence of the Agency.”

(b) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) The Agency shall—

(a) be independent in their operational decisions and activities from sport and government; and

(b) ensure that no person is involved in their management or operational activities where that person has a real or potential conflict of interest in relation to those operational activities.”; and

(c) by inserting the following new subsection immediately after subsection (2)—

“(3) For the purposes of subsection (2)(b), a real or potential conflict of interest shall, without limitation, be deemed to arise where a person is concurrently involved in the management or operational activities of the Agency and in the management or operational activities of a sports organisation or of a Ministry or Government department with responsibility for sport or anti-doping.”

8. Section 17(2) of the principal Act is amended in paragraph (a) by deleting the word “five” and substituting therefor the word “fifteen”.

Amendment of
section 17 of Cap.
245B.

9. The principal Act is amended by repealing section 23.

Repeal of section
23 of Cap. 245B.

10. The principal Act is amended by deleting section 24 and substituting therefor the following new section—

Amendment of
section 24 of Cap.
245B.

Therapeutic use
exemption.

24. An athlete who, for therapeutic reasons, requires the use of a prohibited substance or a prohibited method may apply to the Agency for a therapeutic use exemption in accordance with the Anti-Doping Rules in force at the time.

11. The principal Act is amended by deleting section 25 and substituting therefor the following new section—

Amendment of
section 25 of Cap.
245B.

Doping control.

25. (1) The Agency shall undertake doping control as a fundamental component of the national anti-doping programme for the purposes of detecting, deterring and preventing doping in sport and enforcing compliance with this Act, the Anti-Doping Rules and the applicable International Standards.

(2) The Agency may, in accordance with the Anti-Doping Rules and the applicable International Standards, conduct testing on any person to whom this Act applies.

(3) Without prejudice to the generality of subsection (2), testing may be conducted—

- (a) at any time, whether in-competition or out-of-competition;
- (b) at any place, whether within or outside Kenya; and
- (c) without advance notice to the person being tested.

(4) A person to whom this Act applies shall submit to testing when requested to do so by the Agency or by any person or body authorised by the Agency.

(5) The testing under this Act shall be conducted in accordance with the procedures, requirements and safeguards prescribed in the Anti-Doping Rules and the applicable International Standards.

12. The principal Act is amended by inserting the following new section immediately after section 25 —

Insertion of new section in Cap. 245B.

Prohibition of doping.

26. (1) An athlete, athlete support person, sports organisation or any other person shall not engage in, facilitate, encourage, aid, abet, assist, conceal, participate in or otherwise be involved in any act of doping or any conduct constituting an anti-doping rule violation under this Act or the Anti-Doping Rules.

(2) A person participating in sport shall uphold the principles of clean sport and comply with this Act, the Anti-Doping Rules and any other applicable anti-doping requirements.

(3) A person who contravenes the provisions of this section shall be liable to the sanctions and consequences provided for under the Anti-Doping Rules and, where the contravention constitutes an offence under this Act or any other written law, to the penalties prescribed under this Act or that other written law.

27. 13. The principal Act is amended by repealing section

Repeal of section 27 of Cap. 245B.

28. 14. The principal Act is amended by repealing section

Repeal of section 28 of Cap. 245B.

15. Section 30 of the principal Act is amended —

Amendment of section 30 of Capp. 245B.

(a) by deleting subsection (1) and substituting therefor the following new subsection —

“(1) An authorized anti-doping compliance officer shall, for the purposes of enforcing this Act and any regulations made thereunder, have the power to—

(a) investigate offences under this Act;

(b) require the production of documents, records or information reasonably necessary for the conduct of an investigation;

- (c) enter premises, vessels or vehicles for the purpose of inspection or investigation, subject to a warrant issued by a court of competent jurisdiction;
- (d) search for and seize prohibited substances, prohibited methods, equipment, documents or other items reasonably suspected to be connected with an offence under this Act;
- (e) arrest, without a warrant, any person reasonably suspected of committing an offence under this Act, in the circumstances in which, and subject to the conditions under which, a police officer may arrest a person without a warrant under the Criminal Procedure Code, and shall, without undue delay, hand over the person so arrested to a police officer or take the person to the nearest police station; and
- (f) monitor compliance with the provisions of the Act.”

Cap. 75.

(b) by deleting subsection (4).

16. The principal Act is amended by deleting section 31 and substituting therefor the following new section —

Amendment of section 31 of Cap. 245B.

Hearing and determination of anti-doping rule violation cases.

Cap. 223.

31. (1) All anti-doping rule violation cases involving national level athletes, international-level athletes, athlete support personnel and other persons subject to the Anti-Doping Rules shall, in the first instance, be heard and determined by the Sports Disputes Tribunal established under the Sports Act.

(2) A party aggrieved by a decision of the Sports Disputes Tribunal under subsection (1) may appeal to the Continental Results Management Panel recognised under the applicable Anti-Doping Rules, in accordance with those Rules.

(3) A party aggrieved by a decision of the Continental Results Management Panel under subsection (2) may lodge a further

appeal with the Court of Arbitration for Sport in accordance with the applicable Anti-Doping Rules.

(4) Notwithstanding subsections (2) and (3), a national level athlete, an international-level athlete or any other person with a right of appeal under this Act or the applicable Anti-Doping Rules may elect to appeal directly from a decision of the Sports Disputes Tribunal to the Court of Arbitration for Sport, where such direct appeal is permitted under the applicable Anti-Doping Rules.

17. The principal Act is amended by repealing section 32.

Repeal of section 32 of Cap. 245B.

18. The principal Act is amended by deleting section 41B and substituting therefor the following new section—

Amendment of section 41B of Cap. 245B.

Internal Rules to conform with the Code.

41B. (1) A sports organisation shall prepare Rules requiring all athletes preparing for or participating in a competition or activity authorized or organized by a sports organisation or one of its member organisations, and each athlete support personnel associated with such athletes to agree to be bound by the Anti-Doping Rules and the Agency's results' management authority in conformity with the Code as a condition for such participation.

(2) A sponsor or an event organizer shall ensure that an anti-doping program is incorporated into every sporting event or competition.

(3) A sports organisation, the National Olympic Committee of Kenya, or the National Paralympic Committee of Kenya shall ensure that an anti-doping program is integrated and recognized in the process of national team selection.

(4) A national team shall undergo anti-doping education and testing prior to and during participation in an international sporting event.

19. The principal Act is amended by deleting section 41C and substituting therefor the following new section—

Amendment of section 41C of Cap. 245B.

Reports on violations.

41C. A person shall report any information suggesting or relating to an anti-doping rule violation to the Agency, and if it is a sports organisation, to its international federation.

20. The principal Act is amended by inserting the following new section immediately after section 41D—

Insertion of new section in Cap. 245B.

Compliance by sports organisations.

41E. (1) A sports organisation shall ensure that its constitution, rules, regulations and policies are consistent with and expressly incorporate the Anti-Doping Rules, as amended from time to time.

(2) The Agency shall conduct compliance audits of sports organisations for the purposes of monitoring compliance with subsection (1).

(3) The Agency may, in accordance with the Anti-Doping Rules and after according the sports organisation concerned an opportunity to be heard, impose sanctions against a sports organisation that fails to comply with the requirements of this section.

21. Section 42 of the principal Act is amended—

Amendment of section 42 of Cap. 245B.

(a) in subsection (1) by deleting the closing sentence and substituting therefor the following closing sentence—

“commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.”;

(b) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) A person or body who—

- (a) unlawfully transports or transfers prohibited substances or prohibited methods within or outside Kenya;
- (b) stocks supplies of products containing prohibited substances or prohibited methods in an unlawful manner; or
- (c) administers, applies or generally causes an athlete to use prohibited substances or prohibited methods,

commits an offence and shall be liable, on conviction, to a fine of not less than five million shillings or to imprisonment for a term of not less than five years or to both such fine and imprisonment, and in case of corporate bodies, in addition to the fine, the trading licence of the respective corporate body shall be withdrawn for a period of not less than one year.”

(c) by deleting subsection (3) and substituting therefor the following new subsection—

“(3) A person participating in recreational sport in a gym, fitness centre, private club or other similar facility who—

- (a) uses or causes another person to use a prohibited substance or prohibited method;
- (b) is found in possession of a prohibited substance or prohibited method;
- (c) administers or attempts to administer a prohibited substance or prohibited method; or
- (d) buys, sells, stocks, transports or in any way deals with a prohibited substance or prohibited method,

commits an offence and is liable, on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than three years or to both such fine and imprisonment:

Provided that if such a person is an athlete or athlete support personnel then such a person shall be subjected only to the sanctions specified in subsection (6).”; and

- (d) in subsection (4) by deleting the closing sentence and substituting therefor the following new closing sentence —

“commits an offence and shall be liable on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than five years or to both such fine and imprisonment, and shall have his or her professional licence revoked for a period of not less than one year.”

22. Section 43 of the principal Act is amended by deleting the words “one million shillings or to imprisonment for a term of not less than one year” and substituting therefor the words “three million shillings or to imprisonment for a term of not less than three years”.

Amendment of
section 43 of Cap.
245B.

23. (1) Any proceedings relating to an anti-doping rule violation that are pending before the Sports Disputes Tribunal or any other body immediately before the commencement of this Act shall continue and be concluded in accordance with the principal Act as if this Act had not been enacted.

Transitional
provisions.

(2) A therapeutic use exemption granted under the principal Act and in force immediately before the commencement of this Act shall continue in force, until it expires or is revoked, as if it had been granted under the Anti-Doping Rules.

(3) The Registered Testing Pool established under the repealed section 25 of the principal Act and subsisting immediately before the commencement of this Act shall be deemed to have been established under the Anti-Doping Rules.

24. Section 58 of the Sports Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (a)—

Consequential
amendment to
section 58 of Cap.
223.

“(aa) anti-doping rule violations under the Anti-Doping Act;”

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Anti-Doping Act, Cap. 245B to align the Act with the World Anti-Doping Agency Code.

Kenya is a signatory to the UNESCO International Convention Against Doping in Sport established under the World Anti-Doping Agency, and which provides the international obligations prohibiting doping in sports.

The World Anti-Doping Code was revised to address emerging challenges in relation to doping, and the revised Code will come into effect on 1st January, 2027. The World Anti-Doping Agency subsequently directed all signatories to the UNESCO International Convention Against Doping in Sport to review and amend their legal, regulatory and policy frameworks on anti-doping to ensure full alignment before the Code takes effect.

Clause 1 of the Bill provides for the short title to the Bill.

Clause 2 of the Bill amends section 2 of the Act to provide clear definitions of terms and to eliminate duplication in the interpretation of terms as contained in the Act, the World Anti-Doping Code and the International Standards. The Clause also deletes obsolete terms contained in the Act.

Clause 3 of the Bill introduces a new section 2A to the Bill that provides that terms used in the Bill shall be construed as having the meaning assigned to them in the Code and International Standards.

Clause 4 of the Bill amends section 3 of the Act to make reference to the broader definition of sports organization.

Clause 5 of the Bill introduces a new subsection into section 5 of the Act to provide for the exclusive mandate of the Anti-Doping Agency of Kenya to conduct anti-doping activities.

Clause 6 of the Bill amends section 7 of the Act to provide for clear and concise functions of the Agency based on the pillars of the Code, namely testing, education, intelligence and investigations, results management, therapeutic use exemptions, and research and policy advice.

Clause 7 of the Bill amends section 9 of the Act to provide for the operational independence of the Agency so as to safeguard the impartiality of the decisions of the Agency.

Clause 8 of the Bill amends section 17 of the Act to increase the minimum experience requirement for appointment as a Chief Executive Officer from five years to fifteen years.

Clause 9 of the Bill repeals section 23 of the Act which provides for the establishment of the Therapeutic Use Exemption Committee.

Clause 10 of the Bill amends section 24 of the Act so as to simplify the application process for therapeutic use exemptions.

Clause 11 of the Bill amends section 25 of the Act to provide for the express and unequivocal powers of the Agency to conduct testing in relation to anti-doping.

Clause 12 of the Bill inserts a new section 26 into the Act to provide for an express prohibition on doping which was previously not contained in the Act.

Clause 13 of the Bill deletes section 27 of the Act which provides for the acceptance of the Code and related obligations, so as to eliminate duplicated obligations already provided in clause 26(3) and in the Anti-Doping Rules.

Clause 14 of the Bill deletes section 28 of the Act which provides for accredited laboratories, so as to eliminate duplication or conflict between the Act and the International Standards.

Clause 15 of the Bill amends section 30 of the Act to strengthen the enforcement capacity of the Agency by giving inspection and investigative powers to the authorized anti-doping compliance officers.

Clause 16 of the Bill amends section 31 of the Act to restructure the dispute resolution process. In terms of the amendment, disputes shall be heard by the Sports Dispute Tribunal with a clear appeal route through the Continental Results Management Panel and subsequently the Court of Arbitration for Sport.

Clause 17 of the Bill deletes section 32 of the Act to ensure that the appeals framework shall be as provided in clause 31.

Clause 18 of the Bill amends section 41B of the Act to extend anti-doping compliance obligations beyond national federations to the sports organisations as defined in the Bill, and to include sponsors and event organizers in the obligation to incorporate anti-doping programmes in sporting events.

Clause 19 of the Bill amends section 41C of the Act as a consequential amendment aligning the section with the broadened definition of sports organisations.

Clause 20 of the Bill inserts a new section 41E into the Act to provide for the compliance obligations of sports organisations as well as to provide for the powers of the Agency to conduct compliance audits.

Clause 21 of the Bill amends section 42 of the Act to increase the fines and terms of imprisonment imposed for the offences committed under the Act. The Clause further includes the unlawful dealing in prohibited methods as an offence under the Act.

Clause 22 of the Bill amends section 43 of the Act to enhance the general penalty in line with the enhanced penalties as amended in clause 21.

Clause 23 of the Bill provides for transitional and savings provisions, so as to ensure continuity for pending disciplinary cases, therapeutic exemptions and the registered testing pool as provided under the Act.

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

This Bill does not delegate legislative powers and neither does it limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Bill does not concern county governments in terms of Article 109(5) of the Constitution as it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Sports policy and compliance with international obligations is a function of the national government.

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

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 23rd September, 2026.

DANIEL WANYAMA,
Chairperson of the Departmental Committee on Sports and Culture.

Section 2 of Cap. 245B which is intended to be amended—

2. Interpretation

In this Act, unless the context otherwise requires —

"accredited laboratory" means a laboratory approved by the World Anti-doping Agency to analyse samples for the presence of prohibited substances in accordance with International Standards;

"administration" *deleted by Act No. 24 of 2020, s. 2(b)*;

"Agency" means the Anti-Doping Agency of Kenya established under section 5;

"anti-doping activities" means anti-doping education and information, test distribution planning, maintenance of a registered testing pool, managing Athlete Biological Passports, conducting testing, organising analysis of samples, gathering of intelligence and conduct of investigations, processing of therapeutic use exemptions applications, results management, hearings, monitoring and enforcing compliance with any consequences imposed, and all other activities related to anti-doping to be carried out by or on behalf of an anti-doping organisation, as set out in the World Anti-Doping Code and in the International Standards;

"Anti-Doping Administration and Management System" means a web-based database management tool for data entry, storage, sharing, and reporting designed to assist stakeholders and the World Anti-doping Agency in anti-doping operations;

"Anti-Doping Rules" includes the Regulations made under this Act;

"athlete" means any person who competes in sport at the international level as defined by an international federation or at the national level as defined by the Agency;

"athlete biological passport" means the program and methods of gathering and collating data as described in the International Standard for Testing and Investigations and International Standard for Laboratories;

"athlete support personnel" includes a coach, trainer, manager, agent, team staff, official, medical or paramedical personnel, parent or any other person working with, treating or assisting an athlete participating in or preparing for a sports competition;

"attempt" *deleted by Act No. 18 of 2016, s. 2*;

"Board" means the board of Anti-Doping Agency of Kenya established under section 10;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to sport;

"Convention" means the United Nations Educational, Scientific and Cultural Organization Convention Against Doping in Sport;

"Code" means the World Anti-Doping Code that has been adopted by sports organizations, international sports federations and national anti-doping organizations to regulate doping in sports;

"Committee" means the Therapeutic Use Committee established under section 23 of the Act;

"Court of Arbitration for Sport" means a court set up by the International Council of Arbitration for Sport;

"competition" means a single race, match, game or singular sport contest;

"complicity" *deleted by Act No. 24 of 2020, s. 2(c);*

"delegated third party" means any person to which the Agency delegates any aspect of doping control or anti-doping education programs including, but not limited to, third parties or other Anti-Doping Organisations that conduct sample collection or other doping control services or anti-doping educational programs for the Agency, or individuals serving as independent contractors who perform doping control services for the Agency, but does not include the Court of Arbitration for Sport (CAS);

"doping" means the use of prohibited substances and methods in any sporting activity whether competitive or recreational in order to artificially enhance performance;

"doping control" means the steps and processes commencing with test distribution planning to the disposition of any appeal and the enforcement of consequences, including steps and processes in between, including but not limited to provision of testing, investigations, whereabouts information, therapeutic use exemptions, sample collection and handling, laboratory analysis, results management, and hearings and appeals, and investigations or proceedings relating to violations of Article 10.14 (status during ineligibility or provisional suspension) of the World Anti-Doping Code;

"education" means the process of learning to instill values and develop behaviors that foster and protect the spirit of sport, and to prevent intentional and unintentional doping;

"event" means a series of separate competitions conducted together under one ruling body;

"healthcare practitioner" *deleted by Act No. 18 of 2016, s. 2;*

"in-competition" means the period commencing one minute to midnight on the day before a competition in which the athlete is scheduled to participate through the end of such competition and the sample collection process related to such competition, unless provided otherwise in the rules of an international federation or the body in charge of an event;

"institutional independence" means the independence of the hearing panels on appeal from the Anti-Doping Organisation responsible for results management;

Note: They must therefore not in any way be administered by, connected or subject to the Anti-Doping Organisation responsible for results management;

"international-level athlete" means an athlete who competes in sport at the international level, as defined by each international federation, consistent with the International Standard for Testing and Investigations;

"International Olympic Committee" means the organization created by the Congress of Paris on June 23, 1894 and entrusted with the control and development of the modern Olympic Games;

"International Paralympic Committee" means the organization established on September 22, 1989, to enable paralympic athletes to achieve sporting excellence and to inspire and excite the world and entrusted with the control and development of the Paralympic Games;

"International Standard" means a standard adopted by the World Anti-Doping Agency in support of the Code and includes any technical documents issued pursuant to the International Standard;

"licence" means a certificate issued to a professional sports body, coach, agent, or a professional sports person for purposes of carrying out the activities of the relevant sport;

"marker" means a compound, group of compounds or biological variables that indicates the use of a prohibited substance or prohibited method;

"member" includes the Chairperson and members of the Board established under section 10 of this Act;

"metabolite" means any substance produced by a biotransformation process;

"minor" means a natural person who has not reached the age of eighteen years;

"National Anti-Doping Organization" means the entity designated by each country as possessing the primary authority and responsibility to adopt and implement Anti-Doping Rules, direct the collection of samples, the management of test results, and the conduct of hearings at the national level and where this designation has not been made by the competent public authorities, the entity shall be the country's National Olympic Committee or its designee;

"national level athlete" means athletes who compete in sport at the national level, as defined by each national anti-doping organisation, consistent with the International Standard for Testing and Investigations. In Kenya, national level athletes are defined as any athletes who —

- (i) participate in the national leagues, county leagues, events or competitions organized by their federations or by any sports organisation or club;
- (ii) are affiliated to a federation, national league, county league, sports organisation or club; or
- (iii) participate in competitions or events organized by schools, colleges or other institutions;

"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 and it may be affiliated to an international federation or not;

"operational independence" means —

- (a) that board members, staff members, commission members, consultants and officials of the Anti-Doping Organization with responsibility for results management or its affiliates who may include a member federation or confederation, as well as any person involved in the investigation and pre- adjudication of the matter cannot be appointed as members or clerks (to the extent that such clerk is involved in the deliberation process or drafting of any decision) of hearing panels of that Anti- Doping Organization with responsibility for results management; and
- (b) that hearing panels shall be in a position to conduct the hearing and decision making process without interference from the Agency or any third party;

"out-of-competition" means any period when not in-competition;

"out-of-competition testing" *deleted by Act No. 18 of 2016, s. 2;*

"participant" means any athlete or athlete support person;

"possession" *deleted by Act No. 24 of 2020, s. 2(f);*

"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 at national or international level;

"prohibited association" *deleted by Act No. 24 of 2020, s. 2 (g);*

"Prohibited List" means the list developed by the World Anti-Doping Agency for purposes of identifying the prohibited substances and prohibited methods;

"prohibited method" means any method so described on the prohibited list;

"prohibited substance" means any substance, or class of substances, so described on the Prohibited List;

"protected person" means an athlete or other natural person who at the time of the anti-doping rule violation—

- (a) has not reached the age of sixteen years;
- (b) has not reached the age of eighteen years and is not included in any Registered Testing Pool and has never competed in any international event in an open category; or
- (c) for reasons, other than age has been determined to lack legal capacity under applicable national legislation;

"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;

"recreational athlete" means any person who engages or participates in sport or fitness activities for recreational purposes and does not include any person who, within the five years prior to committing any anti-doping rule violation, has been an international-level athlete (as defined by each International Federation consistent with the International Standard for Testing and Investigations) or national-level athlete (as defined by each

National Anti-Doping Organization consistent with the International Standard for Testing and Investigations), has represented any country in an international event in an open category or has been included within any Registered Testing Pool or other whereabouts information pool maintained by any International Federation or National Anti-Doping Organization; and

"Registered Testing Pool" means the pool of highest-priority athletes established separately at the international level by International Federations and at the national level by National Anti-Doping Organizations, who are subject to focused In-Competition and Out-of-Competition Testing as part of that International Federation's or National Anti-Doping Organization's test distribution plan and therefore are required to provide whereabouts information as provided in Article 5.6 of the World Anti-Doping Code and the International Standard for Testing and Investigations;

"Registrar" means the Sports Registrar appointed under section 45 of the Sports Act (Cap. 223);

"results management" means the process encompassing the timeframe between notification as per Article 5 of the International Standard for Results Management, or in cases which may include Atypical Finding, Athlete Biological Passport or whereabouts failure, such pre-notification steps expressly provided for in Article 5 of the International Standard for Results Management, through the charge until the final resolution of the matter, including the end of the hearing process at first instance or on appeal, if an appeal is lodged.

"sample" means any biological material collected for the purposes of doping control;

"sports organisation" means a body registered in Kenya for purposes of promoting sports;

"tampering" *deleted by Act No. 24 of 2020, s. 2(h);*

"target testing" means selection of specific athletes for testing based on criteria set forth in the International Standard for Testing and Investigations;

"testing" means the parts of the doping control process involving test distribution planning, sample collection, sample handling, and sample transport to the laboratory;

"Therapeutic Use Exemption" means an exemption that allows an athlete with a medical condition to use a prohibited substance or prohibited method, but only if the conditions set out in Article 4.4. of the

World Anti-Doping Code and the International Standard for Therapeutic Use Exemptions are met;

"trafficking" means selling, giving, transporting, sending, delivering or distributing, or possessing for any such purpose, a prohibited substance or prohibited method (either physically or by any electronic or other means) by an athlete, athlete support person or any other person subject to the jurisdiction of an anti-doping organisation to any third party:

Provided, however, this definition shall not include the actions of *bona fide* medical personnel involving a prohibited substance used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving prohibited substances which are not prohibited in out-of-competition testing unless the circumstances as a whole demonstrate such prohibited substances are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance;

"Tribunal" means the Sports Tribunal established under section 55 of the Sports Act (Cap. 223);

"United Nations Educational Scientific and Cultural Organization Convention Against Doping in Sport" means the International Convention against Doping in Sport adopted by the 33rd session of the United Nations Educational Scientific and Cultural Organization General Conference on 19th October, 2005, including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport;

"use" means the utilization, application, ingestion, injection or consumption by any means of any prohibited substance or prohibited method; and

"World Anti-Doping Agency

"means a sports body set up for the purposes of coordinating anti-doping activities worldwide.

Section 3 of Cap. 245B which is intended to be amended—

3. Application of the Act

This Act applies to—

(a) the Agency;

(b) the following persons, whether or not they are minors—

(i) athletes and athlete support personnel who are members or licence holders of any national federation in Kenya, or of

- any member or affiliate organisation of any national federation in Kenya including any clubs, teams, associations or leagues;
- (ii) athletes and athlete support personnel who participate in such capacity in events, competitions and other activities organized, convened, authorized or recognized by any national federation in Kenya, or by any member or affiliate organisation of any national federation in Kenya including any clubs, teams, associations or leagues, wherever held; and
 - (iii) other persons present in Kenya over whom the Convention, Code, International Standards or the Anti-Doping Rules give the Agency jurisdiction;
- (c) manufacturers, importers, stockists, distributors and sellers of products containing prohibited substances or methods;
 - (d) national federations, national sports organizations, sports organizations, fitness centres and gyms; and
 - (e) board members, directors, officers and specified employees, and delegated third parties and their employees, who are involved in any aspect of doping control, of the entities specified under paragraphs (a) to (d).

Section 5 of Cap. 245B which is intended to be amended—

5. Establishment of the Agency

(1) There is established a body to be known as the Anti-Doping Agency of Kenya.

(2) The Agency shall be a body corporate with perpetual succession and a common seal which shall be capable, in its corporate name, of—

- (a) suing and being sued;
- (b) owning, taking, purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property;
- (c) receiving and borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all such other acts which may lawfully be done or performed by a body corporate.

(3) The Agency shall be the only organization permitted to carry out anti-doping activities in Kenya and its authority to enforce this Act, including any consequence for the breach thereof, shall be recognized by

all national and international sports federations and national and international sports organisations.

(3) Deleted by Act No. 24 of 2020, s. 5(b).

(4) Deleted by Act No. 24 of 2020, s. 5(c).

Section 7 of Cap. 245B which is intended to be amended—

7. Functions of the Agency

- (1) The functions of the Agency shall be to—
 - (a) promote participation in sport, free from doping in order to protect the health and well-being of competitors and the rights of all persons who take part in sport;
 - (b) create awareness in order to discourage the practice of doping in sport among the public and the sporting community in particular;
 - (c) develop a national strategy to address doping in sport in collaboration with the Ministry;
 - (d) implement the World Anti-Doping Code and associated International Standards;
 - (e) periodically *gazette* International Standards;
 - (f) use World Anti-Doping Agency accredited laboratories for analysis of samples and other required specimen;
 - (g) implement anti-doping activities in the country including the testing of collected samples in all sports, sport federations, national and international sports federations, and national and international sports organisations;
 - (h) undertake, co-ordinate or arrange for research to be undertaken in the field of performance-enhancing substances and methods and doping practices in sport;
 - (i) promote and implement the application of various guidelines and international standards in matters related to anti-doping;
 - (j) oversee the processes of the Committee;
 - (k) carry out investigations in matters of doping in sports;
 - (l) provide information to athletes, athlete support personnel and on the procedures for, and developments concerning the collection and testing of samples in accordance with the Code and any standards developed by the World Anti-doping Agency;

- (m) implement the Prohibited List as published by the World Anti-Doping Agency from time to time;
- (n) select athletes who are to be requested to provide samples for testing when necessary;
- (o) collect samples from athletes in accordance with approved guidelines and International Standards, and secure the safe transit of samples to laboratories accredited by the World Anti-Doping Agency, for testing;
- (p) summon, investigate and call for any document, evidence or person that may be required for the enforcement of the Act;
- (q) co-operate with state agencies, non-governmental organisations and other persons within Kenya and internationally to achieve the Agency's mandate and encourage reciprocal testing between anti-doping organisations;
- (r) take steps aimed at ensuring that the Government and the National Olympic Committee complies with international agreements and other arrangements to which Kenya is a party concerning the use of drugs and doping in sport;
- (s) maintain data of all prohibited substances in accordance with the directions of the World Anti-doping Agency;
- (t) maintain the Whereabouts Register and a Registered Testing Pool in the Anti-doping Administration and Management System in accordance with the Code;
- (u) prosecute anti-doping offences before the Tribunal or the courts;
 - (ua) plan, implement, evaluate and promote anti-doping education in line with the requirements of the International Standard for Education;
 - (ub) vigorously undertake results management and ensure proper enforcement of consequences in accordance with the Agency's rules and the Code;
 - (uc) *deleted by Act No. 24 of 2020, s. 7(a)(vii);*
 - (ud) implement the Anti-Doping Administration and Management System program;

- (ue) adopt a policy implementing the requirements for the encouragement and protection of whistleblowers; and
- (v) carry out any other function conferred by or under this Act and any other relevant treaty.
- (2) In the performance of its functions, the Agency shall—
 - (a) address the needs of minors;
 - (b) take into account the needs of persons with disabilities or other persons with special needs; and
 - (c) ensure that data privacy requirements and the rights of everyone involved in the doping control procedures are respected.
- (3) The Agency may delegate any aspect of doping control or anti-doping education to a delegated third party and shall—
 - (a) require the delegated third party to perform such aspects in compliance with the Code, International Standards, and this Act; and
 - (b) always remain fully responsible for ensuring that the delegated aspects are performed in compliance with the Code.
- (4) The Kenya Bureau of Standards, the Pharmacy and Poisons Board, the Medical Practitioners and Dentists Council, the Ministry for the time being responsible for matters relating to Health and all other aligned or relevant agencies, shall collaborate with the

Section 9 of Cap. 245B which is intended to be amended—

9. Independence of Agency and Therapeutic Use Exemption Committee

- (1) Pursuant to the World Anti-Doping Code and the United Nations Educational Scientific and Cultural Organization Convention Against Doping in Sport, the Agency and the Committee shall—
 - (a) not require the consent of any person or authority to commence any investigations or impose any administrative sanctions; and
 - (b) not be under the direction or control of any person or authority in the exercise of their powers under this Act or any other written law.
- (2) The Agency and Committee shall be independent in their operational decisions and activities from sport and government, including, without limitation from any involvement in their operational decisions or

activities by any person who is at the same time involved in the management or operations of any national and international sports federations, national and international sports organisations, Major Event Organization, National Olympic Committee, National Paralympic Committee, or Ministry or other government department with responsibility for sports or anti-doping.

Section 17 of Cap. 245B which is intended to be amended—

17. Chief Executive Officer

(1) There shall be an officer of the Agency, to be known as the Chief Executive Officer, who shall be competitively recruited and appointed by the Board.

(2) No person shall be appointed as Chief Executive Officer unless the person—

(a) possesses a postgraduate degree from a recognized institution and has a least five years working experience in sports or administration;

(b) has knowledge and experience in matters of Anti-doping; and

(c) satisfies the requirements of Chapter 6 of the Constitution.

(3) The Chief Executive Officer shall be the Secretary to the Board.

(4) The Chief Executive Officer shall be responsible for the—

(a) implementation of the decisions of the Board;

(b) day to day management of the affairs of the Agency and in particular for the implementation of the policies and programmes in relation to anti-doping activities including but not limited to—

(i) education and awareness;

(ii) research;

(iii) testing;

(iv) investigations;

(v) results management;

(vi) administrative support to the Therapeutic Use Exemption Committee;

(vii) the formulation, development and implementation of the Agency's strategic plan and any other plans in order to carry out the mandate of the Agency;

- (c) organization and management of the staff; and
- (d) any other function as may be directed by the Board.

(5) The Chief Executive Officer shall hold office for a term of three years and is eligible for re-appointment for one further term.

Section 23 of Cap. 245B which is intended to be amended—

23. Therapeutic Use Committee

- (1) There is established the Therapeutic Use Exemption Committee.
- (2) The Committee shall comprise of the following persons appointed by the Agency—
 - (a) a chairperson who is a medical doctor with over seven years' experience in matters related to sport;
 - (b) a medical doctor of not less than five years experience in matters relating to sports;
 - (c) a clinical pharmacist of not less than five years experience in matters relating to sports;
 - (d) an international level athlete who has since retired; and
 - (e) a sports administrator who shall have retired at least two years prior to the appointment.
- (3) The Chairperson and members appointed under this section shall hold office for a term of five years and shall be eligible for reappointment for one further term.
- (3A) Before serving as members of the Committee, each member shall sign an Oath of Secrecy and Declaration of Conflict of Interest Form as provided by the Agency.
- (4) The quorum for the conduct of the business of the Committee shall be three members of whom at least one, shall be a doctor.
- (5) The Committee shall be guided by the following in the performance of their work—
 - (a) the Code and International Standards;
 - (b) International Guidelines on Therapeutic Use Exemption;
 - (c) the Prohibited List; and
 - (d) the provisions of this Act.
- (6) The functions of the Committee shall be to—

- (a) receive, review and approve applications for the grant of therapeutic use exemption by athletes who compete at the national level;
- (b) receive, review and approve applications for the grant of therapeutic use exemption by athletes who compete at the international level, if requested to do so by an international federation;
- (c) review therapeutic use exemptions issued by an international federation for compliance with the International Standard for Therapeutic Use Exemptions; and
- (d) refer to the World Anti-Doping Agency any therapeutic use exemption issued by an international federation which in its view does not meet the requirements of the International Standard for Therapeutic Use Exemption.

Section 24 of Cap. 245B which is intended to be amended—

24. Application for Therapeutic use exemption

(1) An athlete, other than an international-level athlete, with a medical condition requiring the use of a prohibited substance or prohibited method, may, in accordance with the provisions of this Act and the Anti-Doping Rules, apply to the Committee for a therapeutic use exemption.

(2) An international-level athlete, or an athlete who participates in an international event, with a medical condition requiring the use of a prohibited substance or prohibited method, may, in accordance with the International Standard for Therapeutic Use Exemptions, apply directly to its international federation no later, except in emergency situations, than—

- (a) thirty days before his participation in an international event; or
 - (b) such other period as may be provided for in the anti-doping rules of the relevant International Federation, to the relevant International Federation for an exemption and provide the Committee with a copy of the application prior to the international event.
- (3) An application under subsections (1) or (2) shall be made—
- (a) immediately after the athlete becomes aware that the use of a prohibited substance or prohibited method is required; and
 - (b) subject to any circumstance of emergency, no later than thirty days prior to the participation of the athlete in any competition or event.

(4) The decision of the Committee may be appealed in a manner specified in the Anti-Doping Rules (sub. leg).

Section 25 of Cap. 245B which is intended to be amended—

25. Registered Testing Pool

(1) The Agency shall establish a Registered Testing Pool.

(2) The Agency, shall in accordance with the Anti-Doping Rules, publish criteria for the inclusion of an athlete in its Registered Testing Pool.

(3) The Agency shall notify an athlete, in writing, of that athlete inclusion in its Registered Testing Pool.

Section 27 of Cap. 245B which is intended to be amended—

27. Acceptance of the Code and related obligations

(1) An athlete or an athlete support personnel who is not a minor as well as all Board members, directors, officers, employees and appointed delegated third parties who are involved in any aspect of doping control shall be required to accept the Code by signing a declaration of the acceptance of the Code and submit the approval to the Agency.

(2) In the case of a minor, the guardian shall sign such acceptance referred to in subsection (1) and submit the acceptance to the Agency.

(3) In the case of a team related sport, the team shall sign a team declaration which shall bind the team collectively and individually.

(4) *Deleted by Act No. 18 of 2016, s. 9.*

(5) An athlete shall—

(a) be knowledgeable of, and comply with, the Anti-Doping Rules:

Provided that lack of such knowledge shall not be used as a defence in case of infringement of any provision of this Act;

(b) be responsible for ensuring that no prohibited substance enters his or her body;

(c) inform medical personnel of his or her obligation not to use prohibited substances and prohibited methods and take responsibility to make sure that any medical treatment received does not violate the Anti-Doping Rules;

(d) be available for, and submit to, in-competition and out-of-competition testing at any time and place, with or without advance notice;

- (e) be responsible for any prohibited substance or its metabolites or markers found to be present in his bodily specimen; and
 - (f) disclose the identity of their athlete support personnel upon request by the Agency.
- (6) An athlete support personnel shall—
- (a) cooperate with the anti-doping program of the Agency;
 - (b) use his or her influence to foster anti-doping attitudes among athletes.
 - (c) be knowledgeable of and comply with the Anti-Doping Rules;
 - (d) not use or possess any prohibited substance or prohibited method without valid justification; and
 - (e) not use the defence of lack of knowledge or the requirement to comply with the Anti-Doping Rules as a defence for any infringement under this Act.

(7) Other persons subject to this Act shall be knowledgeable of, and comply with the Anti-Doping Rules provided that lack of such knowledge shall not be used as a defence in case of infringement of any provision of this Act.

Section 28 of Cap. 245B which is intended to be amended—

28. Accredited laboratories

(1) A sample taken from an athlete shall be analysed at an accredited laboratory or laboratory otherwise approved by the World Anti-Doping Agency to detect prohibited substances or its metabolites and markets.

(2) A sample and related analytical data or doping control information shall be analysed—

- (a) to detect prohibited substances and prohibited methods identified on the prohibited list and other substances as may be directed by the World Anti-Doping Agency;
- (b) to assist an anti-doping organization in profiling relevant parameters in an athlete's urine, blood or other matrix, including for DNA or genomic profiling; or
- (c) for any other legitimate anti-doping purpose.

(3) Samples, related analytical data and doping control information may be used for anti-doping research purposes, subject to written consent of the athlete.

(4) Samples and related analytical data or doping control information used for research purposes shall first be processed in such a manner as to prevent samples and related analytical data or doping control information being traced back to a particular athlete.

(5) The results of all tests sample analysis shall be submitted to the Agency.

Section 30 of Cap. 245B which is intended to be amended—

30. Power of search, entry, interrogation

(1) An authorised anti-doping compliance officer acting in accordance with the enabling statutory provisions may—

- (a) enter upon any premises, vessel or vehicle in which prohibited substances are reasonably suspected of being stored and make a record in the prescribed form; or
- (b) seize, detain, and where applicable remove for detention the prohibited substances found in such premises, vessel or vehicle.

(2) If the anti-doping compliance officer suspects that any person found at the premises, vessel or vehicle may provide any useful information, he or she may—

- (a) interrogate that person and record a statement from that person; or
- (b) demand from that person any book, document, article, object or substance which may assist in identifying any prohibited substance or person dealing in prohibited substances.

(3) Nothing in this section shall be construed as requiring a person to answer any question or give any information which may incriminate him or her.

(4) An anti-doping compliance officer may with a warrant, arrest any person whom the anti-doping compliance officer suspects on reasonable grounds of having committed an offence under this Act and may search the person and detain the person for a maximum of twenty four hours at the nearest police station.

(5) Before acting under this section, an anti-doping compliance officer shall, if required to do so, produce documents of his or her appointment.

Section 31 of Cap. 245B which is intended to be amended—

31. Jurisdiction of Sports Tribunal

(1) The Tribunal shall have jurisdiction to hear and determine cases on—

- (a) anti-doping rule violations on national and lower level athletes and athlete support personnel;
- (b) anti-doping rule violations on other persons subject to the Anti-Doping Rules;
- (c) anti-doping rule violations arising from national and lower level events;
- (d) Therapeutic Use Exemptions (TUE) decisions of Anti-Doping Agency of Kenya (ADAK); and
- (e) matters of compliance of sports organisations in the first instance and appellate level.

(2) The Tribunal shall be guided by the Code, the International Standards established under the Code, the 2005 UNESCO Convention Against Doping in Sports, the Sports Act (Cap. 223), and the Agency's Anti-Doping Rules, amongst other legal sources.

(3) The Tribunal shall establish its own procedures.

(4) Appeal level disputes involving national and lower level athletes, athlete support personnel, sports federations, sports organisations, professional athletes and other persons subject to the Anti-Doping Rules shall be resolved by the Tribunal—

- (a) which shall consist of a panel of three members appointed by the Chairperson of the Tribunal; and
- (b) after the panel members have signed a no conflict of interest declaration in form provided by the Agency.

(5) The World Anti-Doping Agency, the International Olympic Committee, the International Paralympic Committee, and the relevant International Federations shall have the right to a second appeal to the Court of Arbitration for Sports (CAS) with respect to the appeal decisions of the Tribunal.

(6) For the avoidance of doubt, the Tribunal shall not have jurisdiction over Appeals involving International Level athletes or arising from the participation in International Events or national crimes related to doping.

(7) The Cabinet Secretary may prescribe rules to give effect to this section.

Section 32 of Cap. 245B which is intended to be amended—

32. Appeal to the Court of Arbitration for Sport

(1) The Agency may lodge an appeal against a decision of the World Anti-Doping Agency or an International Federation to the Court of Arbitration for Sport in accordance with Article 4.4 of the Code.

(2) Deleted by Act No. 24 of 2020, s. 22.

Section 41B of Cap. 245B which is intended to be amended—

41B. Internal Rules to conform with the Code

Each sports federation shall prepare Rules requiring all athletes preparing for or participating in a competition or activity authorized or organised by a national federation or one of its member organisations, and each athlete support personnel associated with such athletes to agree to be bound by Anti-Doping Rules and the Agency's results' management authority in conformity with the Code as a condition for such participation.

Section 41C of Cap. 245B which is intended to be amended—

41C. Reports on violations

All persons shall report any information suggesting or relating to an anti-doping rule violation to the Agency, and if it is a national federation, to its international federation.

Section 42 of Cap. 245B which is intended to be amended—

42. Offences

(1) A person or body who—

- (a) disobeys a summons by the Agency;
- (b) fails to produce any sample, document, papers or any other thing on the order of the Agency;
- (c) refuses to submit a sample or refuses to be examined in furtherance of this Act;
- (d) fails to comply with any lawful order or direction of the Agency;
- (e) presents to the Agency a false document or makes a false statement with the intent to deceive or mislead an investigating officer;
- (f) wilfully obstructs or hinders any person acting in the performance of any function or exercise of powers conferred by this Act;
- (g) in any way interferes with the functioning or operations of the Agency; or
- (h) violates the rules relating to confidentiality, public disclosure and privacy of data,

commits an offence and shall be liable, upon conviction, to a fine not exceeding one hundred thousand shillings or to a term of

imprisonment not exceeding one year or to both such fine and imprisonment.

(2) A person or body who—

- (a) unlawfully transports or transfers prohibited substances, within or outside Kenya;
- (b) stocks supplies of products containing prohibited substances in an unlawful manner; or
- (c) administers applies or generally causes an athlete to use prohibited substances,

commits an offence and shall be liable, on conviction, to a fine of not less than three million shillings or to imprisonment of not less than three years or to both such fine and imprisonment. In case of corporate bodies, in addition to the fine, the trading licence of the respective corporate body shall be withdrawn for a period of not less than one year.

(3) A person participating in recreational sport in a gym, fitness centre, private club or other similar facility who—

- (a) uses or causes another person to use a prohibited substance or method;
- (b) is found in possession of a prohibited substance;
- (c) administers or attempts to administer a prohibited substance; or
- (d) buys, sells, stocks, transports or in any way deals with a prohibited substance,

commits an offence and is be liable, on conviction, to a fine of not less than one hundred thousand shillings or to imprisonment or for a term of not less than one year or to both such fine and imprisonment:

Provided that if such a person is an athlete or athlete support personnel then such a person shall be subjected only to the sanctions specified in subsection (6).

(4) A medical practitioner, pharmacist, veterinary surgeon, dentist, nurse, physiotherapist, traditional herbalist, or any other health related professional who—

- (a) prescribes or dispenses prohibited substances or methods to an athlete with the intent of doping;

- (b) unlawfully administers prohibited substances or methods to an athlete;
- (c) acquires, stocks or is found in unlawful possession of prohibited substances; or
- (d) aids, abets or in any way encourages the unlawful use of prohibited substances in sport,

commits an offence and shall be liable upon conviction to a fine of not less than three million shillings or to imprisonment for a term of not less than three years or to both such fine and imprisonment, and shall have his or her professional licence revoked for a period of not less than one year.

(5) A registered sports body that commits any of the prohibited activities set out under this Act, shall be subject to one or a combination of any of the following sanctions—

- (a) a reprimand;
- (b) withdrawal of some or all services that are funded by public resources or benefits currently provided directly or indirectly by the Agency or the Sports Fund;
- (c) withdrawal of eligibility to receive services that are funded from public resources or benefits from or through the Agency, the Sports Fund or other source and the Agency shall impose conditions before it reinstates such eligibility;
- (d) suspension of its funding from the Sports Fund and other governmental agencies for the period of non-compliance;
- (e) withdrawal or withholding for a stated period, on terms to be determined by the Tribunal of some or all public funding awarded but not yet paid to the Agency;
- (f) withdrawal of eligibility to receive public funding from the Sports Fund or other source in the future, with conditions provided for the reinstatement of such eligibility;
- (g) refund any public and private funds given to it during the period of non-compliance; and
- (h) be deregistered by the Sports Registrar:

Provided that, in addition, any athlete support personnel identified as being responsible for non-compliance with any rule made under this Act shall be subjected to the sanctions under subsection.

(6). An athlete, athlete support personnel or other person subject to the Anti-Doping Rules (sub. leg) who commits a violation contrary to the Anti-Doping Rules (sub. leg) shall be subject to the requisite sanctions, as set out in the Anti-Doping Rules.

Section 43 of Cap. 245B which is intended to be amended—

43. General penalty

A person who contravenes any provision of this Act for which no specific penalty is provided shall be liable to a fine of not less than one million shillings or to imprisonment for a term of not less than one year or to both such fine and imprisonment.



