

SUMMARY OF CURRENT STATUS AND PROGRESS PERTAINING TO SASCOC AND FNB STADIUM COMMITTEES OF INQUIRY

1. SASCOC COMMITTEE OF INQUIRY

Background:

- In 2017 the media has reported on numerous alleged irregularities and malpractices in the governance and management of SASCOC which have tarnished the image and integrity SASCOC and sports fraternity in general. This was also corroborated by communications received from several national federations that have informed the Minister of Sport and Recreation of similar alleged irregularities and malpractices at SASCOC.
- In response to the Minister of Sport and Recreation's written requests to be advised pertaining to the SASCOC's Board related governance and non-adherence issues, SASCOC has only provided the Minister with scantily drafted responses especially when weighed against the concerns expressed by individuals or registered members of national federations under SASCOC's jurisdiction which the Minister has received from time to time as alluded to above.
- Stemming from the above-mentioned incidences it, therefore, became prudent for the Minister to appoint a Ministerial Committee of Inquiry consisting of a retired judge and 2 members in terms of Treasury Regulation 20, issued in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to investigate and report to the Minister on the above-mentioned Board related governance issues and alleged non-adherence to the SASCOC Constitution. The committee comprises **Judge Ralph Zulman** as the chairperson and **Dr. Ali Bacher** and **Ms. Shamima Gaibie (an attorney)** as members of it respectively.

Current status

- The SASCOC Committee of Inquiry has officially commenced with its mandate on 20 Oct. 2017 when its Terms of Reference have been published in the Government Gazette.
- As you would know, the Committee of Inquiry has already published adverts in the media around the end of Oct. 2017 inviting all role players, stakeholders, the public at large, etc. to submit written submissions to the Committee strictly pertaining to its published Terms of Reference. Such role players, stakeholders, the public at large, etc. have now submitted their respective representations to the Committee for its consideration.

Upcoming activities

- During the first weeks of February 2018, the SASCOC Committee of Inquiry will be tasked to scrutinize all representations received via the media adverts and to decide who, when, where and for what purpose will persons who have submitted their written representations to the Committee be invited to present their evidence orally in person or via their respective legal representatives to the Committee around the middle of February 2018 when the public hearings of the Committee will commence.
- The SASCOC Committee of Inquiry has during the latter part of last year received a threatening letter from the attorneys of SASCOC in which they argue that the establishment of the Committee of Inquiry is illegal and *ultra vires* based on the following, amongst others:
 - (a) The Minister of Sport and Recreation allegedly acted in excess of his powers in terms of the National Sport and Recreation Act, 1998 as amended) ("**NSR Act**"), the Treasury Regulations and the Olympic Charter as motivated hereunder;

(b) SASCOC allegedly has not been listed in the Schedules of the said Treasury Regulations as a public entity hence the said Regulations in terms of which the SASCOC Committee of Inquiry has been established, are not and cannot be applicable to SASCOC;

(c) Section 13 (5) (a) of the NSR Act permits the Minister to issue a directive, amongst others, but does not permit him to appoint a committee of investigation *per se*; and

(d) The Olympic Charter takes a strong position against interferences by national states in the affairs of national Olympic Bodies such as SASCOC.

In response to this litigation threat, SRSA –

- has referred the threat to the State Attorney for its legal opinion which we are still awaiting. SRSA in essence and in principle is confident that the legal merits for appointing the SASCOC Committee of Inquiry in the first place are absolutely warranted and that all applicable and relevant prescripts have been fully complied with in this regard;
- will oppose any court application that seeks to undermine the legitimate processes which have already been legally executed to establish the SASCOC Committee of Inquiry; and
- has also referred the potential litigation threat to Adv. NORMAN ARENDSE SC for his legal opinion on a *pro bono basis*.

Implementation plan going forward

An updated SASCOC Committee of Inquiry Implementation Plan has been **attached hereto (Annexure A)**.

2. FNB STADIUM COMMITTEE OF INQUIRY

Background:

- Before the kick-off of the Soweto derby between Orlando Pirates and Kaizer Chiefs on Saturday, 29 July 2017 at the FNB Stadium -
 - (a) two soccer fans died;
 - (b) two soccer fans were critically injured; and
 - (c) at least 19 other soccer fans, including a child, suffered minor injuries unnecessarily as a result of an unfortunate incident.

- Stemming from the above-mentioned incident it, therefore, became prudent for the Minister of Sport and Recreation to appoint a Ministerial Committee of Inquiry consisting of a retired judge and 2 members only in terms of Treasury Regulation 20, issued in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to investigate and report to the Minister on the facts and reasons which resulted in the death and injury of the said spectators at the soccer match at the FNB Stadium given the seriousness of the alleged contraventions of the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010). The committee comprises **Judge Ronnie Pillay** as the chairperson and **Mr. Eugene Van Vuuren (a stadium safety expert)** and **Mr. Masilo Maake (an attorney)** as members of it respectively.

Current status

- The FNB STADIUM Committee of Inquiry has officially commenced with its mandate on 20 Oct. 2017 when its Terms of Reference have been published in the Government Gazette.
- As you would know, the Committee of Inquiry has already published adverts in the media around the end of Oct. 2017 inviting all role players, stakeholders, the public at large, etc. to submit written submissions to the Committee strictly pertaining to its published Terms of Reference. Such role

players, stakeholders, the public at large, etc. have now submitted their respective representations to the Committee for its consideration.

Upcoming activities

- During the **first weeks of February 2018**, the SASCOC Committee of Inquiry will be tasked to scrutinize all representations received via the media adverts and to decide who, when, where and for what purpose will persons who have submitted their written representations to the Committee be invited to present their evidence orally in person or via their respective legal representatives to the Committee **around the middle of February 2018** when the public hearings of the Committee will commence.
- The FNB STADIUM Committee of Inquiry has during the latter part of last year received a threatening letter from the attorneys of the Stadium Management Company (Pty) Ltd which is based on the following, amongst others:
 - (a) That the established Committee of Inquiry is *ultra vires* and that the Stadium Management Company (Pty) Ltd does not recognise such a Committee or its Terms of Reference;
 - (b) Instead of establishing a Committee of Inquiry, the South African Police Service investigation into the tragic deaths of the 2 unfortunate spectators and the circumstances giving rise thereto must prevail;
 - (c) The appointment of the Committee, chaired by a judge, is nothing other than the unlawful setting up of a Judicial Commission usurping the President's prerogatives and contrary to the Commissions Act, 1947 (Act No. 8 of 1947); and
 - (d) The Government Notice which establishes the Committee is not a "directive" nor has the Stadium Management Company or any other affected party received a written notice thereof and an opportunity to submit written representations as required by section 12(6) of the NSR Act.

In response to this litigation threat, SRSA –

- has referred the threat to the State Attorney for its legal opinion which we are still awaiting. SRSA in essence and in principle is confident that the legal merits for appointing the FNB STADIUM Committee of Inquiry in the first place are absolutely warranted and that all applicable and relevant prescripts have been fully complied with in this regard; and
- will oppose any court application that seeks to undermine the legitimate processes which have already been legally executed to establish the FNB STADIUM Committee of Inquiry.