



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

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VOL. 406

CAPE TOWN, 30 APRIL 1999

KAAPSTAD, 30 APRIL 1999

No. 19979

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OFFICE OF THE PRESIDENT

No. 511. 30 April 1999

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 33 of 1999: South African Sports Commission Amendment Act, 1999.

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KANTOOR VAN DIE PRESIDENT

No. 511. 30 April 1999

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 33 van 1999: Wysigingswet op die Suid-Afrikaanse Sportkommissie, 1999.

**GENERAL EXPLANATORY NOTE:**

- [                    ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)*  
*(Assented to 14 April 1999.)*

# ACT

**To amend the South African Sports Commission Act, 1998, so as to provide for the appointment of the Chairperson and Deputy Chairperson of the Commission on a part-time basis; and the appointment of an interim Chairperson; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 4 of Act 109 of 1998**

**1.** Section 4 of the South African Sports Commission Act, 1998, is amended by the substitution for subsection (2) of the following subsection: 5

“(2) (a) The Chairperson and Deputy Chairperson must be appointed by the Minister and will serve on a **[full time]** part-time basis.

(b) The Minister may appoint an interim Chairperson to convene the General Assembly for the purpose of electing the nine members mentioned in subsection (1)(c) who will serve the initial period mentioned in section 5. 10

(c) All other members of the Commission will serve on a part-time basis.”.

**Short title**

**2.** This Act is called the South African Sports Commission Amendment Act, 1999.







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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 512. 30 April 1999

No. 512. 30 April 1999

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 34 of 1999: Films and Publications Amendment Act, 1999.

No. 34 van 1999: Wysigingswet op Films en Publikasies, 1999.

**GENERAL EXPLANATORY NOTE:**

- [                    ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)*  
*(Assented to 14 April 1999.)*

# ACT

To amend the Films and Publications Act, 1996, so as to provide for the appointment of members of the Film and Publication Board and the Film and Publication Review Board by the Minister; and to provide for the protection of children against mental, physical and sexual exploitation or coercion to engage in the production of a pornographic film, publication or visual presentation; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

## **Amendment of section 1 of Act 65 of 1996**

1. Section 1 of the Films and Publications Act, 1996 (hereinafter referred to as the principal Act), is amended—

- (a) by the insertion of the following definition after the definition of “chief executive officer”:

“ ‘child pornography’ includes any image, real or simulated, however created, depicting a person who is or who is shown as being under the age of 18 years, engaged in sexual conduct or a display of genitals which amounts to sexual exploitation, or participating in, or assisting another person to engage in sexual conduct which amounts to sexual exploitation or degradation of children;”;

- (b) by the addition of the following paragraph to the definition of “publication”:

“(i) any message or communication, including a visual presentation, placed on any distributed network including, but not confined to, the Internet.”; and

- (c) by the substitution of the definition of “visual presentation” for the following definition:

“ ‘visual presentation’ means—

(a) a drawing, picture, illustration, painting, photograph or image; or

(b) a drawing, picture, illustration, painting, photograph or image or any combination thereof, produced through or by means of computer software on a screen or a computer printout.”.

## **Substitution of section 2 of Act 65 of 1996**

2. The following section is substituted for section 2 of the principal Act:

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

\_\_\_\_\_ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)  
(Goedgekeur op 14 April 1999.)

**WET**

Tot wysiging van die Wet op Films en Publikasies, 1996, ten einde voorsiening te maak vir die aanstelling van lede van die Film- en Publikasieraad en die Film- en Publikasiehoorsieningsraad deur die Minister; en voorsiening te maak vir die beskerming van kinders teen geestelike, liggaamlike en seksuele uitbuiting of teen gedwonge deelname aan die vervaardiging van 'n pornografiese film, publikasie of visuele aanbieding; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 65 van 1996**

1. Artikel 1 van die Wet op Films en Publikasies, 1996 (hieronder die Hoofwet 5 genoem), word gewysig—

- (a) deur die volgende omskrywing na die omskrywing van “in die openbaar” in te voeg:
- 10 “kinderpornografie’ ook ’n beeld, werklik of nageboots, ongeag hoe dit geskep is, wat ’n persoon onder 18 jaar, of uitgebeeld as onder 18 jaar, uitbeeld wat deelneem aan seksuele gedrag of ’n vertoon van geslagsdele wat neerkom op seksuele uitbuiting, of wat deelneem aan seksuele gedrag wat neerkom op seksuele uitbuiting of vernedering van kinders of hulp verleen aan ’n ander persoon om dit te doen;”;
- (b) deur die volgende paragraaf by die omskrywing van “publikasie” te voeg:
- 15 “(i) ’n boodskap of mededeling, met inbegrip van ’n visuele aanbieding wat op ’n verspreide netwerk geplaas word, waarby inbegrepe is, maar nie beperk is nie tot, die Internet;” en
- (c) deur die omskrywing van “visuele aanbieding” deur die volgende omskrywing te vervang:
- 20 “visuele aanbieding”—
- (a) ’n tekening, prent, illustrasie, skildery, foto of beeld; of
- (b) ’n tekening, prent, illustrasie, skildery, foto of beeld of ’n kombinasie daarvan, voortgebring deur of deur middel van rekenaarprogrammatuur op ’n skerm of ’n rekenaardrukstuk.”.

**25 Vervanging van artikel 2 van Wet 65 van 1996**

2. Artikel 2 van die Hoofwet word deur die volgende artikel vervang:

**“Objects of Act**

2. The objects of this Act shall be to—

- (a) regulate the creation, production, possession and distribution of certain publications and certain films by means of classification, the imposition of age restrictions and the giving of consumer advice, due regard being had in particular to the protection of children against sexual exploitation or degradation in publications, films and on the Internet; and 5
- (b) make the exploitative use of children in pornographic publications, films or on the Internet, punishable.” 10

**Substitution of section 6 of Act 65 of 1996**

3. The following section is substituted for section 6 of the principal Act:

**“Members of Board and Review Board to be appointed by Minister**

6. (1) The members of the Board and Review Board shall be appointed by the Minister by notice in the *Gazette* after consultation with the Cabinet. 15

(2) The Minister may, whenever it is necessary to appoint members of the Board or Review Board, appoint an advisory panel to advise him or her with regard to the persons who are to be appointed as such members, and shall appoint one of the members of the advisory panel as the chairperson thereof. 20

(3) The Minister, or the advisory panel may invite members of the public to propose persons who may be considered for appointment.

(4) (a) A member of the Board or Review Board appointed in terms of subsection (1) shall— 25

- (i) be a fit and proper person; 25
- (ii) be of good character; and
- (iii) not be disqualified in terms of section 7.

(b) A member of the Board or Review Board shall have experience in, or knowledge of, any one or more of the following matters: 30

- (i) Community development; 30
- (ii) education;
- (iii) psychology;
- (iv) religion;
- (v) law;
- (vi) drama; 35
- (vii) literature;
- (viii) communications science;
- (ix) photography;
- (x) cinematography; 40
- (xi) gender matters;
- (xii) children’s rights;
- (xiii) any other relevant field of experience as may be prescribed.”

**Substitution of section 9 of Act 65 of 1996**

4. The following section is substituted for section 9 of the principal Act:

**“Removal from office 45**

9. (1) The Minister may remove a member of the Board or Review Board from office on the grounds of incapacity, incompetence, misconduct or misrepresentation.

(2) A decision to remove a member of the Board or Review Board from office shall be based on a finding of a tribunal appointed by the Minister: Provided that the member shall have a right to be heard. 50

(3) The Minister may suspend a member of the Board or Review Board from office pending the finding of the tribunal referred to in subsection (2).

**“Oogmerke van Wet**

**2.** Die oogmerke van hierdie Wet is om—

- 5 (a) die skep, vervaardiging, besit en verspreiding van sekere publikasies en sekere films deur middel van klassifikasie te reguleer, die oplegging van ouderdomsbepelings en die gee van gebruikersadvies, met behoorlike inagneming in die besonder van die beskerming van kinders teen seksuele uitbuiting of vernedering in publikasies, films en op die Internet; en
- 10 (b) die uitbuitende gebruik van kinders in pornografiese publikasies, films of op die Internet, strafbaar te stel.”

**Vervanging van artikel 6 van Wet 65 van 1996**

3. Artikel 6 van die Hoofwet word deur die volgende artikel vervang:

**“Lede van Raad en Hersieningsraad deur Minister aangestel te word**

15 **6.** (1) Die lede van die Raad en Hersieningsraad word deur die Minister aangestel by kennisgewing in die *Staatskoerant* na oorlegpleging met die Kabinet.

(2) Die Minister kan, wanneer dit nodig is om lede van die Raad of Hersieningsraad aan te stel, ’n adviespaneel saamstel ten einde hom of haar van advies te dien met betrekking tot die persone wat as sodanige lede

20 aangestel moet word, en stel een van die lede van die adviespaneel as die voorsitter daarvan aan.

(3) Die Minister of die adviespaneel kan lede van die publiek uitnooi om persone voor te stel wat vir aanstelling oorweeg kan word.

25 (4) (a) ’n Lid van die Raad of Hersieningsraad wat ingevolge subartikel (1) aangestel word—

- (i) moet ’n geskikte en gepaste persoon wees;
- (ii) moet van goeie inbors wees; en
- (iii) mag nie ingevolge artikel 7 onbevoeg wees nie.

30 (b) ’n Lid van die Raad of Hersieningsraad moet ondervinding of kennis hê van enige een of meer van die volgende aangeleenthede:

- (i) Gemeenskapsontwikkeling;
- (ii) opvoedkunde;
- (iii) sielkunde;
- (iv) godsdiens;
- 35 (v) die regte;
- (vi) drama;
- (vii) letterkunde;
- (viii) kommunikasiekunde;
- (ix) fotografie;
- 40 (x) kinematografie;
- (xi) geslagsaangeleenthede;
- (xii) regte van kinders;
- (xiii) enige ander tersaaklike ervaringsfeer wat voorgeskryf word.”

**Vervanging van artikel 9 van Wet 65 van 1996**

45 4. Artikel 9 van die Hoofwet word deur die volgende artikel vervang:

**“Verwydering uit amp**

50 **9.** (1) Die Minister kan ’n lid van die Raad of Hersieningsraad uit sy of haar amp verwyder op grond van onbekwaamheid, onbevoegdheid, wangedrag of wanvoorstelling.

(2) ’n Besluit om ’n lid van die Raad of Hersieningsraad uit sy of haar amp te verwyder, moet berus op ’n bevinding van ’n tribunaal wat deur die Minister aangestel word: Met dien verstande dat die lid die reg het om aangehoor te word.

55 (3) Die Minister kan ’n lid van die Raad of Hersieningsraad skors hangende die bevinding van die tribunaal bedoel in subartikel (2).

(4) A member of the Board or Review Board shall vacate his or her office when any of the circumstances referred to in section 7 become applicable in respect of him or her, and the Minister, upon information given to him or her by the Chief executive officer or the chairperson of the Review Board, issues a certificate to that effect.”

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#### Amendment of section 19 of Act 65 of 1996

5. Section 19 of the principal Act is amended by the substitution for the words preceding paragraph (a) of the following words:

“The Minister or any person who has lodged a complaint with the Board that any publication be referred to a classification committee for a decision and classification in terms of section 17, and any person who applies for a classification of a film, or the reclassification of a film or publication, or for a permit, exemption or licence, or who is the publisher of a publication which is the subject of an application for classification, or whose financial interests could be detrimentally affected by a decision of the Board on such application, or with regard to an exemption or permit, the withdrawal of which is being considered, or who appeals to the Review Board against a decision with regard to such an application, shall have the right—”

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#### Amendment of section 20 of Act 65 of 1996

6. Section 20 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister or any person who has lodged a complaint with the Board that any publication be referred to a classification committee for a decision and classification in terms of section 17, and any person who applied for the classification of a film, or the publisher or distributor of a publication which formed the subject of any complaint or application in terms of section 16, may within a period of 30 days from the date on which he or she was notified of the decision, which in the case of the classification of a publication shall be the date of publication of the decision in the *Gazette*, in the prescribed manner appeal to the Review Board.”

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#### Amendment of section 21 of Act 65 of 1996

7. Section 21 of the principal Act is amended by the substitution for subsection(1) of the following subsection:

“(1) The Minister or any person who has lodged a complaint with the Board that any publication be referred to a classification committee for a decision and classification in terms of section 17, and if a publication or film has in terms of a decision referred to in section 20 been classified as XX or X18, the publisher or distributor of that publication, or the person who applied for the classification of that film, may within a period of 30 days from the date on which he or she was notified of the decision in respect of the film, or within 30 days from the date on which the classification of the publication was published in the *Gazette*, appeal to the [Supreme Court] High Court against that decision.”

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#### Amendment of section 27 of Act 65 of 1996

8. Section 27 of the principal Act is amended for subsection (1) of the following subsection:

“(1) [Any] A person [who] shall be guilty of an offence if he or she knowingly—  
 (a) creates, produces, imports or is in possession of a publication which contains a visual presentation [referred to in paragraph (a) of clause (1) of Schedule 1, read with Schedule 5] of child pornography; or  
 (b) creates, distributes, produces, imports or is in possession of a film which contains a scene or scenes [referred to in clause (1) of Schedule 6, read with Schedule 9,] of child pornography.  
[shall be guilty of an offence]”.

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- 5 (4) 'n Lid van die Raad of Hersieningsraad ontruim sy of haar amp wanneer enige van dié omstandighede in artikel 7 bedoel op hom of haar van toepassing raak, en die Minister, op inligting wat deur die Hoofuitvoerende beampte of die voorsitter van die Hersieningsraad aan die Minister verskaf is, 'n sertifikaat te dien effekte uitreik."

#### Wysiging van artikel 19 van Wet 65 van 1996

5. Artikel 19 van die Hoofwet word gewysig deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

- 10 "Die Minister of enigiemand wat 'n klagte by die Raad aanhangig gemaak het dat 'n publikasie na 'n klassifikasiekomitee verwys moet word vir 'n beslissing en klassifikasie ingevolge artikel 17, en enigiemand wat om die klassifikasie van 'n film, of die herklassifikasie van 'n film of publikasie, of om 'n permit, vrystelling of lisensie aansoek doen of wat die uitgewer is van 'n publikasie wat die  
15 onderwerp is van 'n aansoek om klassifikasie, of wie se geldelike belange nadelig geraak kan word deur 'n beslissing van die Raad oor so 'n aansoek, of met betrekking tot 'n vrystelling of permit waarvan die intrekking onder oorweging is, of wat na die Hersieningsraad appelleer teen 'n beslissing met betrekking tot so 'n aansoek, het die reg—".

#### Wysiging van artikel 20 van Wet 65 van 1996

- 20 6. Artikel 20 van die Hoofwet word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 25 "(1) Die Minister of enigiemand wat 'n klagte by die Raad aanhangig gemaak het dat 'n publikasie na 'n klassifikasiekomitee verwys moet word vir 'n beslissing en klassifikasie ingevolge artikel 17, en enigiemand wat aansoek gedoen het om die klassifikasie van 'n film, of die uitgewer of verspreider van 'n publikasie wat die onderwerp was van 'n beswaar of aansoek ingevolge artikel 16, kan binne 'n tydperk van 30 dae vanaf die datum waarop hy of sy van die beslissing verwittig is, wat in dié geval van die klassifikasie van 'n publikasie die datum van die publikasie van die beslissing in die Staatskoerant is, op die voorgeskrewe wyse na die Hersieningsraad appelleer.".
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#### Wysiging van artikel 21 van Wet 65 van 1996

7. Artikel 21 van die Hoofwet word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 35 "(1) Die Minister of enigiemand wat 'n klagte by die Raad aanhangig gemaak het dat 'n publikasie na 'n klassifikasiekomitee verwys moet word vir 'n beslissing en klassifikasie ingevolge artikel 17, en indien 'n publikasie of film ingevolge 'n beslissing vermeld in artikel 20 as XX of X18 geklassifiseer is, kan die uitgewer of verspreider van daardie publikasie of die persoon wat om die klassifikasie van daardie film aansoek gedoen het, binne 'n tydperk van 30 dae vanaf die datum  
40 waarop hy of sy van die beslissing ten opsigte van 'n film verwittig is, of binne 30 dae vanaf die datum waarop die klassifikasie van die publikasie in die Staatskoerant gepubliseer is, na die Hooggeregshof teen daardie beslissing appelleer.".

#### Wysiging van artikel 27 van Wet 65 van 1996

- 45 8. Artikel 27 van die Hoofwet word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 50 "(1) [Enige persoon] Iemand wat wetens—  
(a) 'n publikasie wat 'n visuele aanbieding van kinderpornografie bevat, [wat vermeld word in paragraaf (a) van klousule (1) van Bylae 1, saamgelees met bylae 5] skep, vervaardig of invoer of in besit daarvan is, is aan 'n misdryf skuldig; of  
(b) 'n film wat 'n toneel of tonele van kinderpornografie bevat, [wat vermeld word in klousule (1) van Bylae 6, saamgelees met Bylae 9] skep, versprei, vervaardig of invoer of in besit daarvan is, is aan 'n misdryf skuldig."

**Amendment of Schedule 1 to Act 65 of 1996**

9. Schedule 1 to the principal Act is amended by the substitution for paragraph (a) of clause (1) of the following paragraph:

“(a) child pornography”.

**Amendment of Schedule 6 to Act 65 of 1996**

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10. Schedule 6 to the principal Act is amended by the substitution for paragraph (a) of clause (1) of the following paragraph:

“(a) child pornography”.

**Short title**

11. This Act is called the Films and Publications Amendment Act, 1999.

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**Wysiging van Bylae 1 tot Wet 65 van 1996**

9. Bylae 1 tot die Hoofwet word gewysig deur paragraaf (a) van klousule (1) deur die volgende paragraaf te vervang:

“(a) kinderpornografie”.

**5 Wysiging van Bylae 6 tot Wet 65 van 1996**

10. Bylae 6 tot die Hoofwet word gewysig deur paragraaf (a) van klousule (1) deur die volgende paragraaf te vervang:

“(a) kinderpornografie”.

**Kort titel**

10 11. Hierdie Wet heet die Wysigingswet op Films en Publikasies, 1999.

