

ANTI-DOPING BILL 2024
(BILL NO. 1 OF 2024)

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BILL NO. 1 OF 2024**A BILL**

FOR AN ACT TO ESTABLISH DRUG-FREE SPORT FIJI, AND PROVIDE FOR ANTI-DOPING REQUIREMENTS IN SPORTS UNDER THE UNESCO INTERNATIONAL CONVENTION AGAINST DOPING IN SPORT AND RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

- 1.—(1) This Act may be cited as the Anti-Doping Act 2024.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires—

“anti-doping rules” means the rules adopted, implemented and enforced by DFSF under section 6 in compliance with the World Anti-Doping Code 2021 and as amended from time to time;

“Board” means the board of Drug-Free Sport Fiji established under section 5;

“chief executive officer” means the chief executive officer appointed under section 11;

“Code” means the World Anti-Doping Code 2021, adopted by the WADA on 5 March 2003 at Copenhagen and as amended from time to time;

“Convention” means the UNESCO International Convention Against Doping in Sport, adopted in Paris on 19 October 2005 and as amended from time to time;

“DFSF” means Drug-Free Sport Fiji established under section 4(1);

“local sports entities” means the Fiji Sports Council, Fiji National Sports Commission, Fiji Association of Sports and National Olympic Committee and the National Sporting Federation;

“Minister” means the Minister responsible for sports;

“prohibited method” means any method described on the Prohibited List provided by WADA;

“prohibited substance” means any substance or class of substances, described on the Prohibited List provided by WADA;

“therapeutic use exemption” means an exemption that allows an athlete with a medical condition to use a prohibited substance or prohibited method;

“UNESCO” refers to the United Nations Educational, Scientific and Cultural Organization; and

“WADA” means the World Anti-Doping Agency established in 1999 following a resolution by the World Conference on Doping in Sport convened by the International Olympic Committee.

Objectives

3. The objectives of this Act are to—

- (a) give effect to the Convention and Code;
- (b) protect the rights of an athlete to participate in a doping-free sport;
- (c) promote the integrity of sport and the health, fairness and equality of athletes; and
- (d) ensure advocacy, promotion and coordination of anti-doping education and control programmes at a national and international level with regard to detection, deterrence and prevention of doping in sport.

PART 2— DRUG-FREE SPORT FIJI

Establishment of Drug-Free Sport Fiji

4.—(1) This section establishes Drug-Free Sport Fiji as the national anti-doping organisation of the Republic of Fiji to promote anti-doping in sports and to implement requirements under the Convention.

(2) DFSF is a body corporate with perpetual succession and a common seal, with powers to—

- (a) sue and be sued in its corporate name;
- (b) acquire, hold, possess and dispose of property; and
- (c) do all other acts that may be done in law by a body corporate.

(3) DFSF must be independent in its operational decisions and activities, including without limitation by prohibiting any involvement in the operational decisions or activities by any person who is—

- (a) involved in the management or operations of any international sport federation, national sport federation, major event organisation, national olympic committee, or national paralympic committee; or
- (b) a member of Parliament, the Executive, Judiciary or any government department responsible for sport or anti-doping.

(4) Local sports entities must comply with any directives, measures or anti-doping rules set by DFSF.

Functions of DFSF

5.—(1) The functions of DFSF are to—

- (a) establish a governance framework for its operations;
- (b) formulate, adopt and implement anti-doping policies and anti-doping rules in accordance with the Convention, Code and applicable international agreements as amended from time to time;
- (c) offer awareness programmes, organise conferences, support initiatives and establish networks to promote anti-doping in sports in Fiji;
- (d) conduct and promote anti-doping research;
- (e) facilitate the training of doping control personnel;
- (f) coordinate with the Fiji Police Force, Fiji Revenue and Customs Service, local sports entities and other anti-doping organisations to investigate complaints of doping in sports in Fiji;
- (g) advise on any matter regarding doping in sports;
- (h) develop and approve projects or proposals on investment support and promotion strategies in collaboration with stakeholders;
- (i) coordinate and work in collaboration with relevant government ministries, local sports entities and other relevant stakeholders regarding the subjects included in its activity plan;
- (j) make recommendations to improve the level of effectiveness of the activities it carries out; and

(k) take any step necessary to achieve the objectives of this Act.

(2) DFSF may perform its functions in consultation with local sports entities, WADA or other sports entities in the promotion, implementation and monitoring of anti-doping measures in sports in Fiji.

Powers of DFSF

6. DFSF has the powers to—

- (a) authorise the manufacture and distribution, whether by sale or otherwise, of any article or thing bearing a mark, symbol or writing that is associated with DFSF;
- (b) approve its charter;
- (c) approve the budget, activity plan and estimate of expenditure for the financial year;
- (d) approve any purchase, sale or lease of property and borrowing of money above a prescribed value;
- (e) establish committees;
- (f) issue therapeutic use exemptions;
- (g) enforce compliance with the Convention or Code by—
 - (i) carrying out anti-doping testing of athletes;
 - (ii) initiate investigations into an allegation of violation of Convention, Code or anti-doping rules; and
 - (iii) discipline athletes, athlete support personnel and others involved in the contravention of the Convention, Code or anti-doping rules; and
- (h) convene disciplinary proceedings and institute sanctions for contravention of the Convention, Code or anti-doping rules; and
- (i) do all things necessary for the performance of its functions.

Board

7.—(1) There must be a board of DFSF that comprises the following members appointed by the Minister—

- (a) a chairperson;
- (b) a vice chairperson;
- (c) an athlete representative;
- (d) 3 members who have expertise in either law, pharmacology, sports medicine, investigations or education; and
- (e) the chief executive officer or his or her nominee.

- (2) The chief executive officer is an *ex officio* member with no voting rights.
- (3) The Board may appoint any of its members to be the secretary of the Board.
- (4) A member of the Board, other than the chief executive officer, may hold office for a term of 3 years and is eligible for reappointment.
- (5) A member of the Board is entitled to remuneration and allowances as may be determined by the Minister.

Vacation of office

- 8.**—(1) The office of a member of the Board becomes vacant if the member—
- (a) dies;
 - (b) is absent without leave for 3 consecutive meetings; or
 - (c) for any other reason is not able to perform the functions of his or her office.
- (2) A member may resign from his or her office by giving 30 days' written notice of the resignation to the chairperson of the Board.
- (3) The powers of the Board are not affected by any vacancy in its membership.

Meetings

- 9.**—(1) The Board must meet at least 3 times a year and as and when the chairperson determines a meeting to be called.
- (2) The chairperson must convene and preside at a meeting of the Board.
- (3) In the event the chairperson is absent, the vice chairperson must preside at the meeting, and if both the chairperson and the vice chairperson are absent, the meeting must be presided over by a member appointed from amongst and by the members present.
- (4) Any decision of the Board is determined by a majority of the votes of the members present and voting, and in the event of an equality of votes, the presiding member has a casting vote.
- (5) Subject to this section, the Board may formulate other rules and procedures for its meetings.
- (6) The Board may co-opt a person to participate in one or more of its meetings.
- (7) A co-opted member must be an expert or have special knowledge or experience to provide expert advice on any matter relating to the operations of DFSF.

Quorum

- 10.** At a meeting of the Board, the quorum is 4 members.

Chief executive officer

- 11.**—(1) The Board must appoint a suitably qualified person as the chief executive officer on the terms and conditions as it determines.
- (2) The chief executive officer is to be paid such remuneration and allowances and be employed on the terms and conditions determined by the Board.

(3) The chief executive officer—

- (a) is responsible for the efficient running of DFSF and the administration of this Act;
- (b) must perform any other function under this Act that DFSF by directions in writing may confer on him or her;
- (c) must report to DFSF when required; and
- (d) is to perform any other function conferred under him or her by any other written law.

(4) The chief executive officer may be appointed for a term of 3 years and is eligible for reappointment.

Powers of chief executive officer

12.—(1) The chief executive officer, with the approval of the Board, has the power to adopt, implement and enforce anti-doping rules in accordance with the Convention, Code and all applicable international agreements.

(2) The chief executive officer must inform the Minister in writing of any change to the anti-doping rules that are being adopted, implemented and enforced by DFSF.

Employees

13. The chief executive officer may employ staff, including any, temporary or casual employees, as he or she considers necessary for the performance of DFSF functions.

Advisory committee

14.—(1) The Board may appoint an advisory committee to assist DFSF in the performance of its functions.

(2) The advisory committee must—

- (a) advise and assist DFSF in the formulation of strategic and national policies concerning sports;
- (b) conduct research and recommend suitable activities or projects relevant to promote anti-doping and improve sports in Fiji; and
- (c) act on directions by DFSF to assist in the protection and promotion of drug-free sports.

(3) The members of the advisory committee are appointed by the Board and comprise—

- (a) a member of DFSF as chairperson; and
- (b) other members with relevant knowledge and expertise in sports and anti-doping.

(4) The advisory committee may appoint any of its members to be the secretary.

(5) The members of an advisory committee may receive such allowances as DFSF may determine, subject to the approval of the Board.

- (6) The membership of an advisory committee member ceases if he or she—
- (a) dies;
 - (b) is terminated;
 - (c) is absent without leave of the committee for 3 consecutive meetings of the advisory committee; or
 - (d) for any other reason is not able to perform the functions of his or her office.

Limitation of liability

15. No proceedings, civil or criminal, lie against DFSF, an advisory committee, the chief executive officer, or any employee for anything it may do or fail to do in the course of the exercise or intended exercise of its powers and functions under this Act, unless it is shown that the person did not act in good faith or with reasonable care.

PART 3—ADMINISTRATION AND FINANCE

Strategic plan

16. DFSF must—

- (a) formulate a strategic plan setting out the manner in which it proposes to perform its functions on a continuing basis; and
- (b) annually review the strategic plan.

Reports

17. DFSF must—

- (a) submit the annual audited financial accounts to the Minister;
- (b) inform the Minister on the general conduct of its activities;
- (c) furnish to the Minister any information in relation to its activities as the Minister may request; and
- (d) submit its annual financial report to the Office of the Auditor-General for audit.

Funds

18.—(1) The funds of DFSF consist of the following—

- (a) any money appropriated annually by Parliament for the purpose of this Act; and
- (b) any contribution or donation made to DFSF.

(2) The funds of DFSF are to be used for the following purposes—

- (a) publication, printing, sale and distribution of DFSF publications;
- (b) distribution of grants or donations to local sports entities;
- (c) providing anti-doping education and control programmes; and

- (d) incidental expenses and disbursements of DFSF in carrying out its functions under this Act.

Accounts

19. DFSF must keep proper accounts and other records in respect of its operations in accordance with standard business practice.

Audit

20.—(1) DFSF must be audited annually in accordance with the Audit Act 1969 and the Financial Management Act 2004, and for such purposes is an off-budget state entity.

(2) The audit is to be conducted by—

- (a) the Auditor-General or a person authorised or contracted under the Audit Act 1969, unless DFSF is exempted from audit under that Act; or
- (b) a person appointed by DFSF, if DFSF is so exempted from audit under the Audit Act 1969, provided that the audit is reviewed by the Auditor-General.

(3) The person appointed by DFSF under subsection 2(b) must be—

- (a) a person or company that the Minister responsible for finance directs DFSF in writing to appoint; or
- (b) if no directions are made under paragraph (a), a person or company appointed by DFSF.

PART 4—MISCELLANEOUS

Regulations

21.—(1) The Minister may, following consultations with the DFSF, make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

(2) Without affecting the generality of subsection (1), the Minister may, following consultations with DFSF, make regulations prescribing—

- (a) procedures to be used by DFSF for anti-doping testing;
- (b) procedures for anti-doping results management;
- (c) procedures for any sanctions that may be imposed on an athlete determined to have contravened the Convention, Code or anti-doping rules in disciplinary proceedings including suspension or termination;
- (d) compliance and monitoring standards; and
- (e) offences and penalties—
- (i) in the case of an individual, a fine not exceeding \$10,000 or imprisonment for 2 years; and
- (ii) in the case of a body corporate, a fine not exceeding \$50,000.

Protecting needs and privacy of athletes

22.—(1) In the performance of its functions and the exercise of its powers, DFSF must, to the extent that there is no inconsistency with the Convention, Code or anti-doping rules, develop appropriate procedures to—

- (a) reflect the needs of an athlete who is a child;
- (b) reflect the culture, language and special needs of athletes; and
- (c) protect the right to privacy of every athlete.

(2) DFSF must obtain prior written consent from a child’s parent or legal guardian for the participation of the child in any testing or procedure required under this Act.

(3) A consent obtained by DFSF under subsection (2) must be recorded and kept confidential.

(4) In this section, “child” means an individual who has not reached the age of 18 years.

Sharing evidence and information

23. A customs officer, an employee of the Fiji Police Force, or any other person must provide evidence or information to DFSF if that person believes that the evidence or information he or she possesses may assist DFSF in complying with or implementing the Convention, Code or anti-doping rules.

ANTI-DOPING BILL 2024

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 In 2010, the Government of the Republic of Fiji signed the Copenhagen Declaration and ratified the United Nations Educational, Scientific and Cultural Organisation International Convention Against Doping in Sports (**‘Convention’**).
- 1.2 Article 7 of the Convention provides for the application of the Convention through domestic coordination. To meet its obligations under the Convention, a State Party may rely on anti-doping organisations, sport authorities and organisations.
- 1.3 The Anti-Doping Bill 2024 (**‘Bill’**) therefore seeks to establish a national anti-doping organisation namely the Drug-Free Sport Fiji for the purpose of implementing and coordinating anti-doping activities in Fiji effectively.
- 1.4 This indicates Fiji’s commitment to ensuring that the sanctity of fair sports is practised and that the right of athletes are protected.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the new legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill provides for the interpretation of the terms used in the Bill.
- 2.3 Clause 3 provides for the objectives of the Act to protect the right of athletes to participate in doping-free sport, promote the integrity of sport, health, fairness, and equality of athletes, ensure advocacy and promotion of anti-doping education and control programmes.

- 2.4 Clause 4 of the Bill provides for the establishment of Drug-Free Sport Fiji (**'DFSF'**) as the national anti-doping organisation of Fiji. DFSF is a body corporate with perpetual succession and common seal. It has the power to sue, acquire property, enter into contracts, and perform other acts. Additionally this clause provides that DFSF must be independent in its operations and decisions.
- 2.5 Clause 5 of the Bill provides for the functions of DFSF. DFSF has a range of functions, including formulating and implementing anti-doping policies, conducting disciplinary proceedings, promoting anti-doping awareness, and coordinating with law enforcement agencies and other stakeholders. The DFSF also conducts research, trains doping control personnel, and facilitates testing of athletes, as well as advising on doping-related matters.
- 2.6 Clause 6 of the Bill provides for the powers of DFSF to authorise the manufacture and distribution of anti-doping related products, approve its charter, budget, and activity plan, establish committees, issue therapeutic use exemptions, and enforce compliance with anti-doping rules through testing, investigations, and discipline.
- 2.7 Clause 7 of the Bill provides for the composition of the DFSF board (**'Board'**) that is composed of 7 members, including a chairperson, vice chairperson, athlete representative, and 3 members with expertise in law, pharmacology, sports medicine, investigations, or education. The chief executive officer or nominee is also an *ex officio* member, but does not have voting rights.
- 2.8 Clause 8 of the Bill provides for the vacation of office of a member of the Board and states that the office of a member becomes vacant if the member dies, is absent without leave for 3 consecutive meetings, or is unable to perform their duties due to any other reason. Additionally a Board member may resign by giving written notice to the chairperson of the Board.
- 2.9 Clause 9 of the Bill provides for the meetings of DFSF. DFSF is required to hold at least 3 meetings per year, or whenever necessary and the chairperson must convene and preside over these meetings. In the event of the chairperson's absence, the vice-chairperson or a member appointed by the present members will preside and decisions will be made by a majority vote, with the presiding member having a casting vote in the event of an equality of votes. The Board may also formulate its own rules and procedures for meetings. Additionally, this clause provides for co-opted members of the Board where the Board may co-opt a person to participate in one or more meetings, provided they are an expert or have special knowledge or experience to provide expert advice on matters relating to the business operations of DFSF.
- 2.10 Clause 10 of the Bill provides for the quorum of a meeting of the Board which will be 4 members.

- 2.11 Clause 11 of the Bill provides for the appointment of a chief executive officer. The chief executive officer is to be a suitably qualified person who will be responsible for the efficient running of the organisation and the implementation of the Act. The chief executive officer will be paid remuneration and allowances determined by the Board , and will report to the Board as required. The chief executive officer may be appointed for a term of 3 years and is eligible for reappointment.
- 2.12 Clause 12 of the Bill provides for the powers of the chief executive officer to adopt, implement and enforce anti-doping rules and must inform the Minister in writing of any changes made to these rules.
- 2.13 Clause 13 of the Bill provides for the powers of the chief executive officer to employ staff of DFSF including temporary or casual employees that are needed to perform its functions and may also remove any employee from their office or employment.
- 2.14 Clause 14 of the Bill provides for the appointment of an advisory committee to the Board to assist DFSF in the performance of its functions, which will include advising and assisting DFSF in the formulation of strategic and national policies concerning sports, conducting research and recommending suitable activities or projects to promote anti-doping and improve sports in Fiji, and acting on directions from DFSF to protect and promote drug-free sports. An advisory committee will consist of a chairperson, a secretary, and other members with relevant knowledge and expertise, and members may receive allowances and expenses as determined by DFSF subject to Board approval.
- 2.15 Clause 15 of the Bill provides for the limitation of liability of DFSF wherein no civil or criminal proceedings can be brought against DFSF, the Board, the chief executive officer, or any employee for actions or omissions made in the course of exercising their powers and functions, unless it is proven that they did not act in good faith or with reasonable care.
- 2.16 Clause 16 of the Bill provides for DFSF responsibility in the preparation of a strategic plan. DFSF is required to develop a strategic plan outlining how it will carry out its functions, and must also review and revise the plan annually to ensure it remains effective and aligned with its goals.
- 2.17 Clause 17 of the Bill provides for the reporting of DFSF financial accounts. DFSF must submit its annual financial report to the Auditor-General for audit, and then provide the audited financial accounts to the Minister, while also keeping the Minister informed about its general activities and providing additional information as requested.

- 2.18 Clause 18 of the Bill provides for the funding of DFSF. The funds of DFSF consist of annual appropriation, contributions or donations. The funds can be used to cover expenses and disbursements related to carrying out its functions including the print and distribution of publications and the distribution of grants or donations to local sports entities, anti-doping programmes.
- 2.19 Clause 19 of the Bill provides for the accounts of DFSF who has a duty to keep proper accounts and other records in respect of its operations in accordance with standard business practice.
- 2.20 Clause 20 of the Bill provides for the audit of DFSF which is required to be audited annually in accordance with the Audit Act 1969 and the Financial Management Act 2004. In this Bill DFSF is considered an off-budget State entity. The audit can be conducted by either the Auditor-General or a person authorised by the Auditor-General, or by a person appointed by DFSF.
- 2.21 Clause 21 of the Bill provides for the powers of the the Minister, after consulting with DFSF to make Regulations to implement the provisions of the Act and to prescribe any other matters required under the Act.
- 2.22 Clause 22 of the Bill provides for the protection of the needs and privacy of the athletes whereby DFSF must develop procedures to protect the needs and privacy of athletes, including reflecting the needs of child athletes, the culture and language of athletes, and the right to privacy of all athletes. Additionally, DFSF must obtain written consent from a child athlete’s parent or legal guardian before the child participates in any testing or procedures and DFSF must maintain a confidential record of this consent.
- 2.23 Clause 23 of the Bill provides for the sharing of evidence and information amongst stakeholders. This requires that a customs officer, an officer of the Fiji Police Force, or any other person must provide evidence or information to DFSF if they believe it may aid in complying with or implementing anti-doping rules, to assist DFSF in its functions.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The new legislation comes under the responsibility of the Minister responsible for sports.

S. D. TURAGA
Attorney-General