

SOUTH AFRICAN FOOTBALL ASSOCIATION

REGULATIONS ON PLAYERS' AGENTS

1. APPLICATIONS AND DEFINITIONS

1.1. In these regulations, any words defined in the Constitution will have the meaning attributed to them in the Constitution and, unless the context indicates otherwise,

1.1.1. "candidate" means an applicant for a SAFA licence,

1.1.2. "CEO" means the Chief Executive Officer of SAFA, or his/her duly authorised delegate,

1.1.3. "Committee" means the Legal and Constitutional Affairs Committee of SAFA,

1.1.4. "FIFA licence" means a players' agent's licence issued by FIFA,

1.1.5. "licensed agent" means a players' agent who has been licensed by SAFA,

1.1.6. "non-licensed agent" means a players' agent who is not in possession of a SAFA licence or, in the case of dealings related to an international transfer, a players' agent who is not in possession of a FIFA licence,

1.1.7. "players' agent" means a person negotiating on behalf of a player or a club in relation to the transfer of a player from one club to another,

- 1.1.8. "SAFA licence" means a players' agent's licence issued by SAFA.
- 1.2. These regulations govern the activities of players' agents who facilitate and negotiate the transfer of players from one club to another within the Republic of South Africa and beyond.
- 1.3. These regulations are binding on all processes for employing services of players' agents.

2. GENERAL MATTERS

- 2.1. Players and clubs are entitled to employ the services of a licensed agent to represent them or their interests in negotiations with other players or clubs.
- 2.2. Only SAFA may issue a players' agent licence within the Republic of South Africa.
- 2.3. Subject to Regulation 2.5 no player or club affiliated to SAFA shall employ the services of a non-licensed agent, or negotiate with a non-licensed agent.
- 2.4. Subject to Regulation 2.5 no players' agent may represent a player or club in relation to an international transfer unless s/he is in possession of a FIFA licence.
- 2.5. Notwithstanding Regulations 2.3 and 2.4 above

2.5.1. A legal practitioner practicing within the Republic of South Africa may represent a player or club in any matter relating to the transfer of a player from one club to another, and

2.5.2. A player's close relative may represent him/her in matters relating to his/her transfer from one club to another.

3. GRANTING OF SAFA LICENSE

3.1. Eligibility

The requirements for eligibility to be granted a SAFA license are the following:

3.1.1. The applicant must be lawfully resident within the Republic of South Africa.

3.1.2. If the Applicant is a foreign national, s/he must have been a lawful resident of the Republic of South Africa for at least five years.

3.1.3. The applicant must be a natural person.

3.1.4. The applicant must satisfy SAFA that s/he is a fit and proper person to be licensed as a players' agent.

3.1.5. The applicant may not occupy a position within FIFA, CAF, SAFA or any of its affiliated structures or clubs or any organisation connected to such affiliates.

3.2. Application process

- 3.2.1. An applicant wishing to be licensed as a SAFA agent, shall complete the application form issued by the Committee and shall submit the completed form together with a non-refundable application fee of R5000.00 to the CEO.
- 3.2.2. Upon receipt of a completed application form and application fee, the CEO shall refer the application form to the Committee.
- 3.2.3. If, on the basis of the application form, the Committee is of the view that the candidate meets the requirements for eligibility as set out in Regulation 3.1 above, it shall inform the CEO accordingly and the CEO shall invite the candidate to attend an interview examination before the Committee at the next examinations' session.
- 3.2.4. Examinations sessions shall be held in Johannesburg no more than twelve months apart and candidates shall be responsible for their own costs relating to their attendance at an examination session.
- 3.2.5. The purpose of the interview examination is to determine whether or not the candidate:
 - 3.2.5.1. has adequate knowledge of the current Regulations of football, statutes and regulations of SAFA, CAF and FIFA, in particular those pertaining to transfers,
 - 3.2.5.2. has adequate knowledge of South African law,

3.2.5.3. is capable of advising a player or club who/which calls on his services, and

3.2.5.4. is a fit and proper person to hold a SAFA licence.

3.2.6. Every candidate who passes the interview examination shall:

3.2.6.1. Sign a Code of Professional Conduct in which s/he agrees to abide by the principles set out therein when acting as a players' agent, and

3.2.6.2. Subject to Regulation 3.2.7 below, conclude a professional liability insurance policy with an insurance company registered in South Africa adequately to cover the candidate for liability for any claims for compensation arising out of his/her conduct as a players' agent.

3.2.6.2.1. The Committee shall satisfy itself that the policy adequately covers the risks to which the candidate may be exposed in the course of his conduct as a players' agent and that it will cover the candidate for claims arising out of events occurring during the operation of the policy even if these claims are lodged after the expiry of the policy.

3.2.6.2.2. The Committee shall fix the amount of cover required on the basis of the projected turnover of the candidate as a players' agent, provided that

the minimum amount of cover shall be R1 000 000.00 (ONE MILLION RANDS).

3.2.7. If the candidate is unable to secure professional liability insurance policy which satisfies the requirements of the Committee, s/he may deposit with SAFA a guarantee issued by a South African bank for an amount to be fixed by the Committee and which is framed in terms which satisfy the Committee.

3.2.7.1. Only SAFA shall have access to the bank guarantee, which shall cover possible claims for damages made by players or clubs arising from a candidate's activities as a players' agent.

3.2.7.2. If any payment is made from the guarantee, the agent shall have his/her license suspended until s/he furnishes SAFA with a new and irrevocable guarantee issued by a South African Bank in the amount fixed by the Committee.

3.2.7.3. Players' associations that are officially recognised by SAFA may furnish a bank guarantee in their own name on behalf of up to 5 of their officials or members who have satisfied all the requirements to be granted a players' agent license. In such a case the names of the applicants/licensed agents must also be stated on the guarantee.

3.2.8. Upon receipt of confirmation from the Committee that the candidate has passed the interview examination and complied with the requirements of Regulation 3.2.6 read with 3.2.7 above, the CEO shall issue the candidate with a SAFA license.

3.2.9. A candidate who has been issued with a SAFA license, is entitled to use the following designation in business relations after his/her name: *"Players' Agent licensed by SAFA"*

3.2.10. In January of each year and after every examination, SAFA shall draw up a list of players' agents and circulate this list to all its members, CAF and FIFA.

4. GRANTING OF FIFA LICENCE

4.1. All matters relating to the issue of FIFA licences shall be determined by FIFA.

4.2. SAFA shall, through the Committee provide FIFA with whatever assistance FIFA requires in relation to the processing of applications for FIFA licences by applicants resident in South Africa and the examination of such applicants.

5. RIGHTS AND DUTIES OF LICENCED PLAYERS' AGENTS

5.1. Subject to Regulations 5.2 and 5.3 below, Licensed Players' agents shall have the following rights:

5.1.1. To approach any player who is not under contract with any club.

5.1.2. To represent any player or club requesting him/her to negotiate and conclude a contract on his/her behalf.

5.1.3. To manage the affairs of any player who requests him/her to do so.

- 5.1.4. To manage the affairs of any club which requests him/her to do so.

- 5.2. A players' agent may represent a player or club or manage their affairs only if s/he has a written contract with the player or club in question. Such contract shall have an initial period of no more than two years, but may, by signed written agreement of the parties, be extended for repeated periods of up to two years per extension agreement.

- 5.3. A licensed players' agent shall have the following duties:
 - 5.3.1. To comply with the statutes, rules and regulations of SAFA, CAF and FIFA at all times.

 - 5.3.2. To ensure that every transaction in which s/he represents the interests of a player or club conforms with the above mentioned statutes, rules and regulations.

 - 5.3.3. Not to attempt to persuade a player who is under contract with a club to breach his/her contract with the club.

 - 5.3.4. Not to represent the interests of more than one party in any particular transfer.

 - 5.3.5. To comply with his/her common law fiduciary duties to his/her principal in every transaction in which s/he represents the interests of a player or club.

5.4. Any players' agent who fails to comply with a duty contemplated by Regulation 5.3 commits misconduct and is liable to be sanctioned by means of the imposition of

5.4.1. a reprimand, censure or caution;

5.4.2. a fine;

5.4.3. an order that s/he pay to an aggrieved party compensation in an amount not greater than R100 000.00;

5.4.4. suspension of his/her license;

5.4.5. withdrawal of his/her license.

5.5. The sanctions imposed in terms of Regulation 5.4 may be cumulative.

5.6. Any fine or compensation order imposed in terms of Regulation 5.4 shall have the status of a civil debt in favour of SAFA or the party to be compensated as the case may be.

6. DUTIES OF PLAYERS IN RELATION TO PLAYERS' AGENTS

6.1. A player may not use the services of a non-licensed players' agent.

6.2. A player shall ensure that his/her players' agent's name and signature appears on any contract in respect of the negotiation or conclusion of which the player's agent has represented the player.

- 6.3. If a player does not use the services of a players' agent in relation to the negotiation or conclusion of a transfer or employment contract, this fact must be stated expressly in the relevant contract.
- 6.4. Any player who fails to comply with a duty contemplated by Regulation 6.1 or 6.2 commits misconduct and is liable to be sanctioned by means of the imposition of
- 6.4.1. a reprimand, censure or caution;
 - 6.4.2. a fine of up to ZAR10 000.00.
 - 6.4.3. a disciplinary suspension of up to twelve (12) months.
- 6.5. The sanctions imposed in terms of Regulation 6.4 may be cumulative.

7. DUTIES OF CLUBS IN RESPECT OF PLAYERS' AGENTS

- 7.1. Any club wishing to engage the services of a player shall negotiate only with:
- 7.1.1. The player himself/herself;
 - 7.1.2. A legal practitioner representing the player;
 - 7.1.3. A close family member of the player who represents him/her;
or
 - 7.1.4. A licensed players' agent.

- 7.2. A club shall ensure that its players' agent's name and signature appears on any contract in respect of the negotiation or conclusion of which the player's agent has represented the club.
- 7.3. If a club does not use the services of a players' agent in connection with the negotiation or conclusion of any transfer or employment contract, this fact must be stated expressly in the relevant contract.
- 7.4. Any club which pays another club compensation for a player's training or development shall be obliged to pay the full amount of compensation directly to the club in question and, notwithstanding any agreement or instruction to the contrary, shall not pay any part of the amount to a players' agent.
- 7.5. Any club which fails to comply with a duty contemplated by Regulations 7.1 to 7.4 commits misconduct and is liable to be sanctioned by means of the imposition of
- 7.5.1. a reprimand, censure or caution;
 - 7.5.2. suspension of all or part of its management bodies;
 - 7.5.3. a fine of up to ZAR100 000.00
 - 7.5.4. a prohibition from carrying out national and/or international transfers within a stated period;
 - 7.5.5. a ban on participation in any national or international footballing activities within a stated period.
- 7.6. The sanctions imposed in terms of Regulation 7.5 may be cumulative.

- 7.7. Any contract concluded by a club in contravention of, or as a result of actions in contravention of, Regulation 7.1 or 7.4 above shall be voidable at the instance of the party with whom the club has contracted.

8. DISCIPLINARY MATTERS

- 8.1. Any party wishing to file a complaint against a players' agent shall address it in writing to SAFA.

- 8.2. SAFA must investigate any complaint which is lodged

8.2.1. not less than twelve months after the events that gave rise to the complaint, and

8.2.2. if the agent concerned has terminated his activities, not less than six months after his/her licence was returned to, or cancelled by, SAFA as the case may be.

- 8.3. SAFA may, in its discretion, investigate any complaint which is lodged outside the time limits contemplated by Regulation 8.2.

- 8.4. If, upon investigation of a complaint against a players' agent, SAFA concludes that there is a prima facie case the players' agent concerned has committed misconduct, it shall institute misconduct proceedings against the players' agent in terms of the Regulations relating to Misconduct and Disciplinary Proceedings.

9. TERMINATION

- 9.1. Any players' agent who voluntarily terminates his/her activities or whose license has been withdrawn, must return his/her license to SAFA. If s/he fails to do so, the CEO shall cancel the licence.
- 9.2. SAFA shall notify FIFA and all Members of the name of any players' agent who has terminated his/her activities and shall annually publish a list of all players' agents whose licences have been returned or cancelled in the previous five years.
- 9.3. Any guarantee lodged by a players' agent with SAFA may not be withdrawn before
 - 9.3.1. six (6) months have elapsed after the termination of the players' agent's activities; and
 - 9.3.2. all claims against the players' agent which are instituted within the six month period contemplated by Regulation 9.3.1 have been finally resolved.

10. FINAL PROVISION

- 10.1. Any matters not provided for under these regulations and relating to the licensing of players' agents or the regulations of their activities shall be dealt with by the Committee and shall not be subject to appeal.
- 10.2. Any decision taken by the Committee in terms of Regulation 10.1 shall be tabled at the next Annual General Meeting of SAFA.