

# FITNESS INDUSTRY OF SOUTH AFRICA REGULATIONS, 2010

## SPORT AND RECREATION SOUTH AFRICA

### GOVERNMENT NOTICE

No. R \_\_\_\_\_

### THE NATIONAL SPORT AND RECREATION ACT, 1998 (ACT NO. 110 OF 1998 AS AMENDED)

### FITNESS INDUSTRY OF SOUTH AFRICA REGULATIONS, 2010

The Minister for Sport and Recreation has under section 14 of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998 as amended), and after consultation with the South African Sport Confederation and Olympic Committee, made the Regulations in the Schedule.

### SCHEDULE

#### Definitions

1. In these Regulations a word or expression to which a meaning has been assigned in the Act has that meaning unless the context indicate otherwise—

**“accreditation”** means the accreditation by the Fitness Board of a fitness establishment in terms of regulation 11 in compliance with the criteria as referred to in the said regulation;

**“Act”** means the National Sport and Recreation Act, 1998 (Act No. 110 of 1998 as amended);

**“annual fee”** means the fee payable on an annual basis as contemplated in terms of regulation 7(1);

**“apparently healthy”** means in relation to any person, a person who is not showing or producing indications of a disease or other medical condition, subject to restrictions as contemplated in regulation 14;

**“assessment purposes”** means the assessment of a person as contemplated in regulation 14 which may include, but are not limited to the following in order to assess if he or she is ready to commence fitness training or physical activity as well as the level and type of exercise:

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- (a) the completion of a screening questionnaire by the person;
- (b) a requirement that the person undergo certain physical activities as directed by the fitness professional monitoring the assessment;
- (c) an assessment to measure the person’s measure physical attributes;
- (d) the acceptance or rejection by the person of his or her assessment by way of a written confirmation by the person on the screening questionnaire to this effect; and
- (e) an acceptance or rejection of the person by the fitness professional doing the assessment by way of a written confirmation on the screening questionnaire to this effect;

**“cardio-vascular mode of equipment”** means heart, vascular and respiratory equipment (e. g. treadmills, stationery cycles, arm ergometers and stepping machines) that –

- (a) train the heart and lungs;
- (b) involve large muscle groups; and
- (c) are rhythmic and aerobic by nature;

**“certified”** means a fitness professional’s qualification meets the requirements as set out by the Fitness board and REPS from time to time in writing;

**“coronary risk factor”** means any major risk factor for a heart attack, including but not limited to any of the following:

- (a) in the case of men, above the age of 45 years and in the case of women above 55 years;
- (d) a family history of Myocardial infarction (heart attack) or sudden death-
  - (i) before the age of 55 years in respect of a father or other male first degree relative, or
  - (ii) before 65 years in mother or other female first degree relative;
- (e) high blood pressure;
- (f) cigarette smoking;
- (d) sedentary lifestyle or inactivity;
- (e) a person with high cholesterol above 5.0 mmol/l;
- (f) a person with insulin dependant diabetes who are above the age of 30 years or who have had it for more than 15 years; or
- (g) a person with non-insulin dependant diabetes who are above the age of 35 years.

**“CPD”** means Continual Professional Development in terms of which points are awarded to a fitness professional by REPS SA for courses and workshops that such a fitness professional has attended throughout his or her year of registration;

“**CPR**” means cardiopulmonary resuscitation;

“**de-accreditation**” means an action as contemplated in regulation 18;

“**disability**” means, including but not limited to, a mobility, intellectual or hearing impairment such as cerebral palsy, severe epilepsy, amputation, spinal cord injury, visual impairment, *les autres* (including dwarves or an impairment resulting from genetic problems);

“**disability friendly**” means that a fitness establishment has complied with the following:

(a) with regard to its facility:

- (i) The shower and toilet area must be accessible for a person in a wheelchair in terms of South African Bureau of Standards;
- (ii) If a pool is available, the deck of the pool must be accessible for a person in a wheelchair; and
- (iii) A person with a disability should be able to train his or her full body in every exercise modality subject to the nature of his or her disability;

(b) with regard to its equipment:

- (i) **Specialized** equipment for a person with a disability must be available at gold and platinum fitness establishments;
- (ii) A wheelchair should, as far as reasonably possible, be able to move freely between all the equipment of the fitness establishment;
- (iii) Sufficient equipment must be in place at the fitness establishment to enable the person with a disability to train his or her full body in all different modes as referred to in par. (a) (iii) above; and
- (iv) **The said equipment should be well and clearly marked for a person with a visual impairment;**

- (c) with regard to its personnel, a qualified assistant must be present at a fitness establishment to assist a person with a disability at all times: Provided that if the person with a disability is accompanied by his or her personal assistant, the personal assistant may assist the person with the disability free of charge;
- (d) with regard to **emergency procedures**, **sufficient procedures** must be in place to reasonably assist a person with a disability in the case of an emergency in the fitness establishment; and
- (e) with regard to safety of disabled persons, a fitness establishment must have at least the following available for disabled persons:
- (i) a defibrillator;
  - (ii) a **first aid kit specifically equipped for disabled persons**; and
  - (iii) two staff members specifically trained to assist disabled persons;

**“Exercise Leader”** means a person registered as a fitness professional with a minimum NQF accredited qualification as determined by the Fitness Board in writing from time to time;

**“existing fitness establishment”** means a fitness establishment that is, at the time of the commencement of these Regulations, already operating as a fitness establishment or maintaining to be such an establishment,

**“fitness”** means

**“Fitness Board”** means the Fitness Industry Board of South Africa established in terms of its own Constitution;

**“fitness establishment”** means a fitness establishment that has been accredited by the Fitness Board in terms of regulation 11 -

- (a) in which supervised physical activity takes place to enhance fitness levels, health and wellbeing; and

- (b) that offers or provides services or equipment for the purposes of fitness, health and wellbeing

irrespective of it charging a fee or not;

**“fitness levels”** means different levels of fitness that include, but are not limited to cardio-vascular fitness, strength, flexibility, speed, power and agility;

**‘fitness professional’** means any qualified person who –

(a) is registered as a fitness professional with REPS SA;

(b) is trained for the health, wellbeing and fitness industry; and

(c) provides professional services in one-on-one or group instruction in any exercise modality

as defined by the rolls published on the website of REPS SA and submitted annually to the Fitness Board by REPS SA as contemplated in regulation 3(2)(b);

**“increased risk”** means in relation to any person, a person who has signs or symptoms of possible cardiopulmonary or metabolic diseases or at least two coronary risk factors;

**“insurance”** means the appropriate insurance as determined from time to time by REPS SA in writing in order for a person to be REPS registered;

**“listing”** means the listing of a fitness professional as referred to in regulation 2(1) of these Regulations;

**“multi-purpose fitness establishment”** means a fitness establishment that offers more than one mode of each type of fitness training, irrespective of such training being cardiovascular, strength, conditioning or any other mode of training;

**“mode”** means any mode of equipment or fitness training, irrespective of such equipment or training being cardiovascular, strength, conditioning or any other mode of equipment or training;

**“new fitness establishment”** means a fitness establishment that has, prior to the commencement of these Regulations, never before operated as a fitness establishment and that intends to be accredited as a fitness establishment in terms of regulation 11;

**“NQF”** means the national qualifications framework which, for the purposes of these Regulations, comprise a standard, subject to the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), as set by the Fitness Board in writing from time to time insofar as the following is concerned, amongst others:

- (a) the format of the specific NQF qualification; and
- (b) the hours academic as well as practical training associated with the said qualification;

**“Occupational Health and Safety Act”** means Act No. 85 of 1993;

**“owner or manager”** means the owner or manager of a fitness establishment;

**“person”** means any natural person or juristic person, if applicable;

**“personnel”** means fitness professionals registered with REPS SA that are self employed or employed as staff at an accredited fitness establishment in terms of these Regulations;

**“planned fitness establishment”** means a fitness establishment that is, at the commencement of these Regulations, still in the planning stages of its development;

**“precinct”** means an enclosed or clearly defined surrounding area or environs or a specifically designated or sign-posted area immediately adjacent to or in close proximity to a fitness establishment;

**“Promotion of Access to Information Act”** means Act No. 2 of 2000;

**“Promotion of Administrative Justice Act”** means Act No. 3 of 2000;

**“Promotion of Equality and Prevention of Unfair Discrimination Act”** means Act No. 4 of 2000;

**“qualified assistant”** means a person referred to in the definition of **“disability friendly”** under the personnel of the fitness establishment, who has successfully completed a course as determined by REPS SA in consultation with the Fitness Board from time to time relative to persons with disabilities in sport, recreation and fitness activities or any equivalent qualification;

**“registered health or allied health practitioner”** means practitioners such as physiotherapists, biokineticists and other health professionals and allied health professionals that are currently registered with either the Health Professionals Council of South Africa (HPCSA) or the Allied Health Professionals Council of South Africa (AHPCSA);

**“registration”** means subject to compliance with regulation 2 and these Regulations, the registration of a fitness professional by REPS SA by –

- (a) making the necessary entry of a successful applicant in the REPS of REPS SA; and
- (b) the issuing of a registration certificate by REPS SA to the applicant authorizing the applicant, subject to the provisions of these Regulations or any other law, to practice the profession of a fitness professional within the stipulated scope of practice as contained in the said certificate;

**“recreational facility”** means a facility of a fitness establishment –

(a) on or away from the premises or its precincts where a fitness establishment conducts its business; and

(b) additional to those normally offered to the public in the course of its business,

that focuses on recreational activities, including but not limited to a swimming, squash, tennis and volley ball;

**“registered fitness professional”** means any person who has and is currently still been registered by REPS SA as a fitness professional in terms of these Regulations;

**“REPS”** means the Register of Exercise Professionals wherein the name and other relevant details of an applicant who has successfully applied to be registered as a member of REPS SA are entered in;

**“REPS SA”** means an independent company –

(a) with non-profit principles and a public register that recognises qualifications and expertise of fitness professionals by entering the names of such fitness professionals in the REPS;

(b) which provides for a system to ensure the proper regulation of fitness professionals in the Republic;

(c) which ensures that fitness professionals meet the health and fitness industry standards and international best practices and benchmarks as determined by the Fitness Board from time to time in writing;

(d) which provides assurance and confidence to fitness professionals, consumers and employers that such registered fitness professionals are appropriately qualified;

(e) which makes provision for registered fitness professionals to become members of REPS SA;

(f) which must ensure that such members of REPS SA –

- (i) comply with a Code of Ethical Practise as determined by REPS SA or the Fitness Board from time to time in writing;
- (ii) hold appropriate public liability insurance; and
- (iii) continue to meet their CPD quota annually.

**“SAQA”** means the South African Qualification Authority;

**“single-purpose fitness establishment”** means a fitness establishment that offers only one mode of each type of fitness training irrespective of such training being cardiovascular, strength, conditioning or any other mode of training;

**“special populations”** means

**“specialized equipment”** means any available specialized equipment at a fitness establishment for specific tasks to assist a person with a disability which may include existing equipment adapted for a disabled person ;

**“SRSA”** means the national Department of Sport and Recreation, Sport and Recreation South Africa;

**“standards”** means the agreed upon criteria that a fitness professional needs to meet as set out by REPS and the Fitness Board from time to time in writing; and

**“theraband”** means a registered trademark, including but not limited to all similar equipment commonly and generically referred to as **“resistance band”** in respect of any brand of rubberized, elastic or tubing.

### **Registration of fitness professionals by REPS SA**

2.(1) No fitness professional who is, at the time of the promulgation of these regulations, already self employed or employed as staff at an accredited fitness establishment shall practice as a fitness professional in the Republic unless he or she, subject to complying with the formalities as contemplated in sub-regulation (2)(a) to (d),:

- (a) has applied in writing within 6 months after the promulgation of these regulations to REPS SA to be listed on the rolls to be published on the website of REPS SA and annually by the Fitness Board; and
- (b) is registered in writing by REPS SA in terms of these Regulations within 1 year after the promulgation of these Regulations as a fitness professional.

(2) A person that has, prior to the promulgation of these Regulations, never before applied to be registered as a fitness professional and who intends to be registered as a fitness professional in terms of these Regulations must –

- (a) apply to REPS SA in writing to be registered as such;
- (b) submit a certified qualification which, in his or her submission, entitles him or her to such registration;
- (c) submit such proof of his or her identity and of the authenticity and validity of the qualification submitted; and
- (d) submit such proof that he or she holds appropriate insurance

as may be required by REPS SA in consultation with the Fitness Board.

(3) If REPS SA is satisfied that the qualification and the other documents submitted in support of the application comply with the requirements of REPS SA, the Fitness Board and these Regulations, it shall, upon payment of a fee as determined by REPS SA from time to time, cause the –

- (a) necessary entry of the applicant to be made in the register of the REPS;  
and
- (b) issuing of a registration certificate authorizing the applicant, subject to the provisions of these Regulations or any other law, to practice the

profession of a fitness professional within the stipulated scope of practice as contained in the said certificate.

(4) A fitness professional shall at all times conduct himself or herself in accordance with the –

(a) provisions of the code of conduct as determined by REPS SA from time to time; and

(b) terms and conditions as contained in his or her membership certificate issued by REPS SA.

(5) REPS SA may, subject to the compliance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) cancel, suspend or amend such registration of a fitness professional if it deems it appropriate.

(6) REPS SA must within 30 days after canceling, suspending or amending the membership of a fitness professional in terms of sub-regulation (5), inform the Fitness Board in writing of such a decision taken by REPS SA and the reasons for it.

(7) Notwithstanding a decision of REPS SA to approve or disapprove the registration of a fitness professional, the Fitness Board has the power, if good cause is evident, to overrule such a decision by REPS SA, subject to the Fitness Board advising REPS SA in writing of its decision and reasons for it within 30 days after receiving the written notification by REPS SA as contemplated in sub-regulation (6), failing which it shall be deemed that the Fitness Board concurs with the decision taken by REPS SA in this regard.

### **Register of fitness professionals**

3.(1) REPS SA shall keep a register, the REPS, in respect of various rolls of fitness professionals and shall enter in the appropriate register the relevant particulars of every person whose application is granted in terms of regulation 2(3).

(2) REPS SA must –

(a) make the REPS available on its website;

(b) submit on an annual basis during the months of June and December respectively -

(i) an updated copy of the REPS to the Fitness Board reflecting the current status of fitness professionals in the Republic; and

(ii) a list of all fitness professionals whose registration status have changed since the submission of the previous copy of the REPS to the Fitness Board; and

(c) respond in writing to any query received by it from the Fitness Board relative to a fitness professional within 14 days after receiving such a query.

### **Qualifications required for registration as fitness professionals**

4. In order to qualify for registration as a fitness professional, an applicant must, subject to the National Qualifications Framework Act, 2008 (Act No. 67 of 2008) have obtained the qualifications as set out by REPS SA in consultation with the Fitness Board which may, if possessed alone or together with another qualification, entitle the possessor thereof to registration as a fitness professional.

### **Foreign and older qualifications**

5. (1) REPS SA may register as a fitness professional, any person who has acquired a qualification or undergone training outside the Republic if such qualification or training in the opinion of REPS SA, is commensurate with the –

(a) standards regulated by REPS SA;

(b) Constitution of the Fitness Board;

(c) National Qualifications Framework Act, 2008 (Act No. 67 of 2008); and

(d) rules and regulations of the South African Qualification Authority.

(2) REPS SA may register as a fitness professional, any person who has acquired an older qualification in the Republic on a provisional basis for a period not exceeding 12 months.

(4) A person registered provisionally as a member of REPS SA in terms of sub-regulation (2) may be upgraded to a full membership as a fitness professional of REPS SA subject to such a person –

- (a) completing a theory paper;
- (b) completing a practical assessment;
- (c) going through an accreditation of prior learning
- (d) doing a certified course

as determined by REPS SA from time to time in writing.

### **Period of registration**

6. (1) Any person registered by REPS SA as a fitness professional in terms of regulation 2(3) shall be entitled to practice as such, for a period of 12 months, during which period he or she must satisfy REPS SA that he or she:

- (a) possesses professional knowledge and ability of a standard not lower than determined by REPS SA in respect of fitness professionals in the Republic;
- (b) is conversant with the laws of the Republic regarding the fitness practice in the area or areas determined by REPS SA;
- (c) fulfils the terms and conditions contained in his or her final registration certificate as determined by REPS SA;

- (d) continues to meet his or her CPD quota as determined by REPS SA and the Fitness Board in writing from time to time; and
- (e) complies with any further conditions as determined by REPS SA or the Fitness Board in writing from time to time.

(2) The period of registration as referred to in sub-regulation (1) shall be automatically renewed by REPS SA on an annual basis, subject to a fitness professional complying fully with the criteria as contemplated in sub-regulation (1)(a) to (e).

(3) In the event of REPS SA deciding not to renew the registration of a fitness professional as contemplated in sub-regulation (2), the provisions of regulation 2(5), (6) and (7) must be adhered to.

### **Registration and other fees**

7.(1) The Minister may on the recommendation of the Fitness Board at any time by notice in the Government Gazette determine an annual fee to be paid **and the time frame** within which it must be paid to REPS SA or the Fitness Board by a fitness professional for registration or any other purposes.

(2) Different fees may be fixed in respect of different categories of fitness professionals.

### **Refusal of registration**

8. Notwithstanding any provision to the contrary in these Regulations, REPS SA may, subject to the Promotion of Administrative of Justice Act referred to above-

- (a) refuse to register a person who has submitted his or application to be registered as a fitness professional in terms of regulation 2(3); or

(b) cancel or suspend the name of any person from the register of REPS SA if, in the opinion of REPS SA, such a person is, by reason of –

- (i) a conviction, in the Republic or elsewhere, of an offence;
- (ii) a contravention of the terms and conditions of his or her registration certificate as a fitness professional;
- (iii) a contravention of the code of conduct and ethical code of conduct of REPS SA or the Fitness Board respectively; and
- (iv) the Fitness Board advising REPS SA of incidences relative to a fitness professional which by nature necessitate REPS SA to cancel or suspend such a fitness professional's registration certificate as contemplated in regulation 2(5),

is not fit to practice as a fitness professional.

### **Employment of fitness professionals**

9.(1) No person or fitness establishment shall employ a person to perform the work of a fitness professional, unless such person is registered as a fitness professional with REPS SA in terms of regulation 2(3).

(2) The prohibition in sub-regulation (1) shall not apply in respect of a student registered with an accredited education and training provider as defined in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), if the act in question is performed for purposes of his or her training in the fitness practice and is supervised by a fitness professional who is registered with REPS SA.

### **Disciplinary action against fitness professionals, owners or managers**

10.(1) Of its own initiative or by a submission from any person, including REPS SA, the Fitness Board may convene a disciplinary panel to consider the conduct of a registered fitness professional or an owner or manager: Provided that in the event of a complaint by a person-

- (a) the submission to the Fitness Board must be in writing within thirty (30) days after the cause of the complaint has arisen;
- (b) such a person must confirm his or her willingness in writing to-
  - (i) testify at a disciplinary hearing, if necessary;
  - (ii) submit any supporting evidence to the Fitness Board in order to substantiate the said complaint; and
  - (iii) identify other persons who can assist in the corroboration of the said evidence.

(2) In order to conduct a proper disciplinary hearing, the Fitness Board may of its own accord call-

- (a) witnesses; and
- (b) expert witnesses

as it deems appropriate by way of a written notification to the witnesses in this regard.

(3) If the Fitness Board is of the opinion that a fitness professional or an owner or manager has contravened the code of conduct for a fitness professional or an owner or manager, the Fitness Board may impose an appropriate sanction, including but not limited to the following:

- (a) a written warning to the fitness professional or an owner or manager;
- (b) a fine not exceeding R10 000 payable by the said fitness professional owner or manager;

- (c) in the case of a fitness professional-
  - (i) a suspension from the REPS of REPS SA for a period of time as specified by the Fitness Board in writing;
  - (ii) the cancellation of the registration certificate of such a fitness professional and the removal of his or her name from the REPS of REPS SA,

subject to –

- (aa) the Fitness Board advising REPS SA of its decision to cancel or suspend such a fitness professional in writing; and
    - (bb) REPS SA ensuring that it aligns with such a decision taken by the Fitness Board by also cancelling or suspending the registration certificate of the fitness professional accordingly from the REPS; and
- (d) in the case of an owner or manager of a fitness establishment-
  - (i) a suspension of such owner or manager from the fitness establishment for a period of time as specified by the Fitness Board in writing; or
  - (ii) a notification to such owner or manager in writing of any decision taken by the Fitness Board in terms of this regulation.

## **Accreditation as fitness establishment**

11.(1) An existing or new fitness establishment shall not conduct business as a fitness establishment unless:

- (a) it has applied in writing to the Fitness Board within a period not exceeding 6 months after the commencement of these Regulations for the listing of such an establishment;
- (b) it is accredited by the Fitness Board in writing within a period not exceeding two years after the commencement of the Regulations; and
- (c) it has complied with the provisions of –
  - (i) the Occupational Health and Safety Act;
  - (ii) the General Safety Regulations to the Occupational Health and Safety Act; and
  - (iii) the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000).

(2) The Fitness Board shall accredit and grade all fitness establishments in the Republic in writing in accordance with the criteria as set out in regulations 13 and 14.

(3) A fitness establishment may be awarded a certificate to offer a service above its level of grading by the Fitness Board, if the establishment satisfies the Fitness Board that it complies with the requirements for such a higher grading as determined by the Fitness Board.

(4) A fitness establishment shall at all times comply with the requirements of its conditions of accreditation as determined by the Fitness Board in writing.

(5) A fitness establishment must comply with the Promotion of Equality and Prevention of Unfair Discrimination Act and the Occupational Health and Safety Act.

### **Refusal, cancellation or suspension of accreditation**

12.(1) Any fitness establishment that, in the opinion of the Fitness Board, does not comply with the criteria for accreditation as determined by the Fitness Board from time to time, may be refused accreditation by the Fitness Board.

(2) Should an accredited fitness establishment –

- (a) breach any term or condition of its accreditation or provision of these Regulations; and
- (c) fail to remedy such breach within 14 (fourteen) days after receiving written notice of the Fitness Board requiring such remedy,

the Fitness Board shall be entitled without prejudice to its rights in law and irrespective of the materiality of such breach or provision, to cancel or suspend the accreditation by informing the fitness establishment in writing of its decision in this regard, subject to compliance with the Promotion of Administrative Justice Act.

(3) Notwithstanding the provisions as contemplated in sub-regulation (1), the Fitness Board may, if the breach of a term or condition of the accreditation of a fitness establishment or provision of these Regulations, is of such a serious nature that necessitate immediate steps to be taken, cancel or suspend the accreditation with immediate effect in writing, subject to compliance with the Promotion of Administrative Justice Act.

### **Grading of fitness establishments by Fitness Board**

13. (1) A fitness establishment must be graded by the Fitness Board in writing in terms of–

(a) its facility, namely, whether it is a –

- i) single purpose facility which shall have 4 grades of establishment, namely Blue, Bronze, Silver and Gold; or
- (ii) multi-purpose facility which shall have 5 grades of establishment, namely Blue, Bronze, Silver, Gold and Platinum.

(b) its equipment and other resources, including but not limited to the following:

- (i) Its range of equipment;
- (ii) Its level of disability friendliness;
- (iii) The quality and sophistication of its equipment; and
- (iv) Its facilities for children; and
- (iv) The number and quality of its recreational facilities such as swimming pools, saunas, steam rooms and squash courts;

(c) the level and quality of its staff, including but not limited to the following:

- (i) their ability to cater for emergencies;
- (ii) the number of fitness professionals that cater for special populations such as children, pregnant clients or the elderly;
- (iii) The number of basic fitness professionals relative the number specialist fitness professionals who can teach pilates, yoga, cardio classes, aerobics, indoor cycling, swimming and the like.

## Grades of fitness establishments

14.(1) A blue grade fitness establishment shall comply with the following requirements:

- (i) All fitness professionals of the establishment must be registered at the level of an Exercise Leader or above;
- (ii) All personnel of the establishment, save for cleaners and parking attendants, must be CPR or first aid qualified by an accredited education and training provider which must be renewed every 3 years in writing by such provider;
- (iii) The establishment must have available for use by the public a minimum range of equipment with the necessary exceptions as contemplated in the Schedule attached hereto;
- (iv) The establishment shall only admit a person classified as an **'apparently healthy'** person as referred to in regulation 1 after completing a screening questionnaire for assessment purposes to use its equipment or facilities or supervised instruction in enhancing fitness: Provided that if such a person has already recovered or is in the process of recovering from a serious or life threatening sickness or disease, such a person may only be admitted by the establishment, subject to the person being in possession of written permission from –
  - (a) a registered medical practitioner; or
  - (b) a registered health or allied health practitionerto make use of its fitness facilities and services;

- (v) The said establishment shall comply with the provisions of the Occupational Health and Safety Act and the Promotion of Equality and Prevention of Unfair Discrimination Act referred to above; and
- (vi) The establishment shall have attained the status of “**disability friendly**” as defined in regulation 1, subject to the relevant exceptions referred to in this definition.

(2) A bronze grade fitness establishment shall comply with the following requirements, amongst others:

- (i) At least one fitness professional of the establishment must be registered at the level of an Exercise Leader or above and least one fitness professional must at a minimum be in possession of an NQF level 5 qualification in Fitness;
- (ii) All personnel of the establishment, save for cleaners and parking attendants, must be CPR and first aid qualified by an accredited education and training provider which must be renewed every 3 years in writing by such provider;
- (iii) The establishment must have available for use by the public a range of equipment with the necessary exceptions as contemplated in the Schedule attached hereto;
- (iv) The establishment shall only admit a person classified as an ‘**apparently healthy**’ person as referred to in regulation 1 after completing a screening questionnaire for assessment purposes to use its equipment or facilities

or supervised instruction in enhancing fitness: Provided that if such a person has already recovered or is in the process of recovering from a serious or life threatening sickness or disease, such a person may only be admitted by the establishment, subject to the person being in possession of written permission from –

(c) a registered medical practitioner; or

(d) a registered health or allied health practitioner

to make use of its fitness facilities and services;

(v) The said establishment shall comply with the provisions of the Occupational Health and Safety Act as well as the Promotion of Equality and Prevention of Unfair Discrimination Act referred to above;

(vi) A bronze grade fitness establishment is not required to offer any additional recreational facilities than those normally offered to the public in the course of its business; and

(vii) The establishment shall have attained the status of “**disability friendly**” as defined in regulation 1, subject to the relevant exceptions.

(3) A silver grade fitness establishment shall comply with following requirements amongst others:

(i) At least two of fitness professionals of the establishment must at a minimum be in possession of an NQF level 5 qualification in Fitness;

- (ii) All personnel of the establishment, save for cleaners and parking attendants, must be CPR and first aid qualified by an accredited education and training provider which must be renewed every 3 years in writing by such provider;
- (iii) The establishment must have available for use by the public a wide range of equipment with the necessary exceptions as contemplated in the Schedule attached hereto;
- (iv) The establishment shall have sufficiently trained and qualified staff to supervise and monitor the use of equipment at all times and participation in programmes by all **special populations and increased risk clients as defined in regulation 1;**
- (v) The establishment shall only admit a person classified as an **'apparently healthy'** person as referred to in regulation 1 after completing a screening questionnaire for assessment purposes to use its equipment or facilities or supervised instruction in enhancing fitness: Provided that if such a person has already recovered or is in the process of recovering from a serious or life threatening sickness or disease, such a person may only be admitted by the establishment, subject to the person being in possession of written permission from –
  - (i) a registered medical practitioner; or
  - (ii) a registered health or allied health practitionerto make use of its fitness facilities and services;
- (vi) The said establishment shall comply with the provisions of the Occupational Health and Safety Act as well as the Promotion of Equality and Prevention of Unfair Discrimination Act referred to above;

- (vii) A silver grade fitness establishment is required to offer a minimum of one recreational facility additional to those normally offered to the public in the course of its business; and
  - (viii) The establishment shall have attained the status of “**disability friendly**” as defined in regulation 1, subject to the relevant exceptions.
- (4) A gold grade fitness establishment shall comply with the following requirements, amongst others:
- (i) At least 4 fitness professionals must be in possession of a relevant NQF level 5 qualification in Fitness and at least one fitness professional must have a relevant NQF level 7 qualification in Fitness or Exercise Science;
  - (ii) All personnel of the establishment, save for cleaners and parking attendants, must be CPR and first aid qualified by an accredited education and training provider which must be renewed every 3 years in writing by such provider;
  - (iii) The establishment must have available for use by the public a wide range of equipment, including specialized equipment with the necessary exceptions as contemplated in the Schedule attached hereto;
  - (iv) The establishment shall have sufficiently trained and qualified staff to supervise and monitor the use of equipment and participation in programmes by all **special populations and by increased risk clients as defined in regulation 1;**
  - (v) The establishment shall have attained the status of “**disability friendly**” as defined in regulation 1;

- (vi) The establishment shall only admit a person classified as an **‘apparently healthy’** person as referred to in regulation 1 after completing a screening questionnaire for assessment purposes to use its equipment or facilities or supervised instruction in enhancing fitness: Provided that if such a person has already recovered or is in the process of recovering from a serious or life threatening sickness or disease, such a person may only be admitted by the establishment, subject to the person being in possession of written permission from –

(i) a registered medical practitioner; or

(ii) a registered health or allied health practitioner

to make use of its fitness facilities and services;

- (vii) The said establishment shall comply with the provisions of the Occupational Health and Safety Act as well as the Promotion of Equality and Prevention of Unfair Discrimination Act referred to above; and
- (viii) A gold grade fitness establishment is required to offer a minimum of two recreational facilities additional to those normally offered to the public in the course of its business: Provided that in the event of a swimming pool or any other recreational facility available at the fitness establishment, it must be accessible to a person in a wheelchair.

(5) A platinum grade fitness establishment shall comply with the following requirements amongst others:

- (i) At least 5 fitness professionals must at a minimum be in possession of a relevant NQF level 5 qualification in Fitness and

least two fitness professionals must have a relevant NQF level 7 qualification in Fitness or Exercise Science;

- (ii) All personnel of the establishment, save for cleaners and parking attendants, must be CPR and first aid qualified by an accredited education and training provider which must be renewed every 3 years in writing by such provider;
- (iii) The establishment must have available for use by the public a wide range of equipment, including high-tech equipment with the necessary exceptions as contemplated in the Schedule attached hereto;
- (iv) The establishment shall have sufficiently trained and qualified staff to supervise and monitor the use of equipment and participation in programmes by **all special populations and by increased risk clients as defined in regulation 1;**
- (v) The establishment shall have attained the status of “**disability friendly**” as defined in regulation 1;
- (vi) The establishment shall make available to clients in the establishment, access to rehabilitation programmes offered by qualified and registered personnel as determined by the Fitness Board in writing from time to time;
- (vii) The establishment shall make available to clients in the establishment, access to qualified and registered health professionals as determined by the Fitness Board in writing from time to time;
- (viii) The establishment shall only admit a person classified as an ‘**apparently healthy**’ person as referred to in regulation 1 after completing a screening questionnaire for assessment purposes to

use its equipment or facilities or supervised instruction in enhancing fitness: Provided that if such a person has already recovered or is in the process of recovering from a serious or life threatening sickness or disease, such a person may only be admitted by the establishment, subject to the person being in possession of written permission from –

(i) a registered medical practitioner; or

(ii) a registered health or allied health practitioner

to make use of its fitness facilities and services;

- (ix) The said establishment shall comply with the provisions of the Occupational Health and Safety Act as well as the Promotion of Equality and Prevention of Unfair Discrimination Act referred to above; and
- (x) A platinum grade fitness establishment is required to offer a minimum of four recreational facilities define additional to those normally offered to the public in the course of its business: Provided that in the event of a swimming pool or any other recreational facility available at the fitness establishment, it must be accessible to a person in a wheelchair.

(6) Irrespective of the grade of a fitness establishment, it shall ensure that the standard quality of its equipment is properly and consistently maintained: Provided that the Fitness Board shall have the power to inspect a fitness establishment at least every two years to determine its grading level including the standard quality of its equipment.

(7) In the event of a written complaint received from a person regarding the poor quality of its equipment, a fitness establishment shall ensure that the complaint is addressed within 7 days after receiving such complaint:

Provided further that if the said establishment fails to address such a complaint accordingly, such a person shall have the right, subject to complying with the procedures referred to in regulation 10(1), to approach the Fitness Board for further relief.

(8) The Fitness Board shall subsequently, subject to compliance with the Promotion of Administrative Justice Act, have the power to make a ruling in this regard and must inform the fitness establishment of its decision in writing.

(9) In the event of non-compliance in respect of a decision of the Fitness Board by the said establishment, any of the actions contemplated in regulations 10(2) and 18 may be taken by the Fitness Board against a fitness professional, the owner or manager of a fitness establishment or the fitness establishment itself respectively.

#### **Database of accredited fitness establishments**

15.(1) The Fitness Board shall keep a database of accredited fitness establishments classified according to their grade of accreditation.

(2) The Fitness Board shall make this database available annually via a publication in the Government Gazette or the fitness industry appropriate communication to members of the public, if requested to do so in writing, but subject to the provisions of the said Promotion of Access to Information Act.

#### **Period of accreditation**

16. Any fitness establishment accredited by the Fitness Board shall be entitled to operate as a fitness establishment, only for an accreditation period or periods determined by the Fitness Board in writing, during which period the establishment shall satisfy the Fitness Board that all conditions as determined by the Fitness Board from time to time have been met.

### **Extraordinary audit**

17. Notwithstanding the above, the Fitness Board may of its own initiative convene an extraordinary audit of a fitness establishment.

### **De-accreditation of and other sanctions against fitness establishment**

18. If the Fitness Board is of the opinion that the fitness establishment has contravened these Regulations or its conditions of accreditation as determined by it from time to time, the Fitness Board may, subject to compliance with the Promotion of Administrative Justice Act, impose an appropriate sanction of one or all of the following, amongst others:

- (a) a written warning to the fitness establishment;
- (b) a fine not exceeding R 80 000 payable by the fitness establishment to the Fitness Board;
- (c) a suspension of the accreditation of the fitness establishment for a period of time as specified by the Fitness Board in writing;
- (d) the de-accreditation of the said establishment by stipulating in writing that de-accredited fitness establishment -
  - (i) must be closed down; and
  - (ii) may not carry on any of its former activities as an accredited fitness establishment in such de-accredited state as from a date determined by the Fitness Board in writing

:Provided that if such a de-accredited establishment fails to comply with a stipulation as referred to in subparagraph (i) and (ii) above, it shall commit an offence that is punishable by law; and

- (e) the down-grading of the fitness establishment to a level as determined by the Fitness Board in writing.

### **Cession of accreditation**

19. A fitness establishment that has been accredited in terms of regulation 11 shall not be entitled to cede its accreditation to another fitness establishment unless such cession has been approved by the Fitness Board in writing.

### **Accreditation fees**

20.(1) The Minister may, on the recommendation of the Fitness Board, at any time by notice in the Government Gazette fix a fee to be paid and the time frame within which it must be paid by a fitness establishment to the Fitness Board for the process of accreditation.

(2) The Minister may, on the recommendation of the Fitness Board at any time by notice in the Government Gazette fix a fee to be paid by a fitness establishment for the annual retention of accreditation by the establishment.

(3) Different fees may be fixed in respect of different grades of fitness establishment.

### **Submission of reports and documents by fitness establishments**

21. A fitness establishment must annually submit the following reports to the Fitness Board:

- a) an annual audit report of its compliance with health and safety issues relative to its establishment;
- b) an example of an advertisement in the media or through any other medium, promoting its business to the public at large

- c) a report on how the fitness establishment meets its advertising claims as projected in the advertisement referred to in par. (b);
- d) a list of its qualified staff describing their qualifications in order to provide sufficient proof that it is complying to the employment requirements as contemplated in these regulations; and
- e) a report on its disability compliance as required in terms of these Regulations.

### **Offences and penalties**

22. (1) A fitness professional is guilty of an offence, if he or she practices as a fitness professional –

(a) without such a person being registered in terms of regulation 2;

(b) without his or her certificate of registration being renewed in terms of regulation 6(1); or

(c) outside the stipulated scope of practice as contained in his or her certificate of registration as a fitness professional.

(2) A fitness professional convicted of an offence in terms of these Regulations, is liable in the case of a contravention of sub-regulation (1)(a),(b) and (c) to a fine or to imprisonment for a period not exceeding 3 years, or to both a fine and such imprisonment.

(3) A person is guilty of an offence, if he or she employs a person as a fitness professional as contemplated in regulation 9(1) without –

(a) such a person being registered as a fitness professional in terms of regulation 2;

or

(b) his or her certificate of registration being renewed in terms of regulation 6(1).

(4) A person who illegally employs a person as a fitness professional as contemplated in sub-regulation and who is convicted of an offence in terms of these Regulations, is liable in the case of a contravention of sub-regulation (3)(a) and (b) to a fine or to imprisonment for a period not exceeding 4 years, or to both a fine and such imprisonment.

(5) A person who is the owner or manager of a fitness establishment, is guilty of an offence, if he or she –

(a) operates a fitness establishment without the establishment being accredited in terms of regulation 11;

(b) operates a fitness establishment outside the stipulated accreditation period as determined by the Fitness Board in terms of regulation 16; or

(c) cedes a fitness establishment without the written approval of the Fitness Board as contemplated in regulation 19.

(6) A owner or manager convicted of an offence in terms of these Regulations, is liable in the case of a contravention of sub-regulation (1)(a),(b) and (c) to a fine or to imprisonment for a period not exceeding 5 years, or to both a fine and such imprisonment.

### **Dispute resolution and appeals**

23.(1) Any dispute arising from any matter pertaining to these Regulations must be dealt with in accordance with section 14 of the Act.

(2) Notwithstanding the provisions as contemplated in terms of sub-regulation (1), any person or fitness establishment that is aggrieved by a decision or, where applicable, the terms and conditions attributable to such a decision, taken in terms of these Regulations may, within a period of 30 days after service of the notification of the relevant decision, appeal to SRSA in writing;

(3) SRSA may -

- (a) hear and decide on any appeal referred to it in terms sub-regulation (2);
- (b) confirm or set aside any sanction imposed in terms of these Regulations;
- (c) may in the place of any sanction so set aside, impose any sanction which in its opinion should and could lawfully have been imposed.

(4) Any person or fitness establishment lodging an appeal to SRSA as contemplated in these Regulations, shall do so, in writing, within the time frames provided for in terms of these Regulations in the following manner:

- (a) The grounds of appeal must set out fully and clearly the grounds of appeal; and
- (b) Any legal representations and arguments which the appellant believes may be relevant to the matter, must be set out fully and clearly.

(5) Any party or body involved in the prosecution of an appeal, shall be entitled to be represented by a person of his or her or its own choice.

(6) The normal generally accepted rules and procedures of administrative law and natural justice shall apply to the prosecution of an appeal as contemplated in these Regulations.

## **Transitional provisions**

24. (1) An existing fitness establishment shall have a grace period of 3 years as from the commencement of these Regulations to comply with any structural alterations to such a fitness establishment in order to adhere to any requirement as contemplated in these Regulations that impacts on the building or its immediate precincts in which the business of such a fitness establishment is conducted.

(2) A new fitness establishment shall have a grace period of 5 years as from the commencement of these Regulations to comply with any structural alterations to such a fitness establishment in order to adhere to any requirement as contemplated in these Regulations that impacts on the building or its immediate precincts in which the business of such a fitness establishment is conducted.

(3) A planned fitness establishment must comply with all requirements as contemplated in these Regulations that impact on the building or its immediate precincts in which the business of such a fitness establishment is to be conducted with immediate effect as from commencement of these Regulations.

## **Short title and commencement**

25.(1) These Regulations are called the Fitness Industry of South Africa Regulations, 2010.

(2) Different dates for the commencement of different regulations contained in these regulations may be determined from time to time.

## **SCHEDULE**

A fitness establishment must conform to the following basic requirements relative to the types of equipment and minimum equipment to be utilized at such an establishment:

### **Multi-purpose fitness establishments:**

#### **Types of equipment to be utilized at multi-purpose establishments irrespective of the grading level of the said establishment:**

- A. Strength and conditioning modes of equipment, including but not limited to the following:
- Therabands, swiss balls, mats, ropes;
  - Free weights including dumbbells, barbells, benches (incline, decline, flat), cable or pulley machines;
  - Machines for upper body and lower body; and
  - Cable and pulley machines;
- B. Cardio vascular modes of equipment, including but not limited to the following:
- Cycles;
  - Treadmills;
  - Rowing machines;
  - Step machines and step benches; and
  - Arm ergometers.

#### **Minimum equipment required to be available at each level of grading of accredited multi-purpose fitness establishments as determined by the Fitness Board in writing from time to time:**

##### **Blue fitness establishments:**

A blue fitness establishment must at least have the following equipment available:

- At least one cardio vascular mode of equipment (e.g. cycles, mats for Pilates); and
- Strengthening and conditioning modes of equipment must have the ability to train the whole body using one class of equipment (e.g. therabands).

**Bronze fitness establishments:**

A bronze fitness establishment must at least have the following equipment available:

- All equipment required for a blue grading level;
- Specialised equipment in at least one cardio vascular mode of equipment (e.g. cycle lab will have more advanced cycles than cycles found at the blue level. Also the number of cycles will be more than at the blue level); and
- At least one cardio vascular mode of equipment and the ability to train the whole body using one class of equipment.

**Silver fitness establishments:**

A silver fitness establishment must at least have the following equipment available:

- All equipment required for a bronze grading level;
- At least two cardio vascular modes of equipment; and
- Upper and lower body machines and free-weights representing strengthening and conditioning modes of equipment.

**Gold fitness establishments:**

A gold fitness establishment must at least have the following types of equipment available:

- All equipment required for a silver grading level;
- At least three cardio vascular modes of equipment;
- Machines for upper and lower body and free-weights representing strengthening and conditioning modes of equipment; and
- Specialized equipment for a person with a disability: Provided that a wheelchair should be able to move freely between all the equipment of the establishment:  
Provided further that the said equipment-
  - must enable a person with a disability to train his or her full body in all different modes of equipment as referred to par. A and B of the Schedule; and
  - must be clearly marked for a person with a visual impairment.

**Platinum fitness establishments:**

A platinum fitness establishment must at least have the following types of equipment available:

- All equipment required for a gold grading level;
- At least four cardio vascular modes of equipment, upper and lower body machines, free-weights and stabilizing equipment such as swiss balls as strengthening and conditioning modes of equipment;
- Specialized equipment for a person with a disability: Provided that a wheelchair should be able to move freely between all the equipment of the establishment:  
Provided further that the said equipment-
  - must enable a person with a disability to train his or her full body in all different modes of equipment as referred to par. A and B of the Schedule; and
  - must be clearly marked for a person with a visual impairment.

**Single purpose fitness establishments:**

**Minimum equipment required to be available depending on the level of grading of accredited single-purpose fitness establishments as determined by the Fitness Board in writing from time to time:**

- A studio with the appropriate amount and types of accessories to function according to its modality, including but not limited to a dedicated exercise area with mats on which members of the establishment practice the exercise modality;
- A core conditioning studio or strength training facility with relevant exercise equipment to meet the needs of its members and their training outcomes;
- An indoor cycling studio with sufficient calibrated and functioning bikes that cater for its members at peak times;
- A group exercise class to music facility, providing classes that include the use of exercise mats or hand held exercise accessories; and

- A facility with exercise equipment to meet a variety of training needs and achieve the relevant training outcomes, as advertised by the fitness establishment.

Notwithstanding the **basic requirements** pertaining to the types of equipment and minimum equipment for both multi-purpose and single purpose fitness establishments referred to above, the details in respect of these requirements are by no means exhaustive or conclusive and should be read and interpreted in conjunction with any relevant provisions contained in the Constitution, guidelines, directives, code of conduct or any other relevant manual or document of the Fitness Board in this regard which may –

(a) have different requirements for certain fitness establishments; and

(b) necessitate the use of other types of equipment appropriate for these fitness establishments;

(c) require the equipment offering at a fitness establishment be relative to the modality of exercise being advertised and offered by the fitness establishment, subject to such modality being machine or equipment reliant,

relative to the types of equipment and minimum equipment requirements as referred to above as determined by the Fitness Board in writing from time to time.