

**LOTTERIES ACT
NO. 57 OF 1997**

[View Regulation]

[ASSENTED TO 6 NOVEMBER, 1997]
[DATE OF COMMENCEMENT: 1 MARCH, 2000]

(Unless otherwise indicated)

(English text signed by the President)

as amended by

Lotteries Amendment Act, No. 10 of 2000

Lotteries Amendment Act, No. 46 of 2001

Prevention and Combating of Corrupt Activities Act, No. 12 of 2004

ACT

To regulate and prohibit lotteries and sports pools; to establish a National Lotteries Board; consequentially to amend the Post Office Act, 1958, the Gambling Act, 1965, and the Gambling Act, 1982 (Ciskei), and to repeal the State Lotteries Act, 1984 (Ciskei), and the Lotteries Decree, 1989 (Transkei); and to provide for matters connected therewith.

ARRANGEMENT OF SECTIONS

1. Definitions

PART I

THE NATIONAL LOTTERY

2. Establishment of National Lotteries Board
3. Composition of board
4. Meetings of board
5. Executive committee of board
6. Remuneration and allowances of members of board
7. Staff of board
8. Funds of board
9. Finances
10. Functions of board
11. Consultation by board
12. Audit and annual report

13. Licence to conduct National Lottery
14. Requirements and conditions of licence
15. Variation of conditions of licence
16. Enforcement of conditions of licence
17. Grounds for revocation of licence
18. Notice of proposed revocation
19. Suspension of licence
20. Revocation of licence
21. Establishment of National Lottery Distribution Trust Fund
22. Fund to vest in and to be administered by board
23. Revenue of fund
24. Banking account
25. Investment of money not immediately required
26. Allocation of money in fund
27. Allocation to reconstruction and development programme
28. Allocation to charities
29. Allocation to sport and recreation
30. Allocation to arts, culture and national heritage
31. Allocation for miscellaneous purposes
32. Payment of allocations
33. Power of Minister to prohibit certain grants
34. Payments from fund in respect of expenses
35. Public administration

PART II OTHER LOTTERIES

36. Lotteries incidental to exempt entertainment
37. Private lotteries
38. Society lottery
39. Management of society lotteries
40. Frequency of society lotteries
41. Registration of societies
42. Revocation of registration
43. Fees and levies
44. Requirements after registration of society
45. Control of registered societies
46. Audit of society lottery
47. Certification of lottery managers
48. Conditions of certificate
49. Variation of conditions of certificate
50. Period of validity of certificate
51. Revocation of certificate
52. Control of lottery managers and audit

- 53. Rules of society lotteries
- 54. Promotional competitions
- 55. Licence to conduct sports pools

PART III
GENERAL PROVISIONS

- 56. Unlawful lotteries and competitions
- 57. General offences
- 58. Offences relating to National Lottery and sports pools
- 59. Prohibition of activities in Republic in relation to lottery or sports pool conducted outside Republic
- 60. Regulations in respect of National Lottery and sports pools
- 61. Regulations in respect of lotteries incidental to exempt entertainments, private and society lotteries
- 62. Penalties
- 63. Savings
- 64. Transitional provisions
- 65. Lottery debts enforceable
- 66. Registration of illegal lotteries
- 67. Access to information
- 68. Repeal and amendment of laws
- 69. Short title and commencement
- Schedule Laws repealed or amended

1. Definitions.—In this Act, unless the context indicates otherwise—

“**board**” means the National Lotteries Board established by section 2;

“**broadcasting service**” means broadcasting service as defined in Act section 1(1) of the Broadcasting Act, 1976 (Act No. 73 of 1976(2));

“**charitable expenditure**” means expenditure by any organisation or institution established for charitable, benevolent or philanthropic purposes, including friendly societies, welfare organisations and conduit organisations or trusts established in respect of any such organisation or institution;

“**chief executive officer**” means the chief executive officer contemplated in section 7 (1) (a);

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**date**”, in relation to a lottery, means the date on which the winners of that lottery are determined;

“**Department**” means the Department of the national sphere of government for which the Minister is responsible;

“**distribute**”, in relation to documents or other objects, includes distribution to persons or places

within or outside the Republic;

“distributing agency” means a person appointed by the Minister to distribute money, but not any department in the national or a provincial sphere of government;

“fund” means the National Lottery Distribution Trust Fund established by section 21;

“licensee” means the person to whom the licence for the National Lottery has been issued in terms of section 13 (1);

“lottery” includes any game, scheme, arrangement, system, plan, promotional competition or device for distributing prizes by lot or chance and any game, scheme, arrangement, system, plan, competition or device, which the Minister may by notice in the *Gazette* declare to be a lottery;

“Minister” means the Minister to whom the administration of this Act has been assigned;

“National Lottery” means the lottery contemplated in Part I of this Act and includes all the lotteries conducted under the licence for the National Lottery, taken as a whole;

“net proceeds of the National Lottery” means the sums that are payable to the fund or the board in terms of section 14 (2) (e), but not the sums which are paid out for prizes of the National Lottery;

“newspaper” includes a journal, magazine or other periodical publication;

“participant”, in relation to a lottery other than a promotional competition contemplated in section 54, means a person who is in possession of a valid ticket in that lottery;

“place” means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vehicle, vessel or aircraft;

“political office-bearer” means a member of Parliament, a member of a provincial legislature, a diplomatic representative of the Republic who is not a member of the public service, a member of a house or council of traditional leaders, a member of the Volkstaat Council, a member of a municipal council and any official of a political party, alliance or movement;

“prescribe” means prescribe by regulation, and **“prescribed”** has a corresponding meaning;

“private lottery” means a lottery in the Republic which is conducted in accordance with section 37—

- (a) for and by members of a social or sporting club which is not connected with any form of gambling;
- (b) for and by persons all of whom work on the same premises;
- (c) for and by persons all of whom reside on the same premises;
- (d) by persons each of whom—
 - (i) is one of the persons for whom the lottery is conducted; and
 - (ii) in the case of a lottery conducted for the members of a social or sporting club, has been authorised in writing by the governing body of the social or sporting club to conduct the lottery;

“**prize**” means the prize awarded to the winner of a lottery;

“**promotional competition**” means a lottery conducted for the purpose of promoting the sale or use of any goods or services;

“**society**” includes any club, institution, organisation or association of persons, and any separate branch or section of such a club, institution, organisation or association;

“**society lottery**” means a lottery conducted by a society in accordance with Chapter 2 of Part II;

“**software**” means a set of instructions fixed or stored in any manner and which, when used directly or indirectly in a computer, directs its operation to bring about a result;

“**sporting event**” means any football, rugby, cricket, golf or tennis match, any boxing, wrestling, shooting or swimming contest, any foot, cycle, motor, boat or horse race, and any other lawful sporting contest, competition, tournament or game usually attended by the public;

“**sports pool**” means any scheme, excluding any scheme or competition in respect of horse racing which is authorised by the board, or which is conducted in the same format and manner and under the same circumstances as a scheme or competition in respect of horse racing that existed prior to 18 June 1997, under which—

- (a) any person is invited or undertakes to forecast the result of any series or combination of sporting events in competition with other participants; and
- (b) a prize is to be awarded to the competitor who forecasts the said result correctly or whose forecast is more nearly correct than the forecasts of other competitors, or a number of prizes are to be awarded on the basis aforesaid,

and for the purposes of this definition the forecast of a result includes not only the forecast of the person, animal, thing or team that will be victorious or otherwise, but also any forecast relating to the system of scoring employed in the sporting event in question, or to the person who will be responsible for the score;

“**subscription**” means the payment, or delivery of any money, goods, article, matter or thing, including any ticket, coupon or entry form, for the right to compete in a lottery;

“**this Act**” includes regulations made under this Act;

“**ticket**”, in relation to a lottery or sports pool, means any symbol, sign, token, coupon, warrant, card, printed paper, document or list or any other means or device which confers or purports to confer the right to take part in a lottery or sports pool and which is issued by or on behalf of the lottery or sports pool in question.

(Date of commencement of s. 1: 17 July, 1998.)

PART I

THE NATIONAL LOTTERY

CHAPTER 1
National Lotteries Board

2. Establishment of National Lotteries Board.—There is hereby established a board to be known as the National Lotteries Board, which shall be a juristic person.

(Date of commencement: 17 July, 1998.)

3. Composition of board.—(1) Subject to subsection (3), the Minister shall appoint the members of the board, which shall consist of—

- (a) a chairperson, who shall be a person with applicable knowledge or experience with regard to matters connected with the functions of the board;
- (b) one member designated by the Minister; and
- (c) not more than five members who have proven business acumen or applicable knowledge or experience with regard to matters connected with the functions of the board, and of whom at least one should be a legal practitioner admitted to practise in the Republic and at least one a chartered accountant in the Republic.

(2) At least four members of the board shall be persons who are not in the service of any sphere of government.

(3) The member contemplated in paragraph (a) of subsection (1) shall be appointed only after the Minister has by notice in the *Gazette* and in not less than two newspapers circulating in every province invited interested parties to nominate persons suitable for appointment as chairperson and the relevant committee of the National Assembly has made recommendations to the Minister in relation thereto after a transparent and open process of considering persons so nominated, having due regard to the functions of the board.

(4) A member of the board shall hold office for such period, not exceeding five years, as the Minister may determine at the time of his or her appointment, and shall be eligible for reappointment at the end of his or her first term of office.

(5) Subject to section 33 of the Constitution, the Minister—

- (a) may, as soon as he or she gains knowledge of any possible disqualification, terminate the membership of any member of the board on the grounds of serious misconduct or prolonged inability to perform the functions of a member of the board;
- (b) shall suspend the membership of any member of the board in the event of the State instituting criminal proceedings in a court of law on a charge of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Corruption Act, 1992 (Act No. 94 of 1992(3)), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or any offence involving dishonesty;

[Para. (b) substituted by s. 36 (1) of Act No. 12 of 2004.]

Wording of Sections(4)

- (c) shall terminate the membership of any member of the board in the event of that member—
 - (i) being found guilty in a court of law of contravening this Act or of theft, fraud,

forgery or uttering a forged document, perjury, an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958(5)), the Corruption Act, 1992, Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the afore mentioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or any offence involving dishonesty; or;

[Sub-para. (i) substituted by s. 36 (1) of Act No. 12 of 2004.]

Wording of Sections(6)

(ii) materially failing to comply with subsection (7).

(6) The Minister shall, subject to subsection (3), fill a casual vacancy on the board by the appointment of another person for the remainder of the period for which the person in respect of whom the vacancy arose, had been appointed.

(7) (a) A person shall not be appointed or remain a member of the board—

(i) unless he or she is a fit and proper person for such membership;

(ii) if such person, whether personally or through his or her spouse or life partner, immediate family member, business partner or associate—

(aa) has or obtains a direct or indirect financial interest in any lottery or gambling or associated activity, or if that person has had any such interest during the period of three years immediately prior to the envisaged date of appointment as member of the board; or

(bb) has or obtains any interest in any business or enterprise that may conflict or interfere with the proper performance of his or her functions as a member of the board or in any shareholder of the licensee or prospective licensee; or

(iii) if such person—

(aa) is or becomes a political office-bearer;

(bb) is or becomes an unrehabilitated insolvent or commits an act of insolvency;

(cc) has at any time been, or is, removed from an office of trust on account of misconduct; or

(dd) has at any time been, or is, convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms the Prevention of Corruption Act, 1958 (Act No. 6 of 1958(7)), the Corruption Act, 1992, Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or any offence involving dishonesty.

[Item (dd) substituted by s. 36 (1) of Act No. 12 of 2004.]

Wording of Sections(8)

(b) A person who has been nominated for appointment to the board and who has accepted that nomination, whether tacitly or explicitly, shall, prior to his or her appointment as a member, submit to the Minister a written statement in which he or she declares whether or not he or she has any interest contemplated in paragraph (a) (ii).

(c) If any member during his or her term of office acquires or contemplates acquiring an interest which could possibly be an interest contemplated in paragraph (a) (ii), he or she shall forthwith

in writing declare that fact to both the Minister and the board, which at its following meeting shall consider whether such an interest constitutes or may constitute a contravention of paragraph (a) (ii), and if it is considered not to be a contravention, whether such acquisition or contemplated acquisition is likely to compromise the impartiality of the board.

(d) The board shall forthwith in writing inform the Minister of the board's decision or recommendation contemplated in paragraph (c) if the Minister is not present at the meeting when the matter is considered in accordance with that paragraph.

(e) The Minister shall, after consideration of the board's decision or recommendation, inform the member concerned if the acquisition or contemplated acquisition constitutes an interest contemplated in paragraph (a) (ii) or is likely to compromise the impartiality of the board, whereupon that member shall forthwith divest himself or herself of that interest, failing which the Minister shall take action in terms of subsection (5).

(8) A member of the board or his or her spouse, life partner, immediate family member, business partner or associate may not for a period of 12 months after the termination of membership of the board take up employment or in any way receive any benefit from any person who is applying or has applied—

- (a) in terms of section 13, for the licence to conduct the National Lottery;
- (b) in terms of section 55, for a licence to conduct a national sports pool;
- (c) in terms of this Act, for any other authorisation, registration, certification or other benefit or advantage; or
- (d) in terms of any legislation pertaining to gambling, for a gambling licence,

unless the terms of such employment or the nature and extent of such benefits have been disclosed to the Minister and he or she has authorised that employment or those benefits or advantages.

(9) The provisions of subsection (8) do not prevent any criminal or civil proceedings in a court of law.

(10) Any agreement in contravention of subsection (8) is null and void *ab initio*.

(Date of commencement of s. 3: 17 July, 1998.)

4. Meetings of board.—(1) The first meeting of the board shall be held on such a date and at such a time and place as the Minister may determine, and all subsequent meetings shall be held on such dates and at such times as the chairperson may determine after consultation with the board.

(2) The proceedings at a meeting of the board shall, subject to this section, be determined by the chairperson in consultation with the board, and any decision in this regard shall be taken after due consideration of the principles of openness and transparency.

(3) The quorum for a meeting of the board shall be the majority of the members of the board.

(4) A decision of the board shall be taken by a majority of the votes of the members present, and in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote.

(5) The Minister and the chief executive officer of the board may attend any meeting of the board or its executive committee, and they shall each have the right to speak at any such meeting, but they do not have a right to vote.

(6) The Chairperson shall timeously notify the Minister of any meeting of the board or its

executive committee.

(Date of commencement of s. 4: 17 July, 1998.)

5. Executive committee of board.—(1) The board may from time to time appoint an executive committee to perform the functions and exercise the powers delegated to it by the board.

(2) An executive committee shall consist of such members of the board as the board may designate.

(3) The board shall designate the chairperson of an executive committee.

(4) (a) An executive committee shall perform its functions in accordance with the provisions of this Act and such directives of the board as are not in conflict with such provisions.

(b) Any delegated function so performed shall be deemed to have been performed by the board.

(Date of commencement of s. 5: 17 July, 1998.)

6. Remuneration and allowances of members of board.—(1) Members of the board who are not in the service of the State may, in respect of their services, be paid such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance.

(2) The remuneration and allowances of the persons referred to in subsection (1) may differ according to the different offices held by them or the different functions performed by them.

(Date of commencement of s. 6: 17 July, 1998.)

7. Staff of board.—(1) The board shall in the performance of its functions under this Act, be assisted by—

(a) a suitably qualified and experienced person as chief executive officer, appointed by the board or seconded in terms of subsection (3) and solely accountable to the board for the performance of all financial, administrative and clerical functions of the board and any duties which may be delegated to him or her by the board in terms of subsection (4);

(b) such other persons, appointed by the board or seconded in terms of subsection (3), as may be necessary to enable the board to perform its functions.

(2) The persons appointed by the board in terms of subsection (1), other than seconded persons, shall receive such remuneration, allowances and other employment benefits and shall be appointed on such terms and conditions and for such periods as the board may determine in consultation with the Minister and the Minister of Finance.

(3) The board may, in the performance of the functions contemplated in subsection (1) (a) and (b), at its request and after consultation with the Minister and the Public Service Commission, be assisted by officers in the public service seconded to the service of the board in terms of any law regulating such secondment.

(4) Any function of the board in terms of this Act may be delegated to the chief executive officer, and any such delegation shall be in writing.

(5) Any person who is an employee of the Department and whose duties include any matter relating to any lottery or any other person who at any time serves or has served in any capacity as a member of staff of the board, or his or her spouse, life partner, immediate family member or business partner or associate, may not during the time of his or her service to the board or for a period of 12

months after the termination of such service take up employment or in any way receive any benefit from any person who is applying or has applied—

- (a) in terms of section 13, for the licence to conduct the National Lottery;
- (b) for a licence to conduct a national sports pool in terms of section 55;
- (c) in terms of this Act, for any other authorisation, registration, certification or other benefit or advantage; or
- (d) in terms of any legislation pertaining to gambling, for a gambling licence,

unless the terms of such employment or the nature and extent of such benefits have been disclosed to the board and the board has authorised that employment or those benefits or advantages.

(6) The provisions of subsection (5) do not prevent any criminal or civil proceedings in a court of law.

(7) Any agreement in contravention of subsection (5) is null and void *ab initio*.

(Date of commencement of s. 7: 17 July, 1998.)

8. Funds of board.—(1) The funds of the board shall consist of—

- (a) the payments to the board in terms of section 34;
- (b) application and licensing fees paid to the board in terms of section 14 (3);
- (c) other money lawfully paid to the board, excluding any prize money paid by the licensee to the board; and
- (d) money appropriated by Parliament.

(2) The board may, up to an amount approved from time to time by the Minister in consultation with the Minister of Finance, raise short-term loans at any time, by way of overdrawing its account with a bank or otherwise, to meet any casual deficits that may arise.

(Date of commencement of s. 8: 17 July, 1998.)

9. Finances.—There shall be paid out of payments made to the board in terms of section 34 such sums as are necessary to defray any expenses incurred by the board, including the remuneration, allowances and other employment benefits of the chief executive officer and members of the staff of the board.

(Date of commencement: 17 July, 1998.)

10. Functions of board.—The board shall, applying the principles of openness and transparency and in addition to its other functions in terms of this Act—

- (a) advise the Minister on the issuing of the licence to conduct the National Lottery as contemplated in section 13 (1) and on any matter contemplated in section 14 (2) (g);
- (b) ensure that—
 - (i) the National Lottery and sports pools are conducted with all due propriety and strictly in accordance with the Constitution, this Act, all other applicable law and the licence for the National Lottery together with any agreement pertaining to that licence;
 - (ii) the interests of every participant in the National Lottery are adequately protected; and

- (iii) subject to subparagraphs (i) and (ii), the net proceeds of the National Lottery are as large as possible;
- (c) administer the fund and hold it in trust;
- (d) monitor, regulate and police lotteries incidental to exempt entertainment, private lotteries, society lotteries and any competition contemplated in section 54;
- (e) advise the Minister on percentages of money to be allocated in terms of section 26 (3);
- (f) advise the Minister on the efficacy of legislation pertaining to lotteries and ancillary matters;
- (g) advise the Minister on establishing and implementing a social responsibility programme in respect of lotteries;
- (h) administer and invest the money paid to the board in accordance with this Act and the licence for the National Lottery;
- (i) perform such additional duties in respect of lotteries as the Minister may assign to the board;
- (j) make such arrangements as may be specified in the licence for the protection of prize monies and sums for distribution; and
- (k) advise the Minister on any matter relating to the National Lottery and other lotteries or any other matter on which the Minister requires the advice of the board.

(Date of commencement of s. 10: 17 July, 1998.)

11. Consultation by board.—The board may consult any person, organisation or institution with regard to any matter deemed necessary by the board to enable the board to perform its functions effectively.

(Date of commencement: 17 July, 1998.)

12. Audit and annual report.—(1) The board shall—

- (a) keep proper books and records in relation to receipts and payments;
- (b) prepare a report of all the activities of the board, including financial statements, in respect of each financial year and the board's regulatory functions in respect of all lotteries and all matters in respect of which the board rendered advice or made recommendations to the Minister in accordance with paragraphs (e), (f) and (g) of section 10; and
- (c) annually within three months after the end of each financial year, submit the report and financial statements referred to in paragraph (b) to Parliament, and if Parliament is not then in session, on the first day of the next session.

(2) In subsection (1) "financial year" means—

- (a) the period from the date on which the board is appointed for the first time to the last day of March in the following year; and
- (b) each period of 12 months thereafter ending on the last day of March.

(3) The financial statements shall comply with generally accepted accounting principles and any

other directions that may be given by the Minister or the Minister of Finance, or may be provided for in statutory measures applicable to the board, as to the information to be contained in such statements, the manner in which such information is to be presented or the methods and principles according to which such statements are to be prepared.

(4) The financial statements of the board shall be audited by the Auditor-General.

(5) The report referred to in subsection (1) shall be laid upon the Table in Parliament forthwith after it is submitted to the Minister, if Parliament is then in session, or, if Parliament is not then in session, on the first day of the commencement of the next ensuing session of Parliament.

(6) The report referred to in subsection (1) shall include the recommendations of the board with regard to—

- (a) the percentages prescribed in terms of section 26 (3); and
- (b) any amendments to this Act or regulations issued under this Act in order to improve the execution of the functions of the board.

(Date of commencement of s. 12: 17 July, 1998.)

CHAPTER 2

Licensing of National Lottery

13. Licence to conduct National Lottery.—(1) The Minister may, after consultation with the board, issue one licence at one time authorising a person to conduct the National Lottery, which for purposes of section 57 will constitute a lottery, in accordance with the provisions of this Act.

(2) Before a licence is granted under this section—

- (a) the Minister shall by notice in the *Gazette* and in not less than two newspapers circulating in every province invite interested parties to apply in writing for a copy of a request for proposal or any other document which may be made public, and the board shall require payment for any such documents;
- (b) the Minister shall be satisfied that—
 - (i) the applicant for the licence contemplated in subsection (1) has sufficient appropriate knowledge or experience to conduct the National Lottery, or has unconstrained and continuous access thereto, and will be able to conduct the National Lottery strictly in accordance with this Act, the licence of the National Lottery and any agreement pertaining to the licence;
 - (ii) the applicant has the necessary financial and other resources to conduct the National Lottery;
 - (iii) the applicant will for the duration of the licence show a clear and continuous commitment to the social responsibility programme contemplated in section 10 (g) and to the advancement, upliftment and economic empowerment of persons or groups or categories of persons disadvantaged by unfair discrimination; and
 - (iv) no political party in the Republic or political office-bearer has any direct financial interest in the applicant or a shareholder of the applicant.

(3) In considering whether to grant the licence, the Minister shall take into account—

- (a) whether any person who appears to the Minister to be likely to manage the business or any part of the business of the National Lottery under the licence, is a fit and proper person to do so;
- (b) whether any person for whose benefit that business is likely to be conducted, is a fit and proper person to benefit from it; and
- (c) whether any person who is likely to manage the business or any part of the business of the National Lottery under the licence or a sports pool, will do so—
 - (i) with all due propriety and strictly in accordance with the Constitution, this Act, all other applicable law and the licence for the National Lottery together with any agreement pertaining to the licence;
 - (ii) so that the interests of every participant in the National Lottery and sports pools are adequately protected; and
 - (iii) subject to subparagraphs (i) and (ii), so that the net proceeds of the National Lottery and sports pools are as large as possible.

(4) A licence granted under this section shall include the conditions contemplated in section 14.

(5) The licence contemplated in subsection (1) may allow the licensee to appoint another person to conduct certain lotteries of the National Lottery on behalf of the licensee only with the written approval of the Minister.

(6) In considering whether to grant the licence contemplated in subsection (1), the Minister and the board shall not favour an applicant solely because the applicant or a shareholder or partner of that applicant is an organ of the State.

(Date of commencement of s. 13: 17 July, 1998.)

14. Requirements and conditions of licence.—(1) A licence granted in terms of section 13 shall be in writing, shall specify the conditions attached to it and shall be granted for a minimum period of five years or a maximum period of eight years: Provided that the Minister may, after consultation with the board, in a case where the licence has been granted for less than eight years, and at least one year before the expiry of that licence, extend that licence for such further period as would, together with the initial period for which that licence was granted, not exceed eight years: Provided further that the licensee shall have no rights or legitimate expectations in respect of an extension of the period of validity of the licence other than the rights afforded by this subsection.

(2) The conditions contemplated in subsection (1) shall include such conditions as the Minister shall determine, after consultation with the board, and shall in particular include conditions requiring the licensee—

- (a) to obtain the consent of the board before doing anything specified in the licence;
- (b) to refer specified matters to the Minister or to the board, as the case may be, for approval;
- (c) to ensure that such requirements as the Minister or the board may from time to time determine or approve in terms of the licence are complied with, including the imposition of penalties in the event of the licensee not complying with any provision of this Act or the licence;
- (d) to provide the Minister and the board at times specified by the Minister or the board with

such information as the Minister or the board may require;

- (e) to make such arrangements as may be specified in the licence for the payment of such sums out of the proceeds of the National Lottery as may be so specified to the fund or to the board, as the case may be, at such times as may be so specified;
- (f) to do such things in terms of the licence, including the transfer of property or any rights, excluding intellectual property rights or proprietary software, as the board may require, upon the expiration of the licence;
- (g) to obtain the approval of the Minister for any lottery and the rules thereof before that lottery is conducted under the licence for the National Lottery;
- (h) to allow the board or anyone designated by it to enter any premises or facility belonging to or under the control of the licensee or a member of the management of the licensee, or premises to which the licensee has a right of access, at any reasonable time, if such entry is necessary for the protection of the integrity of the National Lottery, and to—
 - (i) examine or inspect any thing, machine, document or data captured in any form, excluding proprietary software, found on or in the premises or facility, and make copies of or make extracts from that thing, machine, document or data;
 - (ii) seize, for the purpose of further examination or securing information, any thing, machine, document or data, excluding proprietary software, on or in such premises or facility which has a bearing on the conduct of the National Lottery;
 - (iii) seal or otherwise secure any such premises, facility, thing or machine on or in which any document or data which has a bearing on the conduct of the National Lottery is stored or captured; and
 - (iv) take such steps as may be reasonably necessary to protect the integrity and conduct of the National Lottery; and
- (i) to secure a valid and enforceable undertaking in writing from—
 - (i) the person controlling the licensee in any way whatsoever not to change that control of the licensee for the duration of the licence without the consent of the Minister;
 - (ii) the person controlling the licensee in any way whatsoever not to transfer, cede or in any other way encumber the licence to another person; and
 - (iii) the licensee not to permit, require or compel any of its employees or agents knowingly to sell a ticket, or to award or to pay any prize to a director of the licensee or a member of the board.

[Para. (i) substituted by s. 1 of Act No. 10 of 2000.]

Wording of Sections(9)

(3) On—

- (a) requesting a copy of any document in terms of section 13 (2) (a);
- (b) applying for the licence to be issued in terms of section 13 (1); or
- (c) the granting of a licence under section 13,

the person requesting a copy of a document, the applicant or the licensee, as the case may be, shall pay to the board the prescribed fee.

(Date of commencement of s. 14: 17 July, 1998.)

15. Variation of conditions of licence.—(1) The Minister or the board may vary any condition in the licence granted under section 13—

- (a) to the extent provided for in the provisos to section 14 (1); or
- (b) other than a condition contemplated in paragraph (a),

only if the licensee consents to that variation, or if the licensee does not consent to that variation, only if—

- (i) that variation is provided for in this Act or to the extent provided for in the licence; and
- (ii) the licensee has been given a reasonable opportunity to make representations to the Minister or the board, as the case may be, in respect of the intended variation.

(2) If the Minister or the board, after consideration of the licensee's representations, decides to vary a condition in the licence in accordance with that licence but without the consent of the licensee, the Minister or the board, as the case may be, shall cause a notice to be served on the licensee in which the licensee is informed of the variation and the date on which that variation shall take effect, which date shall not be less than 21 days after the date of service of such notice, unless the licensee agrees to a shorter period in writing.

(3) The provisions of the licence to vary a condition in the licence under subsection (1) may allow the Minister or the board to add a condition to the licence or to omit a condition from the licence.

(Date of commencement of s. 15: 17 July, 1998.)

16. Enforcement of conditions of licence.—(1) If the Minister or the board has reason to believe—

- (a) that a person is likely to contravene a condition in the licence granted under section 13;
- (b) that a person has contravened such a condition and there is a reasonable likelihood that the contravention will continue or be repeated; or
- (c) that a person has contravened such a condition and that the contravention can be remedied,

the Minister or the board, as the case may be, may apply to a High Court for an order prohibiting the contravention or, as the case may be, requiring the licensee and any other person who appears to the court to have been party to the contravention, to take such steps as the court may direct.

(2) The liability of the licensee to pay any sum in terms of this Act or the licence or agreement pertaining thereto shall not be affected by the licence ceasing to be valid for any reason and such sum may not be set off by the licensee against any amount due and payable.

(Date of commencement of s. 16: 17 July, 1998.)

17. Grounds for revocation of licence.—The licence granted under section 13 may be revoked by the Minister or the board on the following grounds:

- (a) If the licensee is no longer a fit and proper person to conduct the National Lottery, whether because of the commission of an act of insolvency, liquidation or for any other valid reason;

- (b) if a condition contained in the licence has been materially contravened;
- (c) if any information given by the licensee, any person who in any way controls the licensee or an agent or representative of the licensee to the board—
 - (i) in or in connection with the application for the licence;
 - (ii) in accordance with a condition in the licence; or
 - (iii) in making representations in terms of section 18 (1), in respect of financial matters regarding the National Lottery or in respect of any aspect of the management of the National Lottery,
 is materially false;
- (d) if any person who is managing the business or any part of the business of the licensee or who is a supplier of goods or services to the licensee is not a fit and proper person to do so, whether because of the commission of an act of insolvency, insolvency, liquidation, incarceration in a prison or other institution or for any other relevant reason, unless the licensee immediately takes steps to effectively dissociate himself, herself or itself from that person;
- (e) if any person for whose benefit the licence has been acquired or who is a holding company of the licensee or who in any other way controls the licensee, is not a fit and proper person to benefit from it, whether because of insolvency, liquidation, incarceration in a prison or other institution or for any other relevant reason;
- (f) if the licensee has failed to take adequate steps to prevent the commission of fraud by his, her or its employees, agents, representatives, suppliers or by participants in the National Lottery after having been alerted to or becoming aware of conditions conducive to the commission of fraud, or to instances of fraud or dishonesty;
- (g) if the licensee, any of its employees, agents, representatives or suppliers prevent the board or any person designated by it from exercising its rights contemplated in section 14 (2) (h);
- (h) if the licensee, any of its employees or agents repeatedly and knowingly sell tickets or award or pay prizes to any person in contravention of section 14 (2) (i) (iii); or
- (i) if application has been made to a High Court for the sequestration or liquidation, as the case may be, of the licensee or a person who in any way controls the licensee.

(Date of commencement of s. 17: 17 July, 1998.)

18. Notice of proposed revocation.—(1) If the Minister or the board is satisfied that grounds exist for the revocation of the licence granted in terms of section 13, he, she or the board, as the case may be, shall in writing notify the licensee of the existence of such grounds and call upon the licensee to furnish reasons, within 14 days of service of that notice at the registered physical address of the licensee, as to why the licence should not be revoked, failing which the licence will cease to be valid upon the expiration of the said period of 14 days.

(2) If the licence for the National Lottery ceases to be valid in terms of subsection (1), the Minister or the board, as the case may be, shall forthwith inform the licensee and Parliament in writing of that fact and of the date upon which the licence ceased to be valid, and if Parliament is not then in session, it shall be so informed on the first day of the next session.

(Date of commencement of s. 18: 17 July, 1998.)

19. Suspension of licence.—(1) The Minister or the board may order a suspension of the licence in the notice contemplated in section 18 (1) as from the date of service of that notice for a period of not longer than 30 days after the licensee has furnished those reasons: Provided that the Minister or the board, whoever acts in terms of this section, shall inform the other of his or her or its actions.

(2) If the Minister or the board decides to suspend the licence in terms of subsection (1), the Minister shall forthwith inform Parliament of that fact and of the grounds for the suspension, and if Parliament is not then in session, on the first day of the next session of Parliament.

(3) The licence shall immediately cease to be valid if it is suspended for a second time.

(4) The Minister shall forthwith inform Parliament if the licence has ceased to be valid in terms of subsection (3), and if Parliament is not then in session, on the first day of the next session of Parliament.

(Date of commencement of s. 19: 17 July, 1998.)

20. Revocation of licence.—(1) If reasons are furnished by the licensee as contemplated in section 18 (1), the Minister or the board, as the case may be, shall after considering such reasons—

(a) decide whether or not to revoke the licence; or

(b) call upon the licensee to appear before the board on a specified date to make oral representations in support of any written representations made by the licensee or to answer any questions which the Minister or the board, as the case may be, may have with regard to such written representations, whereafter the Minister or the board shall consider the matter and decide whether or not to revoke the licence.

(2) If the Minister or the board decides to revoke the licence, he or she or it shall by written notice served at the registered head office of the licensee notify the licensee of that fact, of the grounds for that revocation and of the date on which that revocation shall take effect.

(3) If the Minister or the board decides to revoke the licence in terms of subsection (1), the Minister or the board, as the case may be, shall inform the Minister of Finance and Parliament of that fact and of the grounds for that revocation forthwith, and if Parliament is not then in session, on the first day of the next session of Parliament.

(Date of commencement of s. 20: 17 July, 1998.)

CHAPTER 3

Distribution of net proceeds of National Lottery

21. Establishment of National Lottery Distribution Trust Fund.—(1) There is hereby established a fund to be known as the National Lottery Distribution Trust Fund, to be managed by the board.

(2) The board shall annually table a report in Parliament in respect of the fund, which may form part of the report contemplated in section 12 (1) (b).

22. Fund to vest in and to be administered by board.—(1) The fund shall vest in and be administered by the board.

(2) The fund shall be held in trust by the board for the purposes mentioned in this Chapter.

23. Revenue of fund.—The fund shall consist of—

- (a) the sums paid to the fund in terms of section 14 (2) (e);
- (b) interest and dividends derived from the investment of money standing to the credit of the fund; and
- (c) other money lawfully paid into the fund.

24. Banking account.—(1) Money in the fund shall, pending the application thereof in terms of this Chapter, be paid into an account to be known as “The National Lottery Distribution Trust Fund” at a financial institution.

(2) The financial institution where the account contemplated in subsection (1) is kept, shall not in respect of any liability of the board, not being a liability arising out of or in connection with any such account, have or obtain recourse or any right, whether by set-off, counter-claim, charge or otherwise, against money standing to the credit of such account.

25. Investment of money not immediately required.—(1) Any money of the fund or the board which is not required for immediate allocation, may be invested with the Public Investment Commissioners or with a financial institution approved by the Minister of Finance and may be withdrawn when required.

(2) Any unexpended balance of the money of the fund at the end of any financial year shall be carried forward as a credit to the next succeeding financial year.

26. Allocation of money in fund.—(1) Every sum that is paid to the fund shall be appropriated for expenditure by the board in accordance with subsections (2) and (3).

(2) So much of the sum referred to in subsection (1) as the Minister after consultation with the board deems appropriate, shall be allocated for making payments under section 34 and held in the fund for that purpose.

(3) Of the balance in the fund after the deduction of the allocated sum referred to in subsection (2)—

- (a) not less than the prescribed percentage shall be allocated for expenditure on or connected with reconstruction and development projects and other programmes referred to in the Reconstruction and Development Programme Fund Act, 1994 (Act No. 7 of 1994);
- (b) not less than the prescribed percentage shall be allocated for charitable expenditure;
- (c) not less than the prescribed percentage shall be allocated for expenditure on or connected with the development of sport and recreation;
- (d) not less than the prescribed percentage shall be allocated for expenditure on or connected with the arts, culture and the national historical, natural, cultural and architectural heritage; and
- (e) not more than the prescribed percentage shall, subject to section 31 (1), be allocated for expenditure in respect of any other matter and approved by the Minister for that purpose.

27. Allocation to reconstruction and development programme.—(1) The board shall pay so much of any sum paid to the fund as is allocated for expenditure referred to in section 26 (3) (a) to the Reconstruction and Development Programme Fund established by section 2 of the Reconstruction and Development Programme Fund Act, 1994 (Act No. 7 of 1994), or any other fund designated by the Minister responsible for the administration of the Reconstruction and Development Programme Fund Act, 1994, for this purpose.

(2) Any sum paid to a fund in terms of subsection (1), shall be utilised by the Minister referred to in subsection (1) after consultation with the Premiers of the provinces.

28. Allocation to charities.—(1) So much of any sum paid into the fund as is allocated for expenditure referred to in section 26 (3) (b), shall be held in the fund for distribution by the distributing agency appointed by the Minister in consultation with the Minister responsible for welfare and population development in the national sphere of government which possesses the required skills and expertise to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.

(2) The distributing agency shall consider applications for grants and may, subject to section 33, pay such grants to appropriate recipients in accordance with this Act and subject to the conditions applying to its appointment and to any directions issued by the Minister after consultation with the Minister responsible for welfare and population development in the national sphere of government, or by the Minister of Finance, from the sum allocated for charitable purposes.

(3) Any appointment in terms of subsection (1) may at any time be revoked or the conditions applying to that appointment may be varied by the Minister, and no claim shall arise as a result of such revocation or variation.

(4) The Auditor-General or a person designated by him or her shall audit all financial statements reflecting expenditure from the sum allocated for charitable purposes.

(5) Any juristic person meeting the prescribed requirements may in the prescribed form apply to the distributing agency for a grant.

29. Allocation to sport and recreation.—(1) So much of any sum paid into the fund as is allocated for expenditure referred to in section 26 (3) (c), shall be held in the fund for distribution by the distributing agency appointed by the Minister in consultation with the Minister responsible for sport and recreation in the national sphere of government to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.

(2) The distributing agency shall consider applications for grants and may, subject to section 33, pay such grants to appropriate recipients in accordance with this Act and subject to the conditions applying to its appointment and to any directions issued by the Minister after consultation with the Minister of Sport and Recreation, or by the Minister of Finance, from the sum allocated for the development of sport and recreation.

(3) Any appointment in terms of subsection (1) may at any time be revoked or the conditions applying to that appointment may be varied by the Minister, and no claim shall arise as a result of such revocation or variation.

(4) The Auditor-General or any person designated by him or her shall audit all financial statements reflecting expenditure from the sum allocated for the development of sport and recreation.

(5) Any juristic person meeting the prescribed requirements may in the prescribed form apply to the distributing agency for a grant.

30. Allocation to arts, culture and national heritage.—(1) So much of any sum paid into the fund as is allocated for expenditure referred to in section 26 (3) (d), shall be held in the fund for distribution by the distributing agency appointed by the Minister in consultation with the Ministers responsible for arts, culture, science and technology, and environmental affairs, in the national sphere of government to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.

(2) The distributing agency shall consider applications for grants and may, subject to section 33, pay such grants to appropriate recipients in accordance with this Act and subject to the conditions applying to its appointment and to any directions issued by the Minister after consultation with the Ministers responsible for arts, culture, science and technology, and environmental affairs, in the national sphere of government, or by the Minister of Finance, from the sum allocated for arts, culture and the national historical, natural, cultural and architectural heritage.

(3) Any appointment in terms of subsection (1) may at any time be revoked or the conditions applying to that appointment may be varied by the Minister, and no claim shall arise as a result of such revocation or variation.

(4) The Auditor-General or any person designated by him or her shall audit all financial statements reflecting expenditure from the sum allocated for arts, culture and the national historical, natural, cultural and architectural heritage.

(5) Any juristic person meeting the prescribed requirements may in the prescribed form apply to the distributing agency for a grant.

31. Allocation for miscellaneous purposes.—(1) So much of any sum paid into the fund as has been allocated for expenditure referred to in section 26 (3) (e), shall be held in the fund for appropriation for expenditure by the board.

(2) The Minister may in consultation with the Minister of Finance and after consultation with the board appoint such distributing agency or agencies as may be necessary to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.

(3) The distributing agency shall consider applications for grants and may, subject to section 33, pay such grants to appropriate recipients in accordance with this Act and subject to the conditions applying to its appointment and to any directions issued by the Minister, or by the Minister of Finance, from the sum allocated for the specific purpose identified by the Minister after consultation with the board.

(4) Any appointment in terms of subsection (2) may at any time be revoked or the conditions applying to that appointment may be varied by the Minister, and no claim shall arise as a result of such revocation or variation.

(5) The Auditor-General or any person designated by him or her shall audit all financial statements reflecting expenditure from the sum allocated for the specific purpose identified by the Minister after consultation with the board.

(6) Any juristic person meeting the prescribed requirements may in the prescribed form apply to the distributing agency for a grant.

32. Payment of allocations.—(1) The Minister shall, after consultation with the board, in respect of any allocation awarded for a specific good cause which the board pays over to the distributing agency appointed by the Minister or in respect of a grant which a distributing agency may pay to a recipient, impose such conditions as he or she deems fit, in addition to conditions requiring—

- (a) the amount of a grant or an allocation to be repaid forthwith on breach of any condition, in addition to any penalties which the Minister, the board or the distributing agency, as the case may be, may impose;
- (b) that a percentage of the allocation at the disposal of the distributing agency for grants determined by the board or the Minister shall be allocated to recipients in a specified province;
- (c) that a juristic person shall in respect of amounts granted to it from time to time provide the board or the distributing agency with audited accounts of all amounts distributed; and
- (d) any recipient of a grant to provide the board or the distributing agency with any relevant information it may require.

(2) In deciding on the juristic persons to whom grants are to be made, the Minister or the distributing agency, as the case may be, shall be satisfied that any such juristic person is competent to allocate the amounts equitably among all the members it represents.

(3) In considering any application for a grant in terms of this Chapter, the distributing agency shall comply with any directions given to it by the Minister as to the matters to be taken into account in determining the persons to whom, the purposes for which and the conditions subject to which that distributing agency is to allocate any amounts.

(4) In performing his or her functions in terms of subsection (3), the Minister shall—

- (a) consult with the board and the relevant distributing agency before giving any directions to that distributing agency; and
- (b) take into account—
 - (i) general development in the Republic, with specific reference to the regional, economic, financial, social and moral interests of the Republic and the enhancement of the standard of living of all the people in the Republic; and
 - (ii) provincial and local interests, including—
 - (aa) the number of lottery tickets sold in each province;
 - (bb) the population of each province; and
 - (cc) the financial requirements of each province.

33. Power of Minister to prohibit certain grants.—The Minister may within seven days after a distributing agency has made a grant to a juristic person under this Chapter, prohibit that distributing agency from paying out such grant if such grant is likely to be utilised for any unlawful purpose or fails to comply with the conditions the Minister has imposed in terms of section 32: Provided that the Minister shall—

- (a) consult with the board and that distributing agency before any such prohibition is imposed; and

- (b) disclose to the board and that distributing agency any information at his or her disposal which may indicate that any such grant is likely to be utilised for any unlawful or improper purposes.

34. Payments from fund in respect of expenses.—(1) At such times as the Minister deems appropriate, payments shall be allocated to the board out of the money in the fund held under section 26 (2) in respect of the board's expenses.

(2) The payments shall be of such amounts as the Minister deems sufficient for meeting the payments made or to be made under sections 6 (1) and 7 (2), or any other expenses incurred by the board.

(3) In determining what amounts are sufficient for meeting the payments referred to in subsection (2), the Minister shall take into account sums paid or to be paid to the board in terms of section 14 (3).

35. Public administration.—Every institution which in any way acts under or in terms of this Act, must comply strictly with section 195 of the Constitution.

PART II **OTHER LOTTERIES**

CHAPTER 1

Lotteries incidental to exempt entertainment, private lotteries, society lotteries and promotional competitions

36. Lotteries incidental to exempt entertainment.—(1) A lottery conducted as an incident of an exempt entertainment shall not be unlawful if—

- (a) all the proceeds of the entertainment, including the proceeds of the lottery, after deducting—
- (i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery;
 - (ii) the expenses incurred in printing tickets in the lottery and advertising of that lottery; and
 - (iii) such sum, if any, not exceeding the prescribed amount for any expenses incurred in purchasing prizes for the lottery,
- are utilised for the benefit of any deserving section of the public;
- (b) none of the prizes in the lottery are money prizes;
- (c) the total value of tickets sold or to be sold, is not more than the prescribed amount;
- (d) the opportunity of participating in lotteries contemplated in this section, or such opportunity together with any other opportunity of participating in lotteries or gambling, is not the only substantial inducement to persons to attend the entertainment; and
- (e) it is conducted for members of a society established and conducted for purposes not connected with lotteries, gambling or betting.

(2) For the purposes of subsection (1) “exempt entertainment” means a bazaar, sale, fête, dinner,

dance, sporting event or other entertainment of a similar character.

37. Private lotteries.—(1) A private lottery shall not be unlawful if—

- (a) all the proceeds, after deducting only expenses incurred for printing and stationery pertaining to tickets of that lottery and notices advertising that lottery, are devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery conducted for the members of a society, such proceeds are devoted—
 - (i) to the provision of prizes;
 - (ii) to the purposes for which the society was established; or
 - (iii) to the provision of prizes as well as to the purposes for which the society was established;
- (b) no written notice or advertisement of the lottery is exhibited, published or distributed other than—
 - (i) a notice thereof exhibited on the premises of the society for whose members the lottery is conducted or, as the case may be, on the premises on which the persons for whom the lottery is conducted, ordinarily work or reside; and
 - (ii) such announcement or advertisement of the lottery as is contained in the text printed on the tickets, if any;
- (c) no person is employed for reward in any form whatsoever in connection with the conduct of the lottery;
- (d) no ticket in the lottery is sent through the post;
- (e) the total value of the tickets or chances sold or to be sold or the total value of the prizes in that lottery is not more than the prescribed amount determined by the Minister in consultation with the board;
- (f) the sale of tickets in the lottery is confined—
 - (i) to the persons for whom the lottery is conducted; and
 - (ii) in the case of a lottery conducted for the members of a social or sporting club, also to any other person who is on the premises of such club at the time of sale;
- (g) it is conducted for members of a society established and conducted for purposes not connected with lotteries, gambling or betting; and
- (h) a person purchasing a ticket for a private lottery does not solely by purchasing that ticket become a member of the club or society which conducts that lottery or on whose behalf that lottery is conducted.

(2) For the purposes of this section each local or affiliated branch or section or branch of a society shall be regarded as a distinct society.

(3) The board may determine the maximum number and frequency of private lotteries that may be promoted in any period of 12 months on behalf of the same social or sporting club, or on the same premises where persons work or reside.

CHAPTER 2
Society lotteries

38. Society lottery.—A society lottery shall not be unlawful if—

- (a) it is conducted only in the Republic;
- (b) the society for whose benefit the lottery is run or to be run, is authorised to collect contributions from the public in terms of the provisions of the Fund-raising Act, 1978 (Act No. 107 of 1978);
- (c) the society lottery is conducted in accordance with a scheme approved by that society and the board;
- (d) that society is registered with the board in terms of section 41;
- (e) the total value of the tickets or chances sold or to be sold and the total or individual value of the prizes in the lottery does not exceed the prescribed amounts;
- (f) the total proceeds of the society lottery, after deducting sums lawfully appropriated on account of expenses, including the expenses in respect of an audit contemplated in section 46, or for the provision of prizes, not exceeding the prescribed amount or percentage, are applied solely to—
 - (i) recognised charitable purposes in respect of which that society is authorised to collect contributions in terms of the Fund-raising Act, 1978;
 - (ii) participation in or support of sport or cultural activities in respect of which that society is authorised to collect contributions in terms of the Fund-raising Act, 1978; or
 - (iii) other purposes which the board approves and which are not purposes of private gain nor purposes of any commercial undertaking;
- (g) the society lottery is conducted strictly in accordance with the rules referred to in section 53;
- (h) the society lottery is conducted for members of a society established and conducted for purposes not connected with lotteries, gambling or betting;
- (i) tickets for the society lottery are not advertised, marketed, promoted or sold other than in the prescribed area; and
- (j) the lottery is not advertised, marketed or promoted jointly with another society lottery and the funds for prizes are not combined with those of another society lottery.

39. Management of society lotteries.—No person shall manage a society lottery unless that person is—

- (a) a member of the society on whose behalf the lottery is conducted, acting in such capacity;
- (b) an employee of that society acting in the course of his or her employment;
- (c) a corporate body that is wholly owned by the society;

- (d) certified as a lottery manager under section 47; or
- (e) an employee of a person referred to in paragraph (d) acting in the course of his or her employment.

40. Frequency of society lotteries.—(1) The Minister may prescribe—

- (a) the maximum number of lotteries that shall, in consultation with the board and after consultation with the person to whom the licence to conduct the National Lottery has been issued, be conducted under section 38 in any period of 12 months by or on behalf of any one society;
- (b) the minimum number of days that must elapse between the dates of any two lotteries conducted under section 38 on behalf of the same society; and
- (c) any other matter to be prescribed in terms of section 38.

(2) Anything prescribed under subsection (1) may make different provision for different cases or circumstances.

CHAPTER 3

Functions of board in respect of society lotteries

41. Registration of societies.—(1) An application to the board for the registration of a society shall—

- (a) specify the address of the office or head office of the society;
- (b) specify the purposes for which the society was established;
- (c) include a copy of the registration of the society in terms of the Fund-raising Act, 1978; and
- (d) include a copy of any scheme approved by the society in terms of section 38 (c).

(2) Subject to the provisions of this Chapter, the board shall register the society in a register to be kept for that purpose.

(3) A society shall not be registered under this section and no scheme shall be approved by the board unless—

- (a) application on behalf of the society has been made to the board in writing as contemplated in subsection (1) and the applicant has furnished such further information as may be prescribed by the Minister;
- (b) the board is satisfied that—
 - (i) any person who will be conducting a lottery on behalf of the society is a fit and proper person;
 - (ii) the society has adequate resources available to provide facilities that are necessary for conducting the lottery;
 - (iii) the society complies with the requirements of section 38;
 - (iv) no information given by the society to the board in or in connection with the society's

application for registration was materially false;

- (v) the address of the office or head office of the society is not the same as the address of the office or head office of another society that is established for the same or a connected purpose and is registered under this section;
- (vi) every lottery conducted on behalf of the society within the last five years has been properly conducted to the satisfaction of the board;
- (vii) the society has not failed to comply with a requirement imposed under section 38, 44, 45 or 46;
- (viii) if the society lottery is to be conducted by a lottery manager, that that lottery manager has provided security as prescribed by the Minister;
- (ix) no act or omission by a person who is or will be connected with a society lottery conducted or proposed to be conducted on behalf of the society caused—
 - (aa) the registration of another society to be refused or revoked as a result of information contemplated in subparagraph (iv) or section 44, 45 or 46; or
 - (bb) a lottery, in the conduct of which such person was involved, to be improperly conducted; and
- (x) the scheme attached to the application for registration, or any other scheme subsequently approved by the society under section 38 (c), is lawful and will be run in accordance with sound financial principles and methods.

42. Revocation of registration.—The board—

- (a) shall revoke the registration of a society if the society requests the board to do so; and
- (b) may revoke the registration of a society if the society has failed to comply with any requirement contained in section 41 (3), 44, 45 or 46: Provided that—
 - (i) the registration shall not be revoked without giving the society an opportunity of being heard; and
 - (ii) the society shall be notified in writing of the revocation and the grounds therefor.

43. Fees and levies.—A society registered under this Chapter shall pay to the board—

- (a) such fee or levy as the board may determine from time to time; and
- (b) the fee or levy determined by the board for each society lottery conducted on behalf of the society.

44. Requirements after registration of society.—(1) Any society registered under section 41 shall—

- (a) notify the board in writing of any change in the address of the society's office or head office not later than 21 days prior to the day on which such change takes effect;
- (b) subject to subsection (2), notify the board in writing of any amendment or substitution of the scheme contemplated in section 38 (c);
- (c) within three months after the completion of a society lottery, submit to the board a return

in respect of that lottery in such form and manner and with such information as the Minister may require; and

- (d) preserve all documents including all information kept by the society otherwise than in writing, relating to a lottery conducted on behalf of the society for not less than five years after the date of the lottery.

(2) Any notification in terms of subsection (1) (b) shall be given to the board not less than four weeks before any tickets or chances are sold, distributed or offered for sale, in respect of a lottery conducted in accordance with the scheme as modified, amended or substituted.

(3) Any return submitted to the board in terms of subsection (1) (c) shall be preserved by the board for not less than 18 months and be open to the public for inspection.

45. Control of registered societies.—The board may require a society registered under section 41 or a society that has applied for such registration—

- (a) to furnish the board with such information relating to any lottery conducted or to be conducted on behalf of the society as the board may require;
- (b) to allow any person authorised by the board thereto, to inspect and take copies of any documents of the society, including any information kept by the society otherwise than in writing, relating to such a lottery;
- (c) where such information is kept by means of a computer, to give the board such assistance as it may require to enable it to inspect and take copies of the information in a visible and legible form and to inspect the operation of any computer and any associated apparatus or material that is or has been in use in connection with the keeping of such information; and
- (d) to allow the board to inspect any aspect of the management of such a lottery.

46. Audit of society lottery.—(1) A society shall submit to the board financial statements in respect of all lotteries conducted on its behalf prepared by an independent auditor registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), together with a report by that auditor on such statements.

(2) The financial statements referred to in subsection (1) shall—

- (a) be submitted to the board within three months of the end of the year in which the lotteries to which such statements relate, were held; and
- (b) comply with generally accepted accounting principles and any other directions that may be given by the board as to the information to be contained in such statements, the manner in which such information is to be presented or the methods and principles according to which such statements are to be prepared.

(3) The report of the auditor referred to in subsection (1), shall state whether in the said auditor's opinion—

- (a) the financial statements have been properly prepared in accordance with the principles and any directions contemplated in subsection (2) (b);
- (b) proper accounting records have been kept by the society; and
- (c) the society's accounts are in agreement with the financial statements:

Provided that if the said auditor is unable to obtain all the information and explanations that, to the best of his or her knowledge and belief, are necessary for the purposes of the audit, his or her report shall state accordingly.

(4) For the purposes of this section—

- (a) a lottery shall be deemed to have been conducted in the year in which the winners of prizes are announced to the public; and
- (b) “year” means a period of 12 months starting on 1 January.

47. Certification of lottery managers.—(1) An application by a person to be certified as a lottery manager shall be made to the board in such form and manner and shall contain such information as the board may require, which shall include—

- (a) sufficient information to fully identify the applicant;
- (b) information in respect of its shareholders or the persons in any other way controlling it, if the applicant is a juristic person, or a curriculum vitae if the applicant is a natural person; and
- (c) the applicant’s physical address.

(2) A fee determined by the board shall be payable when the application is made.

(3) The board shall subject to the provisions of this section grant a certificate to an applicant certifying him or her or it as a lottery manager.

(4) A person shall not be granted a certificate under this section, if in the opinion of the board—

- (a) any person who would be likely to manage or in any other way control the business or any part of the business of managing lotteries under the certificate is not a fit and proper person to do so;
- (b) any person for whose benefit that business would be likely to be carried on, is not a fit and proper person to benefit from it;
- (c) any information given by the applicant to the board in or in connection with the application is false in a material respect;
- (d) the applicant does not have the appropriate knowledge, experience or resources available to manage the society lottery;
- (e) in the past the applicant acted in any way which caused harm or could have caused harm to—
 - (i) any lottery which he or she was conducting;
 - (ii) the society on whose behalf he or she was conducting a lottery; or
 - (iii) the integrity of society lotteries in general; or
- (f) the applicant fails to meet any requirement prescribed by the Minister.

(5) If the board refuses to grant a certificate, the board shall notify the applicant in writing of the refusal and the grounds for such refusal.

(6) If the board grants a certificate, the holder of the certificate shall in writing inform the board

of any change to the information supplied to the board in terms of subsection (1) at least seven days before that change comes into effect.

48. Conditions of certificate.—A certificate contemplated in section 47 shall, subject to this Chapter, contain conditions aimed at—

- (a) protecting the interests of any society on behalf of which the holder of the certificate might conduct a lottery, including the provision of security;
- (b) protecting the interests of participants in any lottery to be conducted by the holder of the certificate; and
- (c) ensuring proper management of a lottery by the holder of the certificate.

49. Variation of conditions of certificate.—(1) The board may, after giving the certificate holder an opportunity of being heard, vary any condition in a certificate.

(2) If the board varies a condition under this section, the board shall give notice in writing of the variation to the certificate holder at the physical address furnished by the certificate holder in terms of section 47 (1) (c).

(3) The variation of a condition shall take effect on a date stipulated in the notice contemplated in subsection (2).

50. Period of validity of certificate.—A certificate shall be valid for a maximum period of three years or until it is revoked by the board during such period.

51. Revocation of certificate.—(1) The following shall constitute grounds for the revocation of a certificate contemplated in section 47:

- (a) If the certificate holder is no longer a fit and proper person to manage or in any other way conduct a society lottery, whether because of the commission of an act of insolvency, insolvency, liquidation, judicial management, incarceration in a prison or other institution, or for any other valid reason;
- (b) if the certificate holder allows any person or body to derive a benefit from a lottery contrary to the provisions of this Act;
- (c) if any information given by the certificate holder to the board in connection with the application for the certificate was false in a material respect;
- (d) if the certificate holder contravenes or fails to comply with a condition in the certificate or a provision of this Act; or
- (e) if the certificate holder is convicted on a charge of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958(10)), the Corruption Act, 1992, Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or any offence involving dishonesty.

[Para. (e) substituted by s. 36 (1) of Act No. 12 of 2004.]

Wording of Sections(11)

(2) If the board is satisfied that grounds exist for the revocation of a certificate contemplated in

section 47, it shall in writing notify the certificate holder of the existence of those grounds and call upon him or her to furnish reasons, within seven days, as to why the certificate should not be revoked, failing which the certificate will cease to be valid.

(3) If the reasons contemplated in subsection (2) are not received by the board within the period of seven days, the board shall inform all societies on whose behalf the certificate holder has conducted lotteries of the fact that the certificate granted to that certificate holder has ceased to be valid, of the date on which it so ceased to be valid and of the grounds for revocation enumerated in the notice to the certificate holder as contemplated in subsection (2).

(4) If reasons are furnished by the certificate holder as contemplated in subsection (2), the board shall not revoke the certificate without having given due consideration to such reasons.

(5) If the board revokes a certificate under this section, the board shall give written notice of the revocation and of the grounds for the revocation to the certificate holder and all societies on whose behalf the certificate holder is known to have conducted lotteries.

(6) The revocation of the certificate shall take effect 21 days after the date of the notice in terms of subsection (5).

52. Control of lottery managers and audit.—The provisions of sections 44 (1) (c) and (d), 45 and 46 shall apply *mutatis mutandis* to lottery managers, and in such application a reference in those sections to a society shall be construed as a reference to a lottery manager.

53. Rules of society lotteries.—(1) A society lottery shall be conducted in accordance with the rules prescribed by the Minister and set out in subsection (2).

(2) (a) The person conducting the society lottery shall be a member of the society on whose behalf that society lottery is conducted or a lottery manager certified in terms of section 47 and shall be authorised in writing by the governing body of the society to act as the person conducting that society lottery.

(b) Every ticket distributed or sold, shall specify the name and address of the person conducting the society lottery and the date of the lottery.

(c) No ticket in a society lottery shall be sold at a price exceeding the prescribed amount.

(d) The price of every ticket shall be the same, and the price of any ticket distributed or sold, shall be stated on the ticket.

(e) No person shall be admitted to participate in a society lottery in respect of a ticket except after payment to the society or lottery manager of the whole price of the ticket, and no money received for or on account of a ticket or chance shall in any circumstances be returned.

(f) No payment other than the price of a ticket shall be required of a person as a condition of his or her admission to participate in a society lottery.

(g) The total value of the prizes in a society lottery shall not exceed the prescribed amount in value, which shall not exceed R1 000 000 per year per society.

(h) The total value of the tickets sold in any one society lottery shall not exceed the prescribed amount.

(i) The total value of the tickets sold in all society lotteries conducted in any year on behalf of the same society shall not exceed the prescribed amount.

(j) The amount appropriated for the provision of prizes shall not exceed 50 per cent of the proceeds of the lottery.

(k) No chance or opportunity to take part in a society lottery shall be sold other than by way of a ticket.

(l) Every ticket shall on its reverse side contain the information prescribed by the Minister.

(m) (i) the amount appropriated on account of expenses, excluding prizes, shall not exceed whichever is the lesser of—

(aa) the expenses actually and necessarily incurred; or

(bb) whichever of the amounts specified in subparagraph (ii) applies.

(ii) The amounts referred to in subparagraph (i) (bb) are—

(aa) where the proceeds of the lottery do not exceed the prescribed amount, such percentage as may be prescribed by the Minister; or

(bb) where the proceeds of the lottery exceed the prescribed amount, such percentage as may be prescribed by the Minister.

(iii) For the purposes of subparagraph (i), the amount of any expenses that are met—

(aa) by the society on whose behalf the lottery is conducted; or

(bb) by any beneficiary of the lottery,

shall be deemed to have been appropriated on account of expenses from the proceeds of the lottery.

(iv) The amount of the proceeds of a society lottery appropriated for the provision of prizes and the amount of those proceeds appropriated on account of expenses, excluding prizes, shall not in aggregate exceed the prescribed percentage of the proceeds of the lottery.

(3) (a) For the purposes of subsection (2) (m) (iii) (bb), “**beneficiary of the lottery**” means a person or body, other than the society on whose behalf the lottery is conducted, to whom or for whose benefit any of the proceeds of the lottery, other than amounts appropriated in respect of expenses or prizes, are lawfully paid or applied.

(b) For the purposes of this section, unless the context indicates otherwise, “**year**” means a period of 12 months commencing on 1 January: Provided that if this Act comes into effect on a date other than 1 January—

(i) the period commencing on such other date and ending on the last day of the next December, shall be deemed to be the first year for the purposes of subsection (2) (i); and

(ii) in relation to the period mentioned in subparagraph (i) the reference to the prescribed amount in subsection (2) (i) shall be construed as a reference to a proportionately smaller amount.

54. Promotional competitions.—(1) A promotional competition shall not be unlawful if—

(a) it is conducted in the Republic;

(b) the consideration payable in respect of the purchase of goods or the use of services in respect of which that promotional competition is conducted—

- (i) is the price usually or ordinarily paid, excluding discounts, for such or similar goods or services without the opportunity of taking part in a promotional competition;
 - (ii) is not increased by the opportunity to participate in that promotional competition; and
 - (iii) is the only consideration payable for those goods or services and includes consideration for the right to compete;
- (c) the opportunity of participating in the promotional competition is not the only or the only substantial inducement to a person to purchase or use the goods or services to which the promotional competition relates;
 - (d) the promotional competition is conducted in accordance with the regulations prescribed by the Minister in terms of subsection (2) or (3);
 - (e) the promotional competition or any conduct under it is not substantially comparable to—
 - (i) a business practice which has been declared unlawful in terms of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988); or
 - (ii) a restrictive practice which has been declared unlawful in terms of the Competition Act, 1998 (Act No. 89 of 1998);
 - (f) the Minister has not in terms of subsection (4) declared the promotional competition unlawful;
 - (g) the goods or services manufactured, sold, supplied, distributed or delivered in connection with the right to participate in a promotional competition are usually or ordinarily manufactured, sold, supplied, distributed or delivered by the person for whose benefit the promotional competition is held;
 - (h)

[Para. (h) deleted by s. 1 of Act No. 46 of 2001.]

Wording of Sections(12)

- (i) the promotional competition is not substantially similar to any competition, game or sports pool conducted by or on behalf of the National Lottery; and
- (j) the consideration paid for the purchase of the goods or the use of the services promoted by a promotional competition is not increased by the opportunity to take part in that promotional competition to such an extent that that promotional competition does not mainly serve as a means, method or mechanism of promoting the relevant goods or services, but substantially as consideration for the opportunity to take part in that promotional competition.

[Sub-s. (1) substituted by s. 1 of Act No. 46 of 2001.]

Wording of Sections(13)

(2) The Minister may, after consultation with the board, with due regard to the effect of promotional competitions on the National Lottery, lotteries incidental to an exempt entertainment and society lotteries, make regulations which are necessary for the proper conduct and regulation of promotional competitions in general.

[Sub-s. (2) substituted by s. 1 of Act No. 46 of 2001.]

Wording of Sections(14)

(3) Without derogating from the generality of subsection (2), the Minister may make regulations in respect of—

(a) the minimum age of a person who may participate in any particular competition or category of competitions;

(b) to (f) inclusive

[Paras. (b) to (f) inclusive deleted by s. 1 of Act No. 46 of 2001.]

Wording of Sections(15)

(g) the conditions or circumstances under which the board or any person designated by it may without the consent of the person who conducts the promotional competition inspect any aspect, including any process or procedure, relating to a promotional competition, including the accounting procedures and the process of identifying the winner or winners of that promotional competition;

(h) any matter relating to the conduct of a promotional competition which may reasonably have a negative influence on or consequence for the public or a part or group thereof; and

(i) offences and penalties for the contravention of the regulations.

[Sub-s. (3) substituted by s. 1 of Act No. 46 of 2001.]

Wording of Sections(16)

(4) The Minister may on the recommendation of the board by notice in the *Gazette* declare a promotional competition to be unlawful.

(5) Any person conducting a promotional competition which in terms of subsection (4) has been declared unlawful, shall immediately cease to conduct such competition and shall immediately instruct all his or her or its agents and any other person connected with that competition to immediately terminate any action connected with the conduct of that competition, and any person who fails to comply with this subsection or an instruction thereunder is guilty of an offence.

(Date of commencement of s. 54: 2 May, 2003.)

CHAPTER 4

Sports pools

55. Licence to conduct sports pools.—(1) The Minister may, after consultation with the board, by licence authorise the licensee to conduct a national sports pool: Provided that the licence shall specify the sports pools, or descriptions of sports pools, the conduct of which it authorises.

(2) The power of the Minister to prescribe the percentages in terms of section 26 (3) may be exercised so as to make different provision in relation to sports pools.

(Date of commencement of s. 55: 28 August, 1998.)

PART III

GENERAL PROVISIONS

56. Unlawful lotteries and competitions.—Unless authorised by or under this Act or any other law, no person shall conduct through any newspaper, broadcasting service or any other electronic device,

or in connection with any trade or business or the sale of any article to the public—

- (a) any competition or lottery other than one authorised by or under this Act in which prizes are offered for forecasts of the result of either—
 - (i) a future event; or
 - (ii) a past event, the result of which has not yet been ascertained or is not yet generally known;
- (b) any competition other than a promotional competition contemplated in section 54 in which success does not depend to a substantial degree on skill; or
- (c) any promotional competition which is the subject of a declaration contemplated in section 54 (4).

(Date of commencement of s. 56: 28 August, 1998.)

57. General offences.—(1) Any person who—

- (a) participates in; or
- (b) conducts, facilitates, promotes or derives any benefit from a lottery, promotional competition or sports pool,

shall, unless such lottery, promotional competition or sports pool is or has been authorised by or under this Act or any other law, be guilty of an offence.

(2) Any person who—

- (a) contravenes or fails to comply with any provision of this Act;
- (b) forges or in any other fraudulent way changes any ticket or any other document or thing pertaining to any lottery or promotional competition;
- (c) knowingly sells or in any other way disposes of any forged ticket or any other document or thing pertaining to any lottery or promotional competition;
- (d) with intent to defraud, alters any number or figure on any ticket or any other document or thing pertaining to any lottery or promotional competition;
- (e) obtains any direct or indirect financial gain, which is not solely a share in the prize payout, by forming, conducting or in any other way promoting a syndicate for the purchase of a ticket; or
- (f) sells a ticket—
 - (i) at a price higher than that which is printed on the ticket;
 - (ii) on condition that the seller of the ticket shares in the prize in the event of a ticket sold by him or her being the ticket in respect of which a prize is paid;
 - (iii) on any condition not provided for in the rules of the lottery concerned;
 - (iv) on credit or with the financial assistance in any form of the seller; or
- (g) conducts, organises, promotes, devises or manages any scheme, plan, competition, arrangement, system, game or device which directly or indirectly provides for betting, wagering, gambling or any other game of risk on any outcome of any lottery unless authorised by or under this Act or any other law,

shall be guilty of an offence.

(Date of commencement of s. 57: 28 August, 1998.)

58. Offences relating to National Lottery and sports pools.—(1) Any person who—

- (a) advertises or offers the opportunity to participate in a lottery, promotional competition, competition or game of another description and who gives, by whatever means, a false indication that it is a lottery, competition or game forming part of, or is otherwise connected with, the National Lottery or is a sports pool licensed in terms of section 55;
- (b) with the intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a National Lottery ticket or sports pool ticket;
- (c) influences or attempts to influence the winning of a prize through the use of coercion, fraud or deception, or through tampering with lottery or sports pool equipment, systems, software, data, tickets or materials; or
- (d) fails to comply with any regulation made under section 60

shall be guilty of an offence.

(Date of commencement of s. 58: 28 August, 1998.)

59. Prohibition of activities in Republic in relation to lottery or sports pool conducted outside Republic.—In a prosecution arising from any thing done or not done in the Republic in connection with a lottery or sports pool, it shall not be a defence merely to prove that the management, conduct or business of or concerning the lottery or sports pool in question is or was wholly or in part carried on at a place outside the Republic.

(Date of commencement: 28 August, 1998.)

60. Regulations in respect of National Lottery and sports pools.—The Minister may, with the concurrence of the board, make regulations regarding—

- (a) the conduct of the National Lottery or sports pools, including—
 - (i) the minimum age of persons to whom or by whom tickets or chances may be sold;
 - (ii) the persons or categories of persons who shall be disqualified from participation;
 - (iii) the places where or circumstances or manner in which tickets or chances may be sold or persons may be invited to buy such tickets or chances;
 - (iv) the circumstances under which lotteries and sports pools may be advertised and the information that is to appear in an advertisement for a lottery or sports pool;
 - (v) the places where or circumstances or manner in which signs relating to a lottery or sports pool may be displayed;
 - (vi) the rules referred to in section 14 (2) (g);
 - (vii) application and licensing fees referred to in section 14 (3);
 - (viii) the percentages of the sums to be allocated in terms of section 26; and
 - (ix) in general any other matter which may be necessary or expedient to prescribe in order to achieve or promote the objects of Part I of this Act; and

- (b) the making of oral representations as contemplated in section 20 (1) (b).

(Date of commencement of s. 60: 28 August, 1998.)

61. Regulations in respect of lotteries incidental to exempt entertainments, private and society lotteries.—(1) The Minister may, with the concurrence of the board, make regulations regarding the conduct of lotteries incidental to exempt entertainments, private lotteries and society lotteries, including—

- (a) the nature and requirements of any scheme contemplated in section 38 (c);
- (b) the persons or categories of persons to whom and by whom tickets or chances in a lottery may or may not be sold;
- (c) the circumstances in which tickets or chances may be sold and persons may be invited to purchase tickets or chances;
- (d) the minimum age at which any person may buy a ticket or chance;
- (e) any information which shall, or shall not, appear on a ticket;
- (f) the manner in which a lottery may be advertised;
- (g) the use of postal services in connection with lotteries;
- (h) the matters in respect of which expenses in a lottery may be incurred; and
- (i) in general, any other matter which may be necessary or expedient to prescribe in order to achieve or promote the objects of Part II of this Act.

(2) Any power to make regulations under this section may be exercised so as to make different provision in relation to different cases or different circumstances.

(Date of commencement of s. 61: 28 August, 1998.)

62. Penalties.—Any person convicted of an offence in terms of this Act shall be liable to a fine or to imprisonment or to both a fine and imprisonment.

(Date of commencement: 28 August, 1998.)

63. Savings.—Nothing in this Act shall apply in relation to any lottery, sports pool or competition in respect of which there is no subscription.

(Date of commencement: 28 August, 1998.)

64. Transitional provisions.—(1) Every valid licence for—

- (a) a state lottery, issued in terms of the State Lotteries Act, 1984 (Act No. 14 of 1984) (Ciskei), or the Lotteries Decree, 1989 (Decree No. 14 of 1989) (Transkei); and
- (b) a lottery or sports pool issued in terms of a law or provision repealed by section 65, or issued in terms of the Gaming and Betting Act, 1989 (Act No. 39 of 1989) (Bophuthatswana),

shall at a date determined by the Minister by notice in the *Gazette* cease to be valid.

- (2) All unexpended money in—

- (a) the Distribution Account referred to in the State Lotteries Act, 1984 (Act No. 14 of 1984) (Ciskei); and
- (b) the State Lottery Trustee Account referred to in the Lotteries Decree, 1989 (Decree No. 14 of 1989) (Transkei),

immediately before the commencement of this Act, shall be paid into the fund.

(Date of commencement of s. 64: 28 August, 1998.)

65. Lottery debts enforceable.—Any lottery debt lawfully incurred by a person in the course of any lottery or sports pool shall, notwithstanding provisions of any law or the common law, be enforceable in a court of law.

(Date of commencement of s. 65: 28 August, 1998.)

66. Registration of illegal lotteries.—(1) Any juristic person—

- (a) authorised before 1 January 1997 to collect contributions from the public in terms of the Fund-raising Act, 1978;
- (b) who collects or has collected such contributions by means of any activity relating to a lottery which is prohibited in terms of the Gambling Act, 1965, or any other legislation pertaining to gambling or lotteries; and
- (c) who on a regular basis has paid or pays a percentage of its total income to a registered charity organisation,

may within a period of three months after the commencement of this Act in the prescribed manner apply to the Minister or the board for registration of such activity.

(2) The Minister or the board may permit the registration of the juristic person contemplated in subsection (1) if it is in the Minister's or the board's opinion desirable to do so, subject to any conditions he or she or it may impose, including any conditions in respect of the auditing of the financial statements of that person.

(3) Activities contemplated in subsection (1) shall be deemed to be lawful as from the date of registration until a date determined by the Minister by notice in the *Gazette*, which date shall be not later than seven days prior to the date on which tickets for the National Lottery are sold for the first time.

(4) The Minister or the board may at any time and without any prior notice withdraw the registration in terms of subsection (2) of any juristic person if in the Minister's or the board's opinion it is desirable to do so.

(5) No right other than is provided for in subsection (3) and no legitimate expectations shall accrue as a result of registration in terms of this section.

(6) A juristic person who in terms of subsection (1) has applied for registration or who in terms of subsection (2) has been registered, shall provide the Minister or the board with any information he or she or it may require at any time.

(7) Any person designated by the Minister or the board shall at any reasonable time have the right to—

- (a) examine any thing, machine, document or data captured in any form, found on or in the premises or facility of the person who has been registered, and make copies of or make

extracts from that thing, machine, document or data;

- (b) seize, for the purpose of further examination or securing information, any thing, machine, document or data, excluding proprietary software, on or in those premises or facility; or
- (c) seal or otherwise secure any such premises, facility, thing or machine on or in which any document or data which has a bearing on the activities contemplated in subsection (3) is stored or captured.

(8) The Minister shall every four months until the date on which tickets for the National Lottery are sold for the first time table a report in Parliament on all matters provided for in this section, and if Parliament is not then in session, on the first day of its next session.

(9) This section shall two years after the commencement of this Act cease to be of any force.

(Date of commencement of s. 66: 28 August, 1998.)

67. Access to information.—(1) Subject to the Constitution, any legislation which may be enacted in pursuance of sections 32 (2) or 33 (3) of the Constitution or any other relevant law, no person, including the Minister, a member or employee of the board or the Department, or a former member or employee of the board or the Department, may—

- (a) in any way disclose any information submitted by any person in connection with any application for any licence, certificate or appointment under this Act; or
- (b) publish any information obtained in contravention of paragraph (a), unless ordered to do so by a court of law or unless the person who made such application consents thereto in writing.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(Date of commencement of s. 67: 28 August, 1998.)

68. Repeal and amendment of laws.—The laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column thereof.

(Date of commencement: 28 August, 1998.)

69. Short title and commencement.—This Act shall be called the Lotteries Act, 1997, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Schedule

LAWS REPEALED OR AMENDED

No. and year of Act	Title	Extent of repeal or amendment
Act No. 44 of 1958....	Post Office Act, 1958.....	Substitutes section 35.
Act No. 51 of 1965(17).....	Gambling Act, 1965..	(a) Amends section 1 by deleting the definitions of “lottery”, “prize”, “sporting event”, “sports pool”, “subscription” and “ticket”.

		(b) Repeals sections 2, 3, 4, 5 and 10.
		(c) Amends section 8 by deleting paragraphs (a), (b), (c), (i) and (ii).
Act No. 23 of 1982(18).....	Gambling Act, 1982 (Ciskei).....	(a) Amendment of section 1 by the deletion of the definitions of “lottery”, “sporting event” and “sports pool”.
		(b) Amendment of section 7 by the deletion of subparagraph (iii) of paragraph (c) of subsection (1) and subsection (4).
		(c) Amendment of section 9 by the substitution for paragraph (a) of subsection (1) of the following paragraph:
		“(a) grant such application subject to such conditions and restrictions as the President may deem necessary.”.
		(d) Amendment of section 10 by the deletion of paragraph (b) of subsection (1).
		(e) Amendment of section 12 by the deletion of paragraph (c) of subsection (2).
		(f) Amendment of section 17 by the deletion of paragraph (b) of subsection (1).
		(g) Amendment of section 18 by the substitution for subsection (1) of the following subsection:

		<p>“(1) No person shall participate, and no licence-holder or any person employed by him or her in connection with the management, supervision, control or administration or any activity authorized by such licence shall permit any person to participate, in any game in a casino or gaming room unless payment therefor is in current money or by cheque: Provided that the licence-holder may, at his or her discretion, grant credit facilities to any person who furnishes a satisfactory guarantee of payment.”.</p>
		<p>(h) Amendment of section 19—</p>
		<p>(i) by the deletion of subparagraph (iii) of paragraph (a) of subsection (1);</p>
		<p>(ii) by the deletion of paragraph (c) of subsection (1);</p>
		<p>(iii) by the substitution in subsection (1) for paragraph (d) of the following paragraph:</p>
		<p>“(d) perform any act with the object of acquiring or assisting any other person to acquire from any source in Ciskei or elsewhere any ticket in an unlicensed game of chance;”;</p>
		<p>(iv) by the substitution in subsection (1) for paragraph (e) of the following paragraph:</p>

		“(e) print or publish, either in a newspaper, periodical publication or any printed document, any notice or advertisement of any unlicensed gaming house, gaming activity;”; and
		(v) by the substitution in subsection (1) for paragraph (g) of the following paragraph:
		“(g) distribute or cause to be distributed or deliver or cause to be delivered to any person any handbill or entrance form or other document conveying in print, writing or other way, notice of or information with regard to any unlicensed gaminghouse, or place where games of chance are played or any activity prohibited by this Act is performed; or”.
		(i) Amendment of section 24 by the deletion of paragraph (b) of subsection (2).
		(j) Amendment of Part A of the Schedule by the deletion of items 2 and 3.
		(k) Amendment of Part B of the Schedule by the deletion of the last two items.
Act No. 14 of 1984.....	State Lotteries Act, 1984 (Ciskei).....	The whole.

Decree No. 14 of 1989.....	Lotteries Decree, 1989 (Transkei).....	The whole.
-------------------------------	---	------------

**LOTTERIES AMENDMENT ACT
NO. 10 OF 2000**

[ASSENTED TO 16 MARCH, 2000]
[DATE OF COMMENCEMENT: 17 MARCH, 2000]
(English text signed by the President)

ACT

To amend the Lotteries Act, 1997, so as to remove the prohibition of participation in the National Lottery by certain persons; and to provide for matters connected therewith.

1. *Amends section 14 (2) of the Lotteries Act, No. 57 of 1997, by substituting paragraph (i).*
 2. **Short title.**—This Act is called the Lotteries Amendment Act, 2000.
-

**LOTTERIES AMENDMENT ACT
NO. 46 OF 2001**

[ASSENTED TO 6 DECEMBER, 2001]
[DATE OF COMMENCEMENT: 7 JUNE, 2002]
(English text signed by the President)

ACT

To amend the Lotteries Act, 1997, so as to further regulate the conduct of promotional competitions; and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

1. Amends section 54 of the Lotteries Act, No. 57 of 1997, by substituting subsections (1), (2) and (3).

2. **Short title and commencement.**—This Act is called the Lotteries Amendment Act, 2001, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

Endnotes

1 (Popup - Repealed Act)

Act 73 of 1976 has been repealed by [s 41\(1\)](#) of [Act 4 of 1999](#)

2 (Popup - Repealed Act)

Act 73 of 1976 has been repealed by [s 41\(1\)](#) of [Act 4 of 1999](#)

3 (Popup - Repealed Act)

Act 94 of 1992 has been repealed by [s 36\(1\)](#) of [Act 12 of 2004](#)

4 (Popup - Wording of Sections)

[s 3\(5\)\(b\)](#) of Act 57 of 1997 prior to amendment by [Act 12 of 2004](#)

5 (Popup - Repealed Act)

Act 6 of 1958 has been repealed by [s 4](#) of [Act 94 of 1992](#)

6 (Popup - Wording of Sections)

[s 3\(5\)\(c\)\(i\)](#) of Act 57 of 1997 prior to amendment by [Act 12 of 2004](#)

7 (Popup - Repealed Act)

Act 6 of 1958 has been repealed by [s 4](#) of [Act 94 of 1992](#)

8 (Popup - Wording of Sections)

[s 3\(7\)\(a\)\(iii\)\(dd\)](#) of Act 57 of 1997 prior to amendment by [Act 12 of 2004](#)

9 (Popup - Wording of Sections)

s 14(2)(i)(i) of Act 57 of 1997 prior to amendment by [Act 10 of 2000](#)

10 (Popup - Repealed Act)

Act 6 of 1958 has been repealed by [s 4](#) of [Act 94 of 1992](#)

11 (Popup - Wording of Sections)

[s 51\(1\)\(e\)](#) of Act 57 of 1997 prior to amendment by [Act 12 of 2004](#)

12 (Popup - Wording of Sections)

s 54(1)(h) of Act 57 of 1997 prior to amendment by [Act 46 of 2001](#)

13 (Popup - Wording of Sections)

[s 54\(1\)](#) of Act 57 of 1997 prior to amendment by [Act 46 of 2001](#)

14 (Popup - Wording of Sections)

s 54(2) of Act 57 of 1997 prior to amendment by [Act 46 of 2001](#)

15 (Popup - Wording of Sections)

s 54(3)(b), (f) of Act 57 of 1997 prior to amendment by [Act 46 of 2001](#)

16 (Popup - Wording of Sections)

s 54(3) of Act 57 of 1997 prior to amendment by [Act 46 of 2001](#)

17 (Popup - Repealed Act)

Act 51 of 1965 has been repealed by [s 2](#) of [Act 36 of 1999](#)

18 (Popup - Repealed Act)

Act 23 of 1982 has been repealed by [s 44](#) of [Act 47 of 2000](#)