

# Government Gazette

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## GOVERNMENT NOTICE

No. R. 415

LOTTERIES ACT, 1997 (Act No. 57 of 1997J

### REGULATIONS RELATING TO SOCIETY LOTTERIES

The Minister of Trade and Industry has, with the concurrence of the National Lotteries Board, under section 61 of the Lotteries Act, 1997 (Act No. 57 of 1997), made the regulations in the Schedule.

#### SCHEDULE

##### Definitions

1. In these regulations, unless the context otherwise indicates, any word or expression defined in the Lotteries Act, 1997 (Act No. 57 of 1997), has that meaning, and

**"lottery manager"** means any person who is authorised by a society to conduct a lottery on its behalf for payment of any nature whatsoever;

**"the Act"** means the Lotteries Act, 1997 (Act No. 57 of 1997).

##### Rules of society lotteries

2. (a) (1) The finalist or finalists of a society lottery shall be chosen in the manner determined by the person who conducts that society lottery.
  - (2) Any decision by the person who conducts the society lottery with regard to the determination of a finalist or finalists in a society lottery is final.
  - (3) The rules of a society lottery shall specify if prizes may be exchanged for cash.
  - (4) The closing date of the society lottery and the date and place of the draw or draws shall be determined before commencing with that society lottery.

(5) Every prize to be won in a society lottery shall upon conclusion of that society lottery be awarded to a winner or winners.

(6) The person who conducts a society lottery may prescribe such reasonable and lawful conditions as may be necessary for participation in a society lottery.

(b) The rules of a society lottery shall further provide for the proper monitoring of any draw in that society lottery.

### **Further information concerning registration of societies**

3. In addition to the particulars referred to in section 41(1) of the Act, when applying for registration, a society shall in such application -

- a. state the names and addresses of the executive management of the society;
- b. state the name and address of the society's auditor or bookkeeper;
- c. furnish a statement pertaining to the society's financial state of affairs and business;
- d. confirm that the society's income and property are not distributable to its members or managers, except as reasonable compensation for services rendered;
- e. indicate whether the society's financial transactions are conducted by means of a banking account, and details thereof;
- f. state the date for the end of the society's financial year;
- g. indicate whether it is a body corporate and has an identity and existence distinct from its members or managers;
- h. state the purposes for which the society was established;
- i. confirm that the society shall keep proper accounting records in order to comply with section 46(3)(a) of the Act;
- j. indicate whether provision has been made for the society's continued existence notwithstanding changes in the composition of its membership or management;
- k. state whether the members or managers have any rights in the property or other assets of the society solely by virtue of their being members or managers;
  - l. specify the powers of the society;
- m. specify the organisational structures and mechanisms for its governance;
- n. set out the rules for convening and conducting meetings, including quorums required for and the minutes to be kept at those meetings;
- o. indicate the manner in which decisions are to be made;
- p. set out the procedure for changing its constitution and indicate if, how and why its constitution has been amended in the two years immediately prior to the date of this application for registration;
- q. set out the procedure by which the society may be wound up or dissolved;
- r. indicate whether any asset remaining after all its liabilities have been met, when it is being wound up or dissolved, must be transferred to another society having similar objectives;
- s. state whether the society has been registered previously in terms of the Act and whether application for such registration was refused or whether such registration has been suspended or revoked or has expired; and
- t. attach a copy of the society's constitution.

### **Nature and requirements of scheme Concerning lotteries**

4. The scheme contemplated in section 38(c) of the Act shall specify -

- a. the address of the office or head office of the society;
- b. the society's registration number issued by the Board upon application contemplated in regulation 3;
- c. the name of the person responsible for conducting the society lottery;
- d. the purpose for which the society lottery shall be conducted;
- e. that the society has adequate resources to conduct the society lottery in accordance with sound financial principles and methods;
- f. the prizes to be won in the society lottery;
- g. a detailed description of the manner in which the finalist or finalists, if any, and the winner or winners of the society lottery, as the case may be, shall be determined and the date, time and place thereof;
- h. the manner in or by which finalist or finalists and the winner or winners, as the case may be, shall be notified of the outcome of the draw or draws or other process of determining a winner or winners;
- i. the place where and the manner in which participants in the society lottery may obtain information in respect of the outcome of the lottery;
- j. the price of a ticket sold in aid of the society lottery;
- k. the number and total value of tickets to be sold in the society lottery;
- l. the name of the person who is responsible and accountable for the financial management of the society lottery;
- m. who the beneficiaries of the society lottery are, what benefit they will receive and what needs the benefits will meet;
- n. the date of the approval of the society lottery scheme by the society and proof of such approval;
- o. the categories of persons to whom and by whom society lotteries tickets may not be sold, if any; and
- p. procedures for dealing with unclaimed prizes.

#### **Provision of security by lottery manager responsible for conducting the society lottery**

5. If a society lottery is to be conducted by a lottery manager, the Board may require the lottery manager to provide security or a guarantee in the amount and in the form the Board deems reasonable.

#### **Persons and categories of persons to whom and by whom tickets in society lottery may be sold**

6. If any category of persons is prohibited from participating in a society lottery as contemplated in regulation 4(o), no person belonging to such a category of persons may participate in that lottery.

#### **Frequency of society lotteries**

7. (1) No more than six society lotteries may be conducted by or on behalf of a society in any year.

(2) For purposes of this regulation and regulation 8(2)

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

#### **Value of tickets and prizes**

8. (1) The total value of the tickets sold in a society lottery shall not exceed R2000 000.

(2) The total value of prizes to be won in a society lottery shall not exceed R1000 000 per society per year.

### **Circumstances in which tickets for society lotteries may be sold and persons may be invited to purchase tickets**

9. Tickets for society lotteries may be sold and persons may be invited to purchase such tickets only for -
- a. the promotion of the society conducting the society lottery or on whose behalf it is conducted; or
  - b. other purposes which are not for private gain or commercial undertaking and approved by the board.

### **Information on reverse side of ticket**

10. The reverse side of every ticket distributed or sold, shall specify -
- a. the name and registration number of the society, contemplated in section 41 of the Act, which is conducting the society lottery or on whose behalf it is conducted;
  - b. the price of tickets and prizes to be won in the society lottery, if not appearing on the front of the ticket;
  - c. the closing date of the society lottery and the date and place of the draw or draws, if not appearing on the front of the ticket;
  - d. a reference to where the rules referred to in regulation 2 may be obtained; and
  - e. if a cash equivalent of a prize may be won, the amount thereof.

### **Marketing of society lottery**

11. Any marketing material in respect of a society lottery shall state -
- a. the purpose of the lottery;
  - b. the price of the tickets;
  - c. where the tickets will be sold;
  - d. the prizes to be won;
  - e. the closing date for participation in the lottery;
  - f. when the draw will take place; and
  - g. when and where the names of winners will be published.

### **Prescribed areas**

12. Tickets for a society lottery may be advertised, marketed, promoted or sold anywhere within the Republic unless the Board determines otherwise.

### **Permitted expenses in respect of society lotteries**

13. (1) Subject to subregulation (2), expenses in a society lottery may be incurred only in respect of the following matters:
- a. costs in respect of printing and distribution of tickets;

- b. a lottery manager's fees;
- c. actual marketing costs in respect of the lottery;
- d. actual expenses incurred by the person conducting the lottery in connection with the lottery;
- e. actual expenses incurred in connection with the awarding of the prize; and
- f. any other expenses necessary for the proper conducting of the lottery.

(2) If the total proceeds of a society lottery -

- a. are equal to or less than R1000 000, the expenses referred to in subregulation (1) may not exceed 15 percent of the proceeds of that society lottery; or
- b. exceed R1000 000, such expenses may not exceed 10 percent of the proceeds of that society lottery.

## Exemptions

14. (1) (a) The Board may, subject to any condition it deems fit, grant an exemption with regard to the regulations contemplated in subregulation (3) in respect of any specific society lottery, and such exemption applies only to that society lottery.

(b) The Board may, subject to subregulation (6), alter or withdraw any exemption granted in terms of paragraph (a).

(2) In this regulation, "applicant" means the person who submits an application to the Board in terms of subregulation (3).

(3) Any person intending to conduct a society lottery may, 90 days prior to the start of a specific society lottery and in respect of that specific society lottery, apply to the Board in writing for an exemption in terms of subregulation (1)(a) to any of the provisions of regulations 7(1), 8(1), 10, 11 and 13.

(4) The applicant must in the application contemplated in subregulation (3), in addition to any other information submitted in terms of these regulations, -

- a. identify the regulation or subregulation in respect of which exemption is sought;
- b. provide reasons for every exemption sought;
- c. provide all relevant information necessary for the board to consider the matters envisaged in subregulation (5); and
- d. provide an address which the Board may use for purposes of subregulation (6)(a).

(5) In considering any application made in terms of subregulation (3), the Board must have regard to all relevant factors, including the following:

- a. the history of the applicant and the society intending to conduct the society lottery;
- b. the history of society lotteries previously conducted by the applicant and the society, if any;
- c. the amount of monies paid to or the extent of benefits received by persons in need or other beneficiaries;
- d. the costs of society lotteries previously conducted by the applicant and the society;
- e. the amounts spent on marketing and advertising society lotteries previously conducted by the applicant and the society;
- f. if applicable, the amounts paid to other persons who previously conducted society lotteries on behalf of the applicant and the society;

- g. the target market of the proposed society lottery; and
- h. measures to audit the society lottery.

(6) The Board must, if it intends to alter or withdraw any exemption granted in terms of subregulation (1)(a) -

- a. give notice of its intention to the applicant at the address provided by the applicant in its application in terms of subregulation (4)(d);
- b. in the notice contemplated in paragraph (a) specify
  - i. the reasons for its intention to alter or withdraw the exemption;
  - ii. the date from when the alteration or withdrawal is to become effective; and
  - iii. which, if any, corrective measure the applicant must take in order for the Board not to alter or withdraw the exemption, as the case may be, and by when such measure must be taken; and
- c. afford the applicant a reasonable opportunity to make representations in respect of the notice.

(7) (a) The Board must compile a list for its current financial year, to be updated on the last working day of every month, containing information in respect of—

- i. every person or society to whom an exemption has been granted in terms of subregulation (1)(a);
- ii. the nature of the exemption granted in terms of subregulation (1)(a); and
- iii. any other information in respect of exemptions the Board deems necessary.

(b) Any person has access during the Board's ordinary office hours and at the Board's head office to the list contemplated in paragraph (a).

(c) The Board must in the report contemplated in section 12(1)(c) of the Act include the consolidated list contemplated in paragraph (a) for the relevant financial year.

(8) No person or society to whom an exemption has been granted by the the Board in terms of subregulation (1)(a), acquires any right or legitimate expectation in respect of future society lotteries because an exemption has previously been granted by the Board in terms of subregulation (1)(a) in respect of any other society lottery.

## **Commencement**

15. These regulations shall come into operation on 1 May 2000