



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



NATIONAL LOTTERIES COMMISSION

a member of **the dti** group

**LEGISLATIVE INTERPRETATION OF
VARIOUS PROVISIONS OF THE 2015
REGULATIONS TO THE LOTTERIES ACT
57 OF 1997, AS AMENDED.**

1. PURPOSE

To set out the manner of interpretation and implementation of Regulation 14, Part III (1) (a) (c) and (d) of the 2015 Regulations to the Lotteries Act 57 of 1997, as amended and Financial Records (Mandatory documents for Small Grants).

2. LEGISLATIVE INTERPRETATION

2.1 Regulation 14 – Cooling off period.

“No applicant to whom a grant was made by the National Lotteries Commission shall be eligible to apply for another grant within a period of 12 (twelve) months from the date of receipt of that grant, irrespective of whether the project is different from the one previously applied for.”

The aforementioned provision ought to be interpreted and implemented as follows:

- 2.1.1 Date of receipt of the grant is the date upon which the full grant is paid to the grantee;
- 2.1.2 Commencement off the 12 months is to be counted from date of payment of the last tranche to the grantee;

2.1.3 Applicability of this provision where the application for a grant is received through an agent, representative or conduit, in terms of Part II, Regulation 10:-

2.1.3.1 The cooling off period applies to the actual applicant and not the agent/conduit and/or representative.

2.1.3.2 Should the conduit/agent or representative also apply for a project at the same time that they are assisting the applicant; they also become an applicant in that case and the cooling off period applies to them.

2.1.3.3 Where the applicant has applied through a conduit/agent or representative, they cannot subsequently apply by themselves before the 12 months cooling off period expires.

2.2 Part III (1)(a)

“Categories of Applications that may not be considered by the Commission

(1)The National Lotteries Commission shall not consider applications for

funding for activities implemented:-

(a) outside the borders of the Republic of South Africa.

2.2.1 A project implemented outside the borders of South Africa would mean an instance where direct beneficiaries are on foreign land (e.g. An NPO applying to fund an orphanage in Swaziland cannot be funded as NLDTF funds are meant to assist only South Africans)

2.2.2 NLDTF funds South Africans and the mere fact that the actual performance is on foreign soil should not create an impediment to funding. (e.g. If Athletics South Africa needs funding for activities implemented outside the borders of South Africa – funding will still be for South Africans and ordinary South Africans remain direct beneficiaries of this funding)

2.3 Part III (1)(c)

“Categories of Applications that may not be considered by the Commission

(1)The National Lotteries Commission shall not consider applications

for funding for activities implemented:-

(b) by organs of state excluding educational and welfare institutions

2.3.1 The prerequisite is that the presence of any of the elements listed below should be used to identifying welfare institutions in accordance with the Welfare Act which defines Social Welfare services as organised activities, measures or programmes in connection with:-

2.3.1.1 The prevention and treatment of social pathological conditions in the community or in groups of persons or in families or individuals;

2.3.1.2 The promotion, protection or stability of family or marital life;

2.3.1.3 The welfare of the aged or physically or mentally handicapped persons;

2.3.1.4 The welfare of children;

- 2.3.1.5 The prevention of alcoholism or dependence upon producing substances or the treatment of persons who are dependent upon alcohol or any other dependence producing substance;
- 2.3.1.6 Any corrective service;
- 2.3.1.7 Social relief;
- 2.3.1.8 Improving situations in the communities, development of individuals and society.

2.4 Whilst it will be difficult to advise in advance on what welfare institution would be.

The elements above can be used to test any organisation claiming to be a welfare institution. The objectives of the organisation should be tested against the elements above before a decision is made.

2.5 Part III (1)(d)

“Categories of Applications that may not be considered by the Commission

(1)The National Lotteries Commission shall not consider applications

for funding for activities implemented:-

(d) by political parties

3. The NLC has defined a political party in terms of the Electoral Commissions Act 51 of 1996 which states as follows:-

A political party means “any registered party, and includes any organisation or movement of a political nature which publicly supports or opposes the policy, candidates or cause of any registered party, or which propagates non-participation in any election”

3.1 From the definition above, politically affiliated parties or associations supporting the cause of any political party will also not qualify for funding. It remains our view that the legislature could not have intended to exclude political parties but yet include politically affiliated parties from funding.

3.2 Financial Records - Mandatory Documents for Small Grants

3.2.1 The regulations do not define what financial records are, for our purposes and in line with the intention behind the introduction of the small grant category. Financial records shall mean:

- 3.2.1.1 Recent Bank Statement in the name of the organisation, or;
- 3.2.1.2 Statement of assets and liabilities of the organisation, or
- 3.2.1.3 Statement of income and expenditure of the organisation; or
- 3.2.1.4 Annual Financial Statements.

3.2.2 Any one of the four listed items can independently qualify as financial record of an organisation and therefore, anyone of them should mean the organisation has met the requirement of financial records.