

**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.

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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

- (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

<i>No. and year of Act</i>	<i>Title</i>	<i>Extent of repeal or amendment</i>
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".

		<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.
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**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.
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**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