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GENERAL NOTICE

NOTICE 466 OF 2013

DEPARTMENT OF TRADE AND INDUSTRY

DRAFT AMENDMENT BILL OF THE LOTTERIES ACT, 1997

INVITATION FOR THE PUBLIC TO COMMENT ON THE DRAFT LOTTERIES AMENDMENT BILL 2013

I, Dr. Rob Davies, Minister of Trade and Industry having obtained Cabinet approval, hereby publish the Draft Lotteries Amendment Bill for broader public comment for a period of 30 calendar days from the date of publication.

Interested persons may submit written comments on the proposed Amendment Bill as follows

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Dr Rob Davies, MP
Minister of Trade and Industry

25 April 2013

REPUBLIC OF SOUTH AFRICA

LOTTERIES AMENDMENT BILL

(Minister of Trade and Industry)

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Lotteries Act, 1997, so as to amend certain definitions; to provide for the extension of the powers of the board; to provide for the licensing of Organ of State to conduct National Lottery; to provide for clear accountability channel for distributing agency; to provide for the professionalization of the distributing agency; to eliminate overlapping of functions of the Minister and the board; to provide for the removal of reconstruction and development programme as a category entitled to be allocated money of the fund and to provide for matters related thereto.

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

Amendment of section 1 of Act 57 of 1997

1. Section 1 of the Lotteries Act, 1997 (hereinafter referred to as the principal Act), is hereby amended by –

- (a) the substitution for the definition of “distribute” of the following definition:
“**distribute**”, in relation to documents or other objects, includes distribution to persons or places within **[or outside]** the Republic;
- (b) the substitution for the definition of “licensee” of the following definition:
“ ‘**licensee**’, means a [the] person or Organ of State issued with a licence for the National Lottery in terms of section 13.” **[(1):(xv);]**
- (c) the insertion after the definition of “office bearer” of the following definition:
“**Organ of State**’ means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;”.

Amendment of section 3 of Act 57 of 1997

2 . Section 3 of the principal Act is hereby amended by-

- (a) the addition of the following paragraph in subsection (1):
“(c) the chairperson of the distributing agency as an ex-officio member with no voting rights.”
- (b) the substitution for subsection (2) of the following subsection:

“(2) At least four members of the board referred to in section 3(1) (c) shall be persons who are not in the service of any sphere of government; provided that an official of any sphere of government may be appointed as an official of the board.”.

(c) the substitution for subsection (4) of the following subsection:

“(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 for a further period not exceeding five years.”.

(d) the substitution for paragraph (a) of subsection (5) of the following subsection:

“(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] as a member of the board.”.

(e) the insertion after paragraph (e) of subsection 7 the following paragraph-

“(f) If a member of the board fails to inform the Minister and the board within two weeks or so soon thereafter as is reasonably practicable, of the circumstances which may disqualify him or her in terms of subsection 7 (a) (iii), he or she commits an offence in terms of the Act;”.

Insertion of section 3A in Act 57 of 1997

3. The principal Act is hereby amended by the insertion after section 3 of the following section:

“Disqualifications

26C (1) The Minister may not appoint a person as a member of the board if such a person-

(a) is a political office-bearer;

(b) is disqualified to act as a director of a company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);

(c) has been found in any civil or criminal proceedings by a court of law, whether in the Republic or elsewhere, to have acted fraudulently, dishonestly, or in breach of a fiduciary duty, or of any other offence for which such person has been sentenced to direct imprisonment without the option of a fine in the past five (5) years;

(d) has been removed from a position of trust in the past five (5) years on account of misconduct; and

(e) is not of a sound mind.”.

(2) The Minister may also subject members of the board to a probity test, at any time and shall upon receiving a report on their probity decide whether such report warrants a

removal of the member from the board, in which case the appropriate removal steps shall be taken”.

Amendment of section 4 of Act 57 of 1997

4. Section 4 of the principal Act is hereby amended by the addition of the following subsections:

“(7)The board must meet regularly to perform its functions in terms of the Act;

(8) The Minister may on the advice of the chairperson or the board terminate membership of a member who fails to attend two meetings consecutively without prior notification and approval of the chairperson or the board.”.

Amendment of section 7 of Act 57 of 1997

5. Section 7 of the Principal Act is hereby amended by-

(a) the addition of the following subparagraph:

“(c) persons appointed by the Minister as distributing agency.”.

(b) the substitution for subsection 4 of the following subsection:

“(4) Any function of the board except the function of the board to serve as review or appeal authority against decisions of the distributing agency regarding applications for grants in terms of this Act may be delegated to the chief executive officer and any such delegation shall be in writing.”.

(c) the substitution for subsection (5) of the following subsection:

(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 an executive 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] three (3) years 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.

Amendment of section 10 of Act 57 of 1997

6. Section 10 of the principal Act is hereby amended by –

(a) the substitution for section 10 of the following section:

“10 (1) The board shall [,] in applying the principles of openness and transparency and in addition to its other functions in terms of this Act—.”

(b) the substitution for paragraph (c) of the following paragraph:

“(c) manage and administer the fund and hold it in trust;”.

(c) the addition of the following paragraphs:

“(l) serve as review or appeal authority against decisions of the distributing agency regarding applications for grants;

“(m) conduct or authorize staff of the board to conduct research on and approve grants to appropriately deserving good causes or recipients that may be funded without application lodged in accordance with this Act;

“(n) have the power to solicit applications for grants from any appropriate and deserving good causes that it deems fit;

“(o) have the power to prohibit, withdraw or reduce any grant made by the distributing agency if the board receives information that such grant is utilised or is likely to be utilized in a manner that does not comply with the purpose or conditions stipulated in the grant or is utilized or is likely to be utilized for a unlawful purpose or purpose distantly unrelated to the purpose of the grant;

“(p) in consultation with the Minister, determine category of applications for grants that are excluded from funding;

“(q) promote public knowledge and awareness by –

(i) creating and implementing educational and informational measures to educating the public about the lotteries and provisions of this Act;

(ii) educating and guiding the public by explaining the requirements and qualifications to apply for the grants;

“(r) take all reasonable steps to recover any amount in relation to a grant which has since been withdrawn, in terms of paragraph (o).”

(d) the addition of the following subsections:

“(2) The board shall have the power to institute legal proceedings in order to properly discharge its functions and responsibilities in terms of this Act.”

“(3) The board may approach any court for any order the board deems appropriate for effective regulation and enforcement of the Act;”. and

“(4) The board may make any such arrangements as it deems fit to discharge its functions in terms of the Act;

“(5) The board may in consultation with the Minister, determine the monetary threshold in respect of applications or payment of grants that requires automatic review by the board;

“(6) The board may determine the period within which an application for grants should be finalized;

“(7) The board may in consultation with the Minister, determine any other process or monetary threshold that will facilitate effective and efficient

- distribution of grants including the processing of applications, internal review or appeal process of the distributing agency;
- (8) The board may determine or direct or order the performance of any other matter or research intended to enhance the optimum functioning of the board and the distribution of grants;
- (9) The board shall ensure that the distributing agency performs its distribution function independently and without fear, favour or prejudice;
- (10) The board shall ensure that a simple and clear process or procedure for the settlement of disputes lodged against the distributing agency is developed.”.

Amendment of section 13 of Act 57 of 1997

7. Section 13 of the principal Act is hereby amended by-

(a) the addition of the following subsections:

“(7) In the event that the Minister decides on justifiable grounds not to issue a licence as contemplated in subsection (1), the Minister may, after consultation with the board, appoint or authorize an Organ of State to conduct the National Lottery for a period not exceeding eight (8) years, on such terms and conditions as the Minister deems appropriate including conditions stipulated in section 14(1) and (2).”

“(8) In deciding whether justifiable grounds contemplated in sub-section (7) exists, the Minister may take into consideration Government plans or priorities.

“(9) The Minister may at any time owing to the fact that-

(a) the licensee is for any reason whatsoever unable to conduct the National Lottery in terms of the conditions of the licence or is unable to meet the conditions of the licence to the satisfaction of the Minister; or

(b) the licence to conduct the National Lottery is suspended for any reason whatsoever; or

(c) the licence to conduct the National Lottery is revoked in terms of this Act; or

(d) the licence to conduct National Lottery has expired.

after consultation with the board, appoint or authorize any person or Organ of State as the case may be, for a non-renewable period not exceeding twenty-four (24) months to conduct the National lottery on such terms and conditions the Minister deems appropriate.

(9) In appointing a person or Organ Of State to conduct the National Lottery in terms of subsections (8), the provisions of subsections (2) and (3) shall not apply.”

(10) In appointing an Organ of State to conduct the National Lottery, the Minister may exempt such Organ of State from the provisions of subsections (2) and (3).”

(11) The licence issued to an Organ of State may allow such Organ of State to appoint another person to conduct certain lotteries of the National Lottery on behalf of such Organ of State only with the written approval of the Minister.”

- (b) the deletion of subsection (6).

Amendment of section 14 of Act 57 of 1997

8. Section 14 of the principal Act is hereby amended by-

- (a) the substitution in subsection in (1) of the following subsection:

“(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 not exceeding [of] eight (8) 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 a non-renewable period not exceeding 24 months [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.”.

- (b) the substitution for paragraph (a) of the following paragraph:

“(a) to obtain the consent of the Minister after consultation with the board before doing anything specified in the licence;

- (c) the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) to refer specified matters to the board and the board must refer such matters to the Minister **[or to the board, as the case may be,]** for approval;”

- (d) the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) to ensure that such requirements as the Minister after consultation with the board [or the board] may from time to time determine or approve in terms of the licence are complied with, including the imposition of penalties as contemplated in section 62 in the event of the licensee not complying with any provision of this Act or the licence;”.

Amendment of section 15 of Act 57 of 1997

9. Section 15 of the principal Act is hereby amended by-

- (a) the substitution for subsection (1) of the following subsection:

“(1) The Minister **[or the board]** may after consultation with the board vary any condition in the licence granted under section 13—

(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—

(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.”.

(b) the substitution for subsection (2) of the following subsection:

“(2) If the Minister after consultation with the board**[or the board]**,and 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;”. and

(c) the substitution for subsection (3) of the following subsection:

“(3) The provisions of the licence to vary a condition in the licence under subsection (1) may allow the Minister after consultation with the board **[or the board]** to add a condition to the licence or to omit a condition from the licence;”.

Amendment of section 16 of Act 57 of 1997

10. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If the Minister or the board has reason to believe—

(a) that a **[person] licensee** is likely to contravene a condition in the licence granted under section 13;

(b) that a **[person] licensee** has contravened such a condition and there is a reasonable likelihood that the contravention will continue or be repeated; or

(c) that a **[person] licensee** has contravened such a condition and that the contravention can be remedied, the Minister after consultation with the **[or the] board, as the case may be, may –**

(i) notify such licensee of such contravention;

(ii) instruct such licensee to remedy the contravention within a period stipulated in such a notice; or

(iii) 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.”.

Amendment of section 17 of Act 57 of 1997

11. Section 17 of the principal Act is hereby amended by the substitution for section 17 of the following section:

“17. The licence granted under section 13 may be revoked by the Minister after consultation with the board **[or the board]** on the following grounds.”.

Amendment of section 18 of Act 57 of 1997**12. Section 18 of the principal Act is hereby amended by-****(a) the substitution for subsection (1) of the following subsection:**

“(1) If the Minister after consultation with the board **[or the board]** is satisfied that grounds exist for the revocation of the licence granted in terms of section 13, the Minister **[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.”; and

(b) the substitution for subsection (2) of the following subsection:

“(2) If the licence for the National Lottery ceases to be valid in terms of subsection (1), the Minister after consultation with the board **[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] the Minister** shall forthwith inform the Speaker of the National Assembly and the Chairperson of the National Council of Provinces of that fact. **[be so informed on the first day of the next session].**”.

Amendment of section 19 of Act 57 of 1997**13. Section 19 of the Principal Act is hereby amended by-****(a) the substitution for subsection (1) of the following subsection:**

“(1) The Minister after consultation with **[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.]**

(b) the substitution for subsection (2) of the following subsection:

“(2) If the Minister after consultation with **[or]** the board decides to suspend the licence in terms of subsection (1), the Minister shall forthwith inform the board and Parliament of that fact and of the grounds for the suspension, and if Parliament is not then in session, the Minister shall forthwith inform the Speaker of the National Assembly and the Chairperson of the National Council of Provinces of that fact. **[on the first day of the next session of Parliament]**

(c) the substitution for subsection (4) of the following subsection:

“(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, the Minister shall forthwith inform the Speaker of the National Assembly and the

Chairperson of the National Council of Provinces of that fact.” [on the first day of the next session of Parliament].”.

Amendment of section 20 of Act 57 of 1997

14. Section 20 of the Principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

“(1) If reasons are furnished by the licensee as contemplated in section 18(1), the Minister after consultation with [and or] the board [, as the case may be], shall after considering such reasons—

(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 after consultation with [or] the board shall consider the matter and decide whether or not to revoke the licence.”.

(b) the substitution for subsection (2) of the following subsection:

“(2) If the Minister after consultation with [or] the board decides to revoke the licence, the Minister [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.”; and

(c) the substitution for subsection (3) of the following subsection:

“(3) If the Minister after consultation with [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, the Minister shall forthwith inform the Speaker of the National Assembly and the Chairperson of the National Council of Provinces of that fact.”. [on the first day of the next session of Parliament].”.

Amendment of section 21 of Act 57 of 1997

15. Section 21 of the Principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The board shall annually table [a] financial reports in accordance with the provisions of the Public Finance Management Act in Parliament in respect of the distributed funds, which financial report [may] must form part of the report contemplated in section 12(1)(b).”.

Amendment of section 22 of Act 57 of 1997

16. Section 22 of the Principal Act is hereby amended by-

(a) the substitution for the heading of the following heading:

“ Administration of the fund.”

(b) the substitution for subsection (1) of the following subsection:

“(1) The fund shall [vest in and] be administered by the board.”

(c) the addition after subsection (2) of the following subsection:

“(3) The fund shall be held in trust by the board for distribution by the distribution agency of any sum paid into the fund as is allocated for expenditure referred to in section 26 subsection (3) paragraphs (b), (c), (d) and (e).”

Amendment of section 26 of Act 57 of 1997

17. Section 26 of the Principal Act is hereby amended by the deletion of subsection (3) (a).”

Insertion of section 26A in Act 57 of 1997

18. The principal Act is hereby amended by the insertion after section 26 of the following section:

“ Distributing Agency

26A. The distributing agency contemplated in section 22(3) of this Act shall-

(a) be appointed by the Minister in terms of this Act;

(b) be accountable to the board; and

(c) be responsible for adjudicating and distributing any sum paid into the fund in terms of this Act.”

Insertion of section 26B in Act 57 of 1997

19. The principal Act is hereby amended by the insertion after section 26A of the following section:

“Composition, appointments and condition of services of distributing Agency

26B. (1) The distributing agency shall be responsible for adjudicating and distributing grants to good causes contemplated in in sections 28,29,30 and 31 of this Act;

(2) The distributing agency shall be composed of persons appointed on a permanent basis as distributors of the grants, who shall be staff members of the board, as adjudicators and distributors of the grants;

(3) The Minister may after consultation with the board appoint persons with suitable combination of qualifications, skills and expertise to distribute the grants in terms of this Act;

(4) The Minister may after consultation with the board -

(a) appoint nine persons on a permanent basis as distributors of the grants on such terms and conditions determined by the Minister in consultation with the Minister responsible for public administration and Minister responsible for finance in the national sphere of government;

(b) designate one person from amongst the members as a chairperson, for a non-renewable period of five years, on such terms and conditions determined by the Minister in consultation with the Minister responsible for public administration and Minister responsible for finance in the national sphere of Government.

(5) A permanent distributing agency staff member appointment as such shall not be affected at the end of his or her term as chairperson.

Insertion of section 26C in Act 57 of 1997

20. The principal Act is hereby amended by the insertion after section 26B of the following section:

“Disqualifications for distributing agency membership

26C (1) The Minister may not appoint a person as a member of a distribution agency if such a person-

(a) is a political office-bearer;

(b) is disqualified to act as a director of a company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);

(c) has been found in any civil or criminal proceedings by a court of law, whether in the Republic or elsewhere, to have acted fraudulently, dishonestly, or in breach of a fiduciary duty, or of any other offence for which such person has been sentenced to direct imprisonment without the option of a fine in the past five (5) years;

(d) has been removed from a position of trust in the past five (5) years on account of misconduct;

(e) has been at any time found to be in contravention of this Act or any other Act applicable in the public service in the past five (5) years; and

(f) is not of a sound mind.”

(2) The Minister may also subject members of the distributing agency to a probity test, at any time and shall upon receiving a report on their probity decide whether such report warrants a removal of the member from the distributing agency, in which case the appropriate removal steps shall be taken”.

Insertion of section 26D in Act 57 of 1997

21. The principal Act is hereby amended by the insertion after section 26C of the following section:

“Conflict of interest

26D. (1) Should the Minister or the board become aware of any conflict of interest or perceived conflict of interest or circumstances that may compromise the impartiality of a person in executing his or her duties as a distributor of grants, the Minister may immediately order such person to stop executing any duties related to distributing grants pending any investigation or enquiry;

(2) Should any person appointed in terms of this section become aware of any conflict of interest or perceived conflict of interest or circumstances that is likely to compromise his or her impartiality in executing his or her duties, such person must immediately stop executing such duties and must within seven (7) days of becoming aware of such conflict or perceived conflict or circumstances inform the Minister and the board of any such conflict or circumstance and the Minister in consultation with the board must consider whether such conflict or circumstance is likely to compromise the impartiality of such person in discharging his or her duties;

(3) The Minister shall, after considering whether such conflict or circumstances is likely to compromise the impartiality of such a person, inform such a person of his or her decision which may include-

(a) suspending such a person pending any further investigations;

(b) instituting a disciplinary enquiry to probe such conflict or circumstances;

(c) dismissal or discharge of such a person from executing his or her duties as a distributor of grants on the ground of serious misconduct;

(4) A member of the distributing agency his or her spouse, life partner, business partner or associate, may not hold an office in or be employed by or have any other interest whatsoever, whether direct or indirect, in any company or other entity which applies for grants or supplies goods or renders services to the board unless such an interest is declared to the satisfaction of the Minister;”.

Insertion of section 26E in Act 57 of 1997

22. The principal Act is hereby amended by the insertion after section 26D of the following section:

“ Applications for grants

26E. (1) The distributing agency shall adjudicate on applications for grants and may pay such grants to appropriate recipients in accordance with the guidelines or directives issued in terms of this Act;

(2) No applications for grants by a juristic person acting as an agent, representative or conduit of any potential beneficiary shall be considered unless good cause is shown as to why such potential beneficiary is unable to make an application on its own;

(2) A decision of the distributing agency concerning application for grant is subject to review or appeal to the board: Provided that such review or appeal shall be adjudicated upon by a board committee set up for such purpose without delay;

(3) If the board overrules the decision of the distributing agency during review or appeal proceedings, the board must order the distributing agency to re-evaluate the application taking into consideration recommendations or matters raised by the board.

(4) An application that has had his or her application refused by the board may approach a court of law for the appropriate relief: Provided that he or she has exhausted the internal appeal procedure set out in this section.”.

Amendment of section 27 of Act 57 of 1997

23. Section 27 of the Principal Act is hereby amended by the deletion of section 27.

Amendment of section 28 of Act 57 of 1997

24. Section 28 of the Principal Act is hereby amended by-

(a) the substitution for subsection (1) of the following subsection:

“(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 suitable combination of qualifications skills and expertise to distribute the allocated sum fairly and equitably amongst all person who meet the prescribed requirements.”;

(b) the substitution for subsection (2) of the following subsection:

“(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 board in consultation with the Minister [**Minister after consultation with the Minister responsible for welfare and population development in the national sphere of government of government or by the Minister of Finance**], from the sum allocated for charitable purposes.”;

(c) the deletion of subsection (3).”.

Amendment of section 29 of Act 57 of 1997

25. Section 29 of the principal Act is hereby amended by-

(a) the substitution of subsection (1) of the following subsection:

“(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**] which possesses the required suitable combination of qualifications, skills and expertise to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.”;

(b) the substitution for subsection (2) of the following subsection:

“(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 board in consultation with the Minister [**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.”;

(c) the deletion of subsection (3).”.

Amendment of section 30 of Act 57 of 1997

26. Section 30 of the principal Act is hereby amended by-

(a) the substitution of subsection (1) of the following subsection:

“(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**] which possesses the required suitable combination of qualifications,

skills and expertise to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.”;

(c) the substitution for subsection (2) of the following subsection:

“(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 board [**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.”;

(d) the deletion of subsection (3).”.

Amendment of section 31 of Act 57 of 1997

27. Section 31 of the principal Act is hereby amended by-

(a) the deletion of subsection (2);

(b) the substitution for subsection (3) of the following subsection:

“(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 board [**Minister, or by the Minister of finance**], from the sum allocated for specific purposes identified by the Minister after consultation with the board;

(c) the deletion of subsection (4).”.

Amendment of section 32 of Act 57 of 1997

28. Section 32 of the principal Act is hereby amended by-

(a) the substitution for subsection (1) of the following subsection:

“(1) The [**Minister shall, after consultation with the**] distributing agency in consultation with the board may [,] 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 the distributing agency [**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 distributing agency in consultation with the board [**or the distributing agency, as the case may be,**] may impose;

(b) the deletion of paragraph (b) of subsection (1).

(c) the substitution for paragraph (c) of subsection (1) of the following paragraph

- “(c) that a category of juristic person prescribed by the Minister after consultation with the board shall in respect of amounts prescribed by the Minister after consultation with the board, granted to it from time to time provide **[the board or]** the distributing agency with financial statements which are audited or independently reviewed, whatever the case might be, [audited accounts], of all amounts distributed.”.
- (d) the substitution for paragraph (d) of subsection (1) of the following paragraph:
“(d) any recipient of a grant to provide **[the board or]** the distributing agency with any relevant information it may require.”.
- (e) the insertion after paragraph (d) of the following paragraph:
“(e) a directive on the splitting of the grant distributed between administrative costs and the actual cause funded.”.
- (f) The substitution for subsection (2) of the following subsection:
“(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.”.
- (f) The substitution for subsection (3) of the following subsection:
“(3) (a) In considering any application for a grant in terms of this Chapter, the distributing agency shall comply with any criterion prescribed or issued [directions given to it by [the Minister] by the Minister after consultation with the board] 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 amount.”.
(b) In determining matters to be taken into account in determining the persons to whom, purpose to whom, the purpose for which, and the conditions subject to which the distributing agency is to allocate any amounts, the board in consultation with the Minister, must take into account general development in the Republic and government priorities at the relevant time.”.
- (d) the deletion of subsection (4).

Amendment of section 33 of Act 57 of 1997

29. Section 33 of the principal Act is hereby deleted.

Amendment of section 60 of Act 57 of 1997

30. Section 60 is amended by the addition of the following paragraphs:

“(x) the limits on the amounts of the grant to be awarded to an applicant in a twelve (12) month period;

(xi) the number of distributing agency members who may seat , adjudicate and distribute a grant as well as the upper limits on amounts they may adjudicate and distribute.”.

Short title and commencement

31. This Act is called the Lotteries Amendment Act, 2013 and shall come into operation on a date fixed by the President by proclamation in the Gazette.

SCHEDULE 1**Transitional provisions**

1. The terms of office of the members of the distributing agencies appointed in terms of the Lotteries Act 57 of 1997 shall not come to an end as a result of coming into operation of this Act.

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