REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

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THE PRESIDENCY

No. 1020 18 December 2013

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 32 of 2013: Lotteries Amendment Act, 2013

DIE PRESIDENSIE

No. 1020 18 Desember 2013

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No 32 van 2013: Wysigingswet op Loterye, 2013

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.

(English text signed by the President)
(Assented to 14 December 2013)

ACT

To amend the Lotteries Act, 1997, so as to amend certain definitions; to provide for the establishment of a National Lotteries Commission; to provide for the extension of the powers of the board; to provide for the licensing of an organ of state to conduct the National Lottery; to provide for a clear accountability process for the distributing agency; to provide for the professionalisation of the distributing agency; to eliminate overlapping of functions between the Minister and the board; to provide for the removal of the reconstruction and development programme as a category entitled to be allocated money of the fund; and to provide for matters connected therewith.

BE IT ENACTED by the 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—

(a) by the substitution for the definition of "board" of the following definition:

" **'board'** means the board of the National Lotteries **[Board established by section 2]** Commission appointed in terms of section 3;";

(b) by the deletion of the definition of "chief executive officer";

(c) by the insertion after the definition of "charitable expenditure" of the following definition:

" **'Commission'** means the National Lotteries Commission established by section 2;";

(d) by the substitution for the definition of "Constitution" of the following definition:

" **'Constitution'** means the Constitution of the Republic of South Africa, 1996 **[(Act No. 108 of 1996)]**;";

(e) by 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;";

ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
______	Woorde met ’n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 14 Desember 2013)

WET

Tot wysiging van die Wet op Loterye, 1997, ten einde sekere omskrywings te wysig; voorsiening te maak vir die instelling van ’n Nasionale Loteryekommissie; voorsiening te maak vir die uitbreiding van die bevoegdhede van die raad; voorsiening te maak vir die lisensiëring van ’n staatsorgaan om die Nasionale Lotery te bedryf; voorsiening te maak vir ’n duidelike aanspreeklikheidsproses vir die distribusieagent; voorsiening te maak vir die professionalisering van die distribusieagent; oorvleueling van werksaamhede tussen die Minister en die raad uit te skakel; voorsiening te maak vir die verwydering van die heropbouing- en ontwikkelingsprogram as ’n kategorie wat geregtig is op geldelike toekennings uit die fonds; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 57 van 1997

1. Artikel 1 van die Wet op Loterye, 1997 (hierna die Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van “distribueer” deur die volgende omskrywing te vervang:
“ **‘distribueer’**, met betrekking tot dokumente of ander voorwerpe, ook distribusie na persone of plekke binne **[of buite]** die Republiek;”;

(b) deur die omskrywing van “distribusieagent” deur die volgende omskrywing te vervang:
“ **‘distribusieagent’ [’n persoon]** ’n agentskap deur die Minister aangestel **[om geld te distribueer]** ingevolge artikel 26A gelees met artikel 26B(3) van hierdie Wet, maar nie enige departement in die nasionale of provinsiale sfeer van regering nie;”;

(c) deur die omskrywing van “Grondwet” deur die volgende omskrywing te vervang:
“ **‘Grondwet’** die Grondwet van die Republiek van Suid-Afrika, 1996 **[(Wet No. 108 van 1996)]**;”;

(d) deur die omskrywing van “hoof uitvoerende beampte” te skrap;

(e) deur die volgende omskrywing na die omskrywing van “koerant” in te voeg:
“ **‘Kommissie’** die Nasionale Loteryekommissie by artikel 2 ingestel;”;

(f) by the substitution for the definition of "distributing agency" of the following definition:

" **'distributing agency'** means **[a person]** an agency appointed by the Minister **[to distribute money]** in terms of section 26A read together with section 26B(3) of this Act, but not any department in the national or a provincial sphere of government;".

(g) by the insertion after the definition of "fund" of the following definition:

" **'immediate family member'** includes a spouse, parents, children, stepchildren, fostered or adopted children and siblings of either spouse;";

(h) by the substitution for the definition of "licensee" of the following definition:

" **'licensee'** means **[the]** a person **[to whom the]** or organ of state issued with a licence for the National Lottery **[has been issued]** in terms of section 13 **[(1)]**;";

(i) by the insertion after the definition of "newspaper" of the following definition:

" **'organ of state'** means an organ of state as defined in section 239 of the Constitution;"; and

(j) by the deletion of the definition of "promotional competition".

Amendment of title of Chapter 1 of Act 57 of 1997

2. The title of Chapter 1 of the principal Act is hereby substituted for the following title:

"**National Lotteries [Board] Commission**"

Substitution of section 2 of Act 57 of 1997

3. The following section is hereby substituted for section 2 of the principal Act:

"**Establishment of National Lotteries [Board] Commission**

2. (1) There is hereby established a **[board]** Commission to be known as the National Lotteries **[Board]** Commission, which shall be a juristic person.

(2) The Commission is governed by a board appointed in accordance with this Act.".

Insertion of sections 2A, 2B, 2C, 2D, 2E, 2F and 2G in Act 57 of 1997

4. The principal Act is hereby amended by the insertion after section 2 of the following sections:

"**Functions of Commission**

2A. (1) The Commission shall, applying the principles of openness and transparency, exercise the functions assigned to it in terms of this Act by the Minister, board or any other law.

(2) The Commission must ensure that—

(a) the National Lottery and sports pools are conducted with all due propriety and strictly in accordance with the Constitution, this Act, all other applicable law and the licence for the National Lottery, together with any agreement pertaining to that licence; and

(b) the interests of every participant in the National Lottery are adequately protected.

(3) The Commission may, upon request by the Minister, board or on its own initiative in consultation with the board, conduct research on worthy good causes that may be funded without lodging an application prescribed in terms of this Act.

(4) The Commission may, upon request by the Minister, board or on its own initiative in consultation with the board, invite applications for grants from worthy good causes in the prescribed manner.

(5) The Commission shall—

(a) promote public knowledge and awareness by, amongst others—

(f) deur die omskrywing van "lisensiehouer" deur die volgende omskrywing te vervang:

" **'lisensiehouer' [die]** 'n persoon **[aan wie die]** of staatsorgaan aan wie 'n lisensie vir die Nasionale Lotery uitgereik is ingevolge artikel 13**[(1)]**;";

(g) deur die volgende omskrywing na die omskrywing van "netto opbrengs van die Nasionale Lotery" in te voeg:

" **'onmiddellike gesinslid'** ook 'n gade, ouers, kinders, stiefkinders, kinders in pleegsorg of aangenome kinders en broers en susters van een van die gades;";

(h) deur die omskrywing van "raad" deur die volgende omskrywing te vervang:

" **'raad'** die raad **[op]** van die Nasionale **[Loterye ingestel by artikel 2]** Loteryekommissie ingevolge artikel 3 aangestel;";

(i) deur die omskrywing van "reklamekompetisie" te skrap; en

(j) deur die volgende omskrywing na die omskrywing van "sportpoel" in te voeg:

" **'staatsorgaan'** 'n staatsorgaan soos in artikel 239 van die Grondwet omskryf;".

Wysiging van titel van Hoofstuk 1 van Wet 57 van 1997

2. Die titel van Hoofstuk 1 van die Hoofwet word hierby deur die volgende titel vervang:

"**Nasionale [Loterye] Loteryekommissie**"

Vervanging van artikel 2 van Wet 57 van 1997

3. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

"**Instelling van [Raad op] Nasionale [Loterye] Loteryekommissie**

2. (1) Daar word hierby 'n **[raad]** Kommissie ingestel wat die **[Raad op]** Nasionale **[Loterye]** Loteryekommissie heet en met regspersoonlikheid beklee is.

(2) Die Kommissie word deur 'n raad wat ooreenkomstig hierdie Wet aangestel is, beheer.".

Invoeging van artikels 2A, 2B, 2C, 2D, 2E, 2F en 2G in Wet 57 van 1997

4. Die Hoofwet word hierby gewysig deur die volgende artikels na artikel 2 in te voeg:

"**Werksaamhede van Kommissie**

2A. (1) Die Kommissie moet werksaamhede wat ingevolge hierdie Wet, deur die Minister, raad of enige ander wet aan die Kommissie toegewys is, verrig, en moet die beginsels van openheid en deursigtigheid toepas.

(2) Die Kommissie moet verseker dat—

(a) die Nasionale Lotery en sportpoele met nodige behoorlikheid en streng ooreenkomstig die Grondwet, hierdie Wet, alle ander toepaslike wetsbepalings en die lisensie vir die Nasionale Lotery tesame met enige ooreenkoms rakende daardie lisensie, bedryf word; en

(b) die belange van elke deelnemer aan die Nasionale Loterye genoegsaam beskerm word.

(3) Die Kommissie kan, op versoek van die Minister, raad of uit eie beweging in oorleg met die raad, navorsing doen oor verdienstelike goeie sake wat befonds kan word sonder dat 'n aansoek ingevolge hierdie Wet voorgeskryf, ingedien is.

(4) Die Kommissie kan op versoek deur die Minister, raad of uit eie beweging in oorleg met die raad, aansoeke om toekennings van verdienstelike goeie sake, op die voorgeskrewe wyse nooi.

(5) Die Kommissie moet—

(a) openbare kennis en bewustheid bevorder deur onder andere—

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(i) developing and implementing educational and informational measures to educate the public about the lotteries and provisions of this Act; and
(ii) educating the public by explaining the process, requirements and qualifications relating to the application for grants in terms of this Act;

(b) manage the staff, and its financial, administrative and clerical functions; and
(c) exercise any other function as delegated or directed by the Minister or the board.

Appointment of Commissioner

2B. (1) The board shall, in consultation with the Minister, appoint a person with suitable qualifications and experience as Commissioner of the Commission who—

(a) is accountable to the board for the performance of all financial, administrative and clerical functions, as well as any duties which may be delegated to him or her by the board under this Act; and
(b) holds office for an agreed term of five years which may be renewed only once for a further period of five years.

(2) The board shall, in consultation with the Minister, appoint any person as an Acting Commissioner to perform the functions of the Commission for such determined term not exceeding 12 months whenever—

(a) the Commissioner is unable for any reason to perform the functions of the Commissioner; or
(b) the office of the Commissioner is vacant.

(3) The Minister shall, in consultation with the Minister of Finance, determine the Commissioner's and Acting Commissioner's remuneration, allowances, benefits and other special terms and conditions of employment.

Removal of Commissioner

2C. (1) The board, in consultation with the Minister, may at any time discharge or suspend the Commissioner from office if—

(a) he or she becomes disqualified in terms of section 2E;
(b) the Commissioner repeatedly fails, to the satisfaction of the Minister and the board, to perform the duties of the Commission;
(c) due to any physical or mental illness or disability, the Commissioner becomes incapable of performing the functions of that office or unsatisfactorily performs such functions;
(d) he or she contravenes any provision of this Act; or
(e) he or she is found guilty—
(i) in any disciplinary proceeding whether in the Republic or elsewhere of having acted fraudulently, dishonourably, or in breach of a fiduciary duty; or
(ii) in any court of law whether in the Republic or elsewhere of an offence that involves an element of dishonesty.

Appointment of staff of Commission

2D. (1) The Commissioner shall—

(a) in consultation with the board, appoint suitable persons as senior executive officials of the Commission; and
(b) appoint such staff members as may be necessary to efficiently and effectively perform the functions and duties of the Commission, on such terms and conditions determined by the board and approved by the Minister in consultation with the Minister of Finance.

(2) The Commissioner may, in consultation with the board, request the Minister to authorise or approve the transfer or secondment of officials in

(i) opvoedkundige en inligtingsmaatreëls te ontwikkel en te implementeer om die publiek op te voed oor die loterye en die bepalings van hierdie Wet; en
(ii) die publiek op te voed deur die proses, vereistes en kwalifikasies met betrekking tot aansoeke om toekennings ingevolge hierdie Wet, te verduidelik;

(b) die personeel en sy finansiële, administratiewe en klerklike werksaamhede bestuur; en
(c) enige ander werksaamheid soos deur die Minister of raad gedelegeer of gelas, uitvoer.

Aanstelling van Kommissaris

2B. (1) Die raad stel, in oorleg met die Minister, 'n persoon met geskikte kwalifikasies en ervaring as die Kommissaris van die Kommissie aan, wat—
(a) tot die raad aanspreeklik is vir die verrigting van alle finansiële, administratiewe en klerklike werksaamhede, asook enige pligte wat kragtens hierdie Wet deur die raad aan hom of haar gedelegeer mag word; en
(b) beklee die amp vir 'n afgesproke termyn van vyf jaar wat slegs eenkeer met 'n verdere tydperk van vyf jaar hernu kan word.

(2) Die raad, in oorleg met die Minister, moet 'n persoon as 'n Waarnemende Kommissaris aanstel om die werksaamhede van die Kommissie te verrig vir sodanige bepaalde tydperk van hoogstens 12 maande wanneer—
(a) die Kommissaris om enige rede nie die werksaamhede van die Kommissaris kan verrig nie; of
(b) die amp van die Kommissaris vakant is.

(3) Die Minister, in oorleg met die Minister van Finansies, moet die Kommissaris en Waarnemende Kommissaris se besoldiging, toelaes, voordele en ander spesiale aanstellingsvoorwaardes en -bedinge bepaal.

Ontheffing van Kommissaris

2C. (1) Die raad kan, in oorleg met die Minister, die Kommissaris te eniger tyd van die amp onthef of skors indien—
(a) hy of sy ingevolge artikel 2E onbevoeg word;
(b) die Kommissaris herhaaldelik versuim om die pligte van die Kommissie na bevrediging van die Minister en raad te verrig;
(c) die Kommissaris te wyte aan enige fisieke of geestelike siekte of gebrek, onbevoeg raak om die werksaamhede van daardie amp te verrig of sodanige werksaamhede onbevredigend verrig;
(d) hy of sy enige bepaling van hierdie Wet nie nakom nie; of
(e) hy of sy—
(i) in enige dissiplinêre verrigting hetsy in die Republiek of elders, daarvan skuldig bevind word dat hy of sy bedrieglik, oneervol, of in stryd met 'n vertrouensplig, opgetree het; of
(ii) in enige geregshof hetsy in die Republiek of elders skuldig bevind word aan 'n misdryf wat 'n element van oneerlikheid behels.

Aanstelling van personeel van Kommissie

2D. (1) Die Kommissaris moet—
(a) in oorleg met die raad, geskikte persone as senior uitvoerende beamptes van die Kommissie;
(b) sodanige personeellede wat nodig mag wees om die werksaamhede en pligte van die Kommissie doeltreffend en doelmatig te verrig,

aanstel op sodanige bedinge en voorwaardes deur die raad bepaal en deur die Minister, in oorleg met die Minister van Finansies, goedgekeur.

(2) Die Kommissaris kan, in oorleg met die raad, versoek dat die Minister die oorplasing of sekondering van beamptes in die departement

the department in terms of the applicable legislation, to assist the Commission in the performance of its functions.

(3) The Commissioner may—

(a) assign management or other duties to employees with appropriate knowledge and skills to assist the Commission in the management or control over the functioning of the Commission; or

(b) delegate, with or without conditions, any of the powers or functions of the Commissioner to any suitably qualified employee of the Commission, but any such delegation does not divest the Commissioner of responsibility for the exercise of any power or performance of any duty.

(4) A delegation by the Commissioner of any of the powers entrusted or delegated to it in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), shall be in accordance with section 56 of that Act.

Disqualifications

2E. (1) The board shall not appoint a person as a Commissioner who—

(a) is not a South African citizen;

(b) or whose spouse, life partner, business partner or associate, holds an office in or is employed by or has any other interest whatsoever, whether direct or indirect, in any company or other entity which supplies goods or renders services to the Commission, unless such an interest is declared to the satisfaction of the Minister;

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

(d) has been found in any civil or criminal proceedings by a court of law, whether in the Republic or elsewhere, to have acted fraudulently, dishonourably 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;

(e) has been removed from a position of trust;

(f) has prematurely been removed as member of a board or other accounting authority of a public entity;

(g) was at any time found to be in contravention of this Act;

(h) has been declared by a court of law to be of an unsound mind; or

(i) is an unrehabilitated insolvent.

(2) Nothing in this Act prevents the board from subjecting a prospective Commissioner or a Commissioner to a probity test to determine suitability or continued suitability of a candidate for appointment as a Commissioner or continued appointment as a Commissioner.

Conflict and declaration of interest

2F. (1) The Commissioner, or any person appointed by the Commission, may not—

(a) engage in any activity that may undermine the integrity of the Commission;

(b) attend, participate in, or influence any investigation, hearing or decision concerning a matter in respect of which that person has a direct financial interest or any similar personal interest;

(c) make private use of, or profit from, any confidential information obtained as a result of performing that person's official functions in the Commission; or

(d) divulge any information referred to in paragraph *(c)* to any third party, except as required as part of that person's official functions within the Commission.

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ingevolge die toepaslike wetgewing magtig of goedkeur om die Kommissie in die verrigting van sy werksaamhede by te staan.

(3) Die Kommissaris kan—

(a) bestuurs- of ander pligte aan werknemers met geskikte kennis en vaardighede opdra om die Kommissie in die bestuur, of beheer oor, die funksionering van die Kommissie by te staan; of

(b) met of sonder voorwaardes, enige van die bevoegdhede of werksaamhede van die Kommissaris aan enige gepas gekwalifiseerde werknemer van die Kommissie delegeer, maar enige sodanige delegering onthef die Kommissaris nie van verantwoordelikheid vir die uitoefening van enige bevoegdheid of verrigting van enige plig nie.

(4) 'n Delegering deur die Kommissaris van enige van die bevoegdhede daaraan toevertrou of gedelegeer ingevolge van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), moet ooreenkomstig artikel 56 van daardie Wet wees.

Onbevoegdheid

2E. (1) Die raad stel nie 'n persoon as 'n Kommissaris aan nie wat—

(a) nie 'n Suid-Afrikaanse burger is nie;

(b) of wie se gade, lewensmaat, sakevennoot of medewerker, 'n amp beklee in of in diens is van of enige ander belang hoegenaamd, hetsy direk of indirek, in enige maatskappy of ander entiteit het wat goedere voorsien of dienste lewer aan die Kommissie, tensy sodanige belang tot oortuiging van die Minister verklaar is;

(c) onbevoeg is om as 'n direkteur op te tree van 'n maatskappy ingevolge die Maatskappywet, 2008 (Wet No. 71 van 2008), ingelyf;

(d) in enige siviele of strafregtelike verrigtinge deur 'n geregshof, hetsy in die Republiek of elders, gevind is bedrieglik of oneerlik op te getree het, of 'n vertrouensplig te verbreek het, of enige ander misdryf waarvoor sodanige persoon tot direkte gevangenisstraf sonder die opsie van 'n boete, gevonnis is;

(e) uit 'n vertrouensposisie verwyder is;

(f) vroeg verwyder is as lid van 'n raad of ander rekenpligtige gesag van 'n openbare entiteit;

(g) te eniger tyd bevind is hierdie Wet te oortree het;

(h) in sy of haar geestesvermoë gekrenk is en deur 'n bevoegde hof aldus verklaar is; en

(i) 'n ongerehabiliteerde insolvent is.

(2) Niks in hierdie Wet weerhou die raad daarvan om 'n moontlike Kommissaris of 'n Kommissaris aan 'n eerlikheidstoets te onderwerp nie, ten einde geskiktheid of voortgesette geskiktheid van 'n kandidaat vir aanstelling as 'n Kommissaris of voortgesette aanstelling as 'n Kommissaris, vas te stel.

Botsing en verklaring van belange

2F. (1) Die Kommissaris, of enige persoon deur die Kommissie aangestel, mag nie—

(a) by enige handeling betrokke raak wat die integriteit van die Kommissie kan ondermyn nie;

(b) enige ondersoek, verhoor of beslissing rakende 'n aangeleentheid ten opsigte waarvan daardie persoon 'n direkte finansiële belang of enige soortgelyke persoonlike belang het, bywoon, daaraan deelneem of dit beïnvloed nie;

(c) privaat gebruik maak van, of wins maak uit, enige vertroulike inligting wat verkry is in die loop van die verrigting van daardie persoon se amptelike werksaamhede in die Kommissie nie; of

(d) enige inligting in paragraaf *(c)* bedoel aan enige derde party openbaar maak nie, buiten soos vereis as deel van daardie persoon se amptelike werksaamhede binne die Kommissie.

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(2) The Commissioner and every employee of the Commission must, before being appointed, submit to the Commission a written statement in which he or she declares whether or not that person has any direct or indirect interest, financially or otherwise, whether or not such interest—
(a) may constitute a conflict of interest in respect of his or her functions as a member of staff of the Commission; or
(b) could reasonably be expected to compromise the Commission in the performance of its functions.

(3) Should the Commissioner or any person appointed by the Commissioner become aware of any conflict of interest or perceived conflict of interest or circumstances that may compromise his or her impartiality in executing his or her duties as so appointed, he or she must immediately stop executing such duties and must within seven days of becoming aware of such conflict or perceived conflict or circumstances—
(a) in the case of the Commissioner, inform the board; and
(b) in the case of any person appointed by the Commissioner, inform the Commissioner of any such conflict or circumstance.

(4) The board or the Commissioner may consider whether such conflict or circumstance is likely to compromise the impartiality of such a person in the performance of his or her duties.

(5) Should the Commissioner or any employee of the Commission become aware of any conflict of interest or perceived conflict of interest or circumstances that may compromise his or her impartiality in executing his or her duties, he or she must immediately stop executing such duties and must within seven days of becoming aware of such conflict or perceived conflict or circumstances, inform the Commissioner or the board, as the case may be, of any such conflict or circumstance.

(6) The Commissioner or the board may consider whether such conflict or circumstance is likely to compromise the impartiality of such a person in the performance of his or her duties.

(7) The Commissioner or the board may institute disciplinary proceedings against any person who fails or refuses to comply with or contravenes this section in accordance with applicable legislation.

(8) The board or the Commissioner, as the case may be, may, after considering whether such conflict or circumstance is likely to compromise the impartiality of such a person, inform such a person of his or her decision which may include and is not limited to—
(a) suspending such a person pending any further investigations;
(b) instituting a disciplinary inquiry to probe such conflict or circumstance; or
(c) dismissing such a person from his or her employment in accordance with applicable legislation.

Confidentiality and restraint of trade

2G. (1) The Commissioner or any employee of the Commission may not use his or her position or privileges, or confidential information obtained as an employee of the Commission, for personal gain or to improperly benefit another person.

(2) The Commissioner or any employee or his or her spouse, life partner, immediate family member or business partner or associate, may not during the time of his or her employment at the Commission or for a period of 24 months after the termination or expiry of his or her employment, take up employment or in any way receive any benefit from any person who received a grant or intends to apply or has applied in terms of section 13, for a licence to conduct the National Lottery.

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(2) Die Kommissaris en elke werknemer van die Kommissie moet, voor aanstelling, 'n skriftelike verklaring aan die Kommissie voorlê waarin hy of sy verklaar of daardie persoon enige direkte of indirekte belang, finansieel of andersins, het al dan nie, hetsy daardie belang—

(a) 'n botsing van belange ten opsigte van sy of haar werksaamhede as 'n personeellid van die Kommissie mag daarstel, al dan nie; of
(b) redelik verwag kan word dat dit die Kommissie in die verrigting van sy werksaamhede onder verdenking mag bring, al dan nie.

(3) Indien die Kommissaris of enige persoon deur die Kommissaris aangestel, bewus word van enige botsing van belange of vermoedelike botsing van belange of omstandighede wat sy of haar onpartydigheid in die verrigting van pligte waarvoor hy of sy aldus aangestel is onder verdenking mag bring, onmiddellik ophou om sodanige pligte te verrig en moet binne sewe dae nadat hy of sy van sodanige botsing of vermoedelike botsing of omstandighede bewus geword het—

(a) in die geval van die Kommissaris, die raad; en
(b) in die geval van enige persoon deur die Kommissaris aangestel, die Kommissaris,

van enige sodanige botsing of omstandigheid verwittig.

(4) Die raad of die Kommissaris mag oorweeg of sodanige botsing of omstandigheid die onpartydigheid van sodanige persoon in die verrigting van sy of haar pligte waarskynlik onder verdenking mag bring.

(5) Indien die Kommissaris of enige werknemer van die Kommissie bewus word van enige botsing van belange of vermoedelike botsing van belange of omstandighede wat sy of haar ontpartydigheid in die verrigting van sy of haar pligte onder verdenking mag bring, moet hy of sy onmiddellik ophou om sodanige pligte te verrig en moet binne sewe dae nadat hy of sy van sodanige botsing of vermoedelike botsing of omstandighede bewus geword het, die Kommissaris of die raad, na gelang van die geval, van enige sodanige botsing of omstandigheid verwittig.

(6) Die Kommissaris of raad mag oorweeg of sodanige botsing of omstandigheid die onpartydigheid van sodanige persoon in die verrigting van sy of haar pligte waarskynlik onder verdenking mag bring.

(7) Die Kommissaris of raad mag dissiplinêre verrigtinge ooreenkomstig toepaslike wetgewing teen enige persoon instel wat versuim of weier om aan hierdie artikel te voldoen of dit nie nakom nie.

(8) Die raad of Kommissaris, na gelang van die geval, kan na oorweging of sodanige botsing of omstandigheid die onpartydigheid van sodanige persoon onder verdenking mag bring, sodanige persoon verwittig van sy of haar besluit wat kan insluit en nie beperk is nie tot—

(a) die skorsing van sodanige persoon hangende enige verdere ondersoeke;
(b) die instelling van 'n dissiplinêre ondersoek om sodanige botsing of omstandigheid te peil; of
(c) die ontslag van sodanige persoon uit sy of haar diens ooreenkomstig die geldende wetgewing.

Vertroulikheid en handelsbeperking

2G. (1) Die Kommissaris of enige werknemer van die Kommissie mag nie sy of haar posisie of voorregte, of vertroulike inligting as 'n werknemer van die Kommissie verkry, gebruik vir persoonlike gewin of om 'n ander persoon onbehoorlik te bevoordeel nie.

(2) Die Kommissaris of enige werknemer of sy of haar gade, lewensmaat, onmiddellike gesinslid of sakevennoot of medewerker, mag nie tydens sy of haar diens by die Kommissie of vir 'n tydperk van 24 maande na die beëindiging of verstryking van sy of haar diens, 'n betrekking aanvaar of op enige ander wyse enige voordeel van enige persoon ontvang wat 'n toekenning ontvang het of wat van voornemens is om ingevolge artikel 13 aansoek wil doen of wat aansoek gedoen het, om 'n lisensie om die Nasionale Lotery te bedryf.

(3) The board shall—
(a) institute disciplinary proceedings against the Commissioner who fails or refuses to comply with or contravenes this section; or
(b) institute disciplinary proceedings against any employee who fails or refuses to comply with or contravenes this section.".

Amendment of section 3 of Act 57 of 1997, as substituted by section 36 of Act 12 of 2004

5. Section 3 of the principal Act is hereby amended—
(a) by the deletion in subsection (1) of the word "and" at the end of paragraph *(b)*, the insertion of the word "and" at the end of paragraph *(c)* and the addition of the following paragraph:
"*(d)* the chairperson of the distributing agency as an *ex-officio* member with no voting rights who may only attend meetings of the board per invitation or if matters relating to the adjudication of applications for grants or distribution of grants are to be discussed.";
(b) by the substitution for subsection (2) of the following subsection:
"(2) At least four members of the board referred to in subsection (1) shall be persons who are not in the service of any sphere of government.";
(c) by 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) by the substitution in subsection (5) for paragraph *(a)* of the following paragraph:
"*(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;"; and
(e) by the deletion of subsection (7).

Insertion of sections 3A, 3B and 3C in Act 57 of 1997

6. The following sections are hereby inserted after section 3 of the principal Act:

"**Disqualification of members of board**

3A. (1) The Minister may not appoint a person to the board who—
(a) is not a South African citizen;
(b) is a political office bearer;
(c) is disqualified to act as a director of a company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);
(d) 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, unprofessionally, dishonourably 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;
(e) has been removed from a position of trust;
(f) has been subjected to a disciplinary hearing resulting in his or her membership of a board or any other accounting authority of a public entity being prematurely terminated in the past five years;
(g) was at any time found to be in contravention of this Act or any other Act applicable to the public service in the past five years;
(h) has been declared by a court of law to be of an unsound mind; or
(i) is an unrehabilitated insolvent.

(2) Nothing in this Act prevents the Minister from subjecting a prospective member or a member of the board to a probity test to determine

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(3) Die raad moet—

(a) dissiplinêre verrigtinge teen die Kommissaris instel wat versuim of weier om aan hierdie artikel te voldoen of dit nie nakom nie; of

(b) dissiplinêre verrigtinge instel teen enige werknemer wat versuim of weier om aan hierdie artikel te voldoen of dit nie nakom nie.".

Wysiging van artikel 3 van Wet 57 van 1997, soos vervang deur artikel 36 van Wet 12 van 2004

5. Artikel 3 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woord "en" aan die einde van paragraaf *(b)* te skrap, die woord "en" aan die einde van paragraaf *(c)* in te voeg en die volgende paragraaf by te voeg:

"*(d)* die voorsitter van die distribusieagent as 'n *exofficio*-lid sonder stemregte wat vergaderings van die raad slegs by uitnodiging mag bywoon of indien aangeleenthede in verband met die beoordeling van aansoeke om toekennings of distribusie van toekennings bespreek gaan word.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Ten minste vier lede van die raad in subartikel (1) bedoel is persone wat nie in diens van enige sfeer van regering is nie.";

(c) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) 'n Lid van die raad beklee sy of haar amp vir die tydperk wat die Minister ten tyde van sy of haar aanstelling bepaal, maar hoogstens vyf jaar, en kan by die verstryking van sy of haar eerste ampstermyn weer aangestel word vir 'n verdere tydperk van hoogstens vyf jaar.";

(d) deur paragraaf *(a)* in subartikel (5) deur die volgende paragraaf te vervang:

"*(a)* kan die Minister, sodra hy of sy van enige moontlike diskwalifikasie kennis kry, die lidmaatskap van 'n lid van die raad op grond van ernstige wangedrag of langdurige onbevoegdheid om die werksaamhede **[van]** as 'n lid van die raad te verrig, beëindig;"; en

(e) deur subartikel (7) te skrap.

Invoeging van artikels 3A, 3B en 3C in Wet 57 van 1997

6. Die volgende artikels word hierby na artikel 3 van die Hoofwet ingevoeg:

"**Onbevoegdheid van lede van raad**

3A. (1) Die Minister kan nie 'n persoon tot die raad aanstel nie—

(a) wat nie 'n Suid-Afrikaanse burger is nie;

(b) wat 'n politieke ampsdraer is;

(c) wat onbevoeg is om as 'n direkteur van 'n maatskappy op te tree wat ingevolge die Maatskappywet, 2008 (Wet No. 71 van 2008), ingelyf is;

(d) wat deur 'n geregshof in enige siviele of strafregtelike verrigtinge bevind is bedrieglik, oneerlik, onprofessioneel, oneervol of in stryd met 'n vertrouensplig op te getree het, of van enige ander oortreding waarvoor sodanige persoon tot direkte gevangenisstraf sonder die opsie van 'n boete, gevonnis is;

(e) wat uit 'n vertrouensposisie onthef is;

(f) wat in die voorafgaande vyf jaar aan 'n dissiplinêre verhoor onderwerp is wat daartoe gelei het dat sy of haar lidmaatskap van 'n raad of enige ander rekenpligtige owerheid van 'n openbare entiteit, vroeg beëindig is;

(g) wat in die voorafgaande vyf jaar te eniger tyd bevind is hierdie Wet of enige ander Wet van toepassing op die staatsdiens te oortree het;

(h) in sy of haar geestesvermoë gekrenk is en deur 'n bevoegde hof aldus verklaar is; of

(i) wat 'n ongerehabiliteerde insolvent is.

(2) Niks in hierdie Wet weerhou die Minister daarvan om 'n waarskynlike lid of 'n lid van die raad aan 'n eerlikheidstoets te onderwerp nie, om geskiktheid of voortgesette geskiktheid van 'n kandidaat vir

suitability or continued suitability of a candidate for appointment as a member of the board or continued membership of the board.

Conflict of interests

3B. (1) A member of the board must, before appointment, submit a declaration made under oath or by affirmation to the Minister, to the effect that he or she is not disqualified from appointment as contemplated in section 3A.

(2) A member of the board, including the Commissioner and chairperson of the distributing agency, who at any time during his or her term of office becomes disqualified to be a board member on any one of the grounds contemplated in section 3A—

(a) must immediately in writing inform the Minister and the board of such disqualification, and the Minister must then forthwith remove that member from the board; and

(b) does not have a right to attend a board meeting from the time he or she has so become disqualified until he or she is removed by the Minister.

(3) A member of the board shall, before appointment, submit to the Minister a written statement in which he or she declares whether or not he or she has any direct or indirect interest, financially or otherwise, whether or not such interest—

(a) may constitute a conflict of interest in respect of his or her functions as a member of the board; or

(b) could reasonably be expected to compromise the board in the performance of its functions.

(4) If a member of the board acquires an interest contemplated in subsection (3), he or she shall immediately in writing declare that fact to the Minister and the board.

(5) If a member of the board becomes aware of any conflict of interest or perceived conflict of interest or circumstances that may compromise his or her impartiality in executing his or her duties, he or she shall immediately stop executing such duties and must within seven days of becoming aware of such conflict or perceived conflict or circumstances, inform the Minister and the board of any such conflict or circumstances.

(6) The Minister, after consultation with the board, shall consider whether such conflict or circumstances is likely to compromise the impartiality of such a person in discharging his or her duties.

(7) The Minister, after consultation with the board, may institute disciplinary proceedings against any member who fails or refuses to comply with or contravenes this section in accordance with applicable legislation.

(8) The Minister shall, after consultation with the board and 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 and is not limited to—

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

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

(c) dismissing such a person from being a member of the board.

(9) The Minister and the board must keep a register of the interests of members of the board disclosed in terms of this section and must update that register from time to time.

Confidentiality and restraint of trade

3C. (1) A board member may not use his or her position or privileges, or confidential information obtained as a member of the board, for personal gain or to improperly benefit another person.

(2) A member 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 membership of the board or for a period of 24 months after the termination or expiry of such membership, take up employment or in any

aanstelling as 'n lid van die raad of voortgesette aanstelling as 'n lid van die raad vas te stel.

Botsing van belange

3B. (1) 'n Lid van die raad moet, voor aanstelling, 'n beëdigde of plegtige verklaring aan die Minister voorlê, te dien effekte dat hy of sy nie soos in artikel 3A beoog onbevoeg vir aanstelling is nie.

(2) 'n Lid van die raad, met inbegrip van die Kommissaris en voorsitter van die distribusieagent, wat te eniger tyd tydens sy of haar ampstermyn op enige van die gronde beoog in artikel 3A onbevoeg word om 'n raadslid te wees—

(a) moet die Minister en die raad onmiddellik verwittig van sodanige onbevoegdheid, en die Minister moet daardie lid dan onverwyld van die raad verwyder; en

(b) het nie 'n reg om 'n raadsvergadering by te woon nie van die tyd wanneer hy of sy aldus onbevoeg geword het totdat hy of sy deur die Minister verwyder word.

(3) 'n Lid van die raad moet, voor aanstelling, 'n skriftelike verklaring aan die Minister voorlê waarin hy of sy verklaar of hy of sy enige direkte of indirekte belang, finansieel of andersins het, hetsy sodanige belang—

(a) 'n botsing van belange ten opsigte van sy of haar werksaamhede as 'n lid van die raad daarstel; of

(b) redelik verwag mag word dat dit die raad in die verrigting van sy werksaamhede onder verdenking mag bring.

(4) As 'n lid van die raad 'n belang in subartikel (3) beoog verkry, moet hy of sy daardie feit onmiddellik skriftelik aan die Minister en die raad verklaar.

(5) Indien 'n lid van die raad bewus word van enige botsing van belange of vermoedelike botsing van belange of omstandighede wat sy of haar onpartydigheid in die verrigting van sy of haar pligte waarvoor hy of sy aldus aangestel is onder verdenking mag bring, moet hy of sy onmiddellik ophou om sodanige pligte te verrig en moet binne sewe dae nadat hy of sy van sodanige botsing of vermoedelike botsing bewus geword het, die Minister en raad van die botsing of omstandighede verwittig.

(6) Die Minister, na oorleg met die raad, moet oorweeg of sodanige botsing of omstandighede die onpartydigheid van die persoon in die verrigting van sy of haar pligte waarskynlik onder verdenking mag bring.

(7) Die Minister, na oorleg met die raad, kan dissiplinêre verrigtinge instel teen enige lid wat versuim of weier om aan hierdie artikel te voldoen of dit nie nakom nie ooreenkomstig toepaslike wetgewing.

(8) Die Minister kan, na oorleg met die raad en na oorweging of die botsing of omstandighede die onpartydigheid van die persoon waarskynlik onder verdenking mag bring, die persoon verwittig van sy of haar besluit wat kan insluit en nie beperk is nie tot—

(a) skorsing van sodanige persoon, hangende enige verdere ondersoeke;

(b) instelling van 'n dissiplinêre ondersoek om die botsing of omstandighede te peil; of

(c) beëindiging van sodanige persoon se lidmaatskap van die raad.

(9) Die Minister en die raad moet 'n register byhou van die belange van lede van die raad ingevolge hierdie artikel openbaar gemaak en moet daardie register van tyd tot tyd bywerk.

Vertroulikheid en handelsbeperking

3C. (1) 'n Raadslid mag nie sy of haar posisie of voorregte, of vertroulike inligting as 'n lid van die raad verkry, gebruik vir persoonlike gewin of om 'n ander persoon onbehoorlik te bevoordeel nie.

(2) 'n Lid van die raad of sy of haar gade, lewensmaat, onmiddellike gesinslid of sakevennoot of medewerker, mag nie tydens die tyd van sy of haar lidmaatskap van die raad of vir 'n tydperk van 24 maande na die beëindiging of verstryking van sodanige lidmaatskap, in diens tree of op enige wyse voordele ontvang nie van enige persoon wat 'n toekenning

way receive any benefit from any person who received a grant or intends to apply or has applied in terms of section 13, for a licence to conduct the National Lottery.

(3) The Minister may, after consultation with the board, institute disciplinary proceedings against any board member who fails or refuses to comply with or contravenes this section.

(4) Despite any provision of this Act the Minister may, after consultation with the board, consider whether such contravention is likely to compromise the impartiality of such a person and inform such a person of his or her decision which may include but is not limited to—

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

(b) instituting a disciplinary inquiry to probe such conflict or circumstance; or

(c) terminating the membership of such a person.".

Amendment of section 4 of Act 57 of 1997

7. 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 the membership of a member who fails to attend two meetings consecutively without prior notification and approval of the chairperson or the board.".

Substitution of section 5 of Act 57 of 1997

8. The following section is hereby substituted for section 5 of the principal Act:

"**[Executive committee of board] Committees**

5. (1) The board may **[from time to time appoint an executive committee to perform the functions and exercise the powers delegated to it by the board]** appoint committees to assist it in efficiently and effectively performing its functions and exercising its powers.

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

(3) The board shall designate the chairperson of **[an executive committee]** every committee.

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

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

Repeal of section 7 of Act 57 of 1997

9. Section 7 of the principal Act is hereby repealed.

Amendment of section 10 of Act 57 of 1997

10. Section 10 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph *(a)* of the following words:

"(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) by the substitution for paragraph *(c)* of the following paragraph:

"*(c)* manage and administer the fund and hold it in trust;";

(c) by the deletion of the word "and" at the end of paragraph *(j)*, the deletion of the full stop at the end of paragraph *(k)* and by the substitution of a semicolon;

ontvang het of ingevolge artikel 13 aansoek wil doen of wat aansoek gedoen het, om 'n lisensie om die Nasionale Lotery te bedryf nie.

(3) Die Minister kan, na oorleg met die raad, dissiplinêre verrigtinge instel teen enige raadslid wat versuim of weier om aan hierdie artikel te voldoen of dit nie nakom nie.

(4) Ondanks enige bepaling van hierdie Wet kan die Minister, na oorleg met die raad, oorweeg of die oortreding die onpartydigheid van die persoon moontlik kan beïnvloed en die persoon verwittig van sy of haar besluit, wat mag insluit maar nie beperk is nie tot—

(a) skorsing van die persoon hangende verdere ondersoeke;
(b) instelling van 'n dissiplinêre ondersoek om die botsing of omstandigheid te peil; of
(c) beëindiging van die persoon se lidmaatskap.".

Wysiging van artikel 4 van Wet 57 van 1997

7. Artikel 4 van die Hoofwet word hierby gewysig deur die volgende subartikels te wysig:

"(7) Die raad moet gereeld vergader om sy werksaamhede ingevolge die Wet te verrig.

(8) Die Minister kan op advies van die voorsitter of die raad, die lidmaatskap beëindig van 'n lid wat versuim om twee agtereenvolgende vergaderings sonder vooraf kennisgewing en goedkeuring van die voorsitter of die raad by te woon.".

Vervanging van artikel 5 van Wet 57 van 1997

8. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

"**[Uitvoerende komitee van raad] Komitees**

5. (1) Die raad **[stel van tyd tot tyd 'n uitvoerende komitee aan om die werksaamhede te verrig en die bevoegdhede uit te oefen wat deur die raad aan sodanige komitee gedelegeer word]** stel komitees aan om hom by te staan in die doeltreffende en doelmatige verrigting van sy werksaamhede en uitoefening van sy bevoegdhede.

(2) **['n Uitvoerende komitee]** Komitees bestaan uit die lede van die raad wat die raad aanwys.

(3) Die raad wys die voorsitter van **['n uitvoerende komitee]** elke komitee aan.

(4) *(a)* **['n Uitvoerende]** Elke komitee verrig sy werksaamhede in ooreenstemming met die bepalings van hierdie Wet en die opdragte van die raad wat nie strydig met sodanige bepalings is nie.

(b) Enige gedelegeerde werksaamheid aldus verrig, word geag deur die raad verrig te gewees het.".

Herroeping van artikel 7 van Wet 57 van 1997

9. Artikel 7 van die Hoofwet word hierby herroep.

Wysiging van artikel 10 van Wet 57 van 1997

10. Artikel 10 van die Hoofwet word hierby gewysig—

(a) deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"(1) Die raad moet**[, met]** by die toepassing van die beginsels van openheid en deursigtigheid en buiten sy ander werksaamhede ingevolge hierdie Wet—;"

(b) deur paragraaf *(c)* deur die volgende paragraaf te vervang:

"*(c)* die fonds bestuur en administreer en in trust hou;";

(c) deur die woord "en" aan die einde van paragraaf *(j)* te skrap, die punt aan die einde van paragraaf *(k)* te skrap en deur 'n kommapunt in te voeg;

(*d*) by the addition of the following paragraphs:

"(*l*) ensure that the Commission performs its functions efficiently and effectively in compliance with this Act and any other applicable law;

(*m*) approve, determine, oversee or revise the Commission's operational strategic framework or policies, corporate governance framework policies, human resources policies and approve the appointment of senior executive employees of the Commission;

(*n*) approve, determine, oversee, or revise the broad policy framework within which the Commission must perform its functions;

(*o*) ensure that the Commission exercises its powers in accordance with the principles of transparency and accountability;

(*p*) serve as review authority against decisions of the distributing agency regarding applications for grants;

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

(*r*) take all reasonable steps to recover any amount in relation to a grant which has been withdrawn, prohibited or reduced in terms of section 33."; and

(*e*) by 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.

(4) The board may request the Commission to conduct research on appropriately deserving worthy causes that may be funded or recipients that may be funded without lodging an application.

(5) The board may recommend to the Minister 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 utilised in an unauthorised manner that does not comply with the purpose or conditions stipulated in the grant or is utilised or is likely to be utilised for an unlawful purpose.".

Insertion of section 10A in Act 57 of 1997

11. The following section is hereby inserted after section 10 of the principal Act:

"**Delegation by board**

10A. The board may assign management or other functions or delegate, with or without conditions, any of its powers or functions to the Commissioner or Commission, but any such delegation does not divest the board of any responsibility for the proper exercise of any power or performance of any function.".

Amendment of section 13 of Act 57 of 1997

12. Section 13 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) The licence contemplated in subsection (1) may allow the licensee to appoint another person to conduct certain lotteries of the National Lottery on behalf of the licensee only with the written approval of the Minister: Provided that the board has made a recommendation to the Minister to allow such appointment if the person to be appointed has satisfied the provisions of section 13(2)(*b*) and any other requirements or conditions as directed by the Minister.".

(d) deur die volgende paragrawe by te voeg:

"*(l)* verseker dat die Kommissie sy werksaamhede doeltreffend en doelmatig in ooreenstemming met hierdie Wet en enige ander toepaslike wet, verrig;

(m) die Kommissie se operasionele strategiese raamwerk of beleid, beleid oor korporatiewe beheerraamwerk, mensehulpbronbeleid bepaal, daaroor toesig hou en dit hersien, asook die aanstelling van senior uitvoerende werknemers van die Kommissie goedkeur,;

(n) die breë beleidsraamwerk waarbinne die Kommissie sy werksaamhede moet verrig, goedkeur, bepaal, daaroor toesig hou of dit hersien;

(o) verseker dat die Kommissie sy bevoegdhede ooreenkomstig die beginsels van deursigtigheid en aanspreeklikheid uitvoer;

(p) dien as 'n hersieningsowerheid teen besluite van die distribusieagent aangaande aansoeke om toekennings;

(q) in oorleg met die Minister, kategorieë aansoeke om toekennings wat van befondsing uitgesluit is, bepaal; en

(r) alle redelike stappe doen om enige bedrag in verband met 'n toekenning wat ingevolge artikel 33 teruggetrek, verbied of verminder is, te verhaal."; en

(e) deur die volgende subartikels by te voeg:

"(2) Die raad het die bevoegdheid om geregtelike stappe in te stel ten einde sy werksaamhede en verantwoordelikhede ingevolge hierdie Wet behoorlik te vervul.

(3) Die raad kan enige hof nader vir enige bevel wat die raad gepas ag vir doeltreffende regulering en afdwinging van die Wet.

(4) Die raad mag versoek dat die Kommissie navorsing doen oor verdienstelike goeie sake wat befonds kan word sonder dat 'n aansoek ingedien is.

(5) Die raad kan aanbeveel dat die Minister enige toekenning wat deur die distribusieagent gemaak is, verbied, intrek of verminder indien die raad inligting ontvang dat die toekenning op 'n ongemagtigde wyse gebruik word of waarskynlik gebruik sal word wat nie aan die doel of voorwaardes wat in die toekenning vermeld is voldoen nie of gebruik word of waarskynlik gebruik sal word vir 'n onregmatige doel.".

Invoeging van artikel 10A in Wet 57 van 1997

11. Die volgende artikel word hierby na artikel 10 in die Hoofwet ingevoeg:

"**Delegering deur raad**

10A. Die raad kan bestuurs- of ander werksaamhede opdra of, met of sonder voorwaardes, enige van sy bevoegdhede en werksaamhede aan die Kommissaris of die Kommissie delegeer, maar enige sodanige delegering ontneem die raad nie van enige verantwoordelikheid vir die behoorlike uitoefening van enige bevoegdheid of verrigting van enige werksaamheid nie.".

Wysiging van artikel 13 van Wet 57 van 1997

12. Artikel 13 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Die lisensie beoog in subartikel (1) kan die lisensiehouer toelaat om 'n ander persoon aan te stel om sekere loterye van die Nasionale Lotery namens die lisensiehouer slegs met die skriftelike goedkeuring van die Minister te bedryf: Met dien verstande dat die raad 'n aanbeveling aan die Minister gedoen het om die aanstelling toe te laat indien die persoon wat aangestel gaan word aan die bepalings van artikel 13(2)*(b)* en enige ander vereistes soos deur die Minister gelas, voldoen.".

Insertion of sections 13A and 13B in Act 57 of 1997

13. The following sections are hereby inserted after section 13 of the principal Act:

"**Appointment of organ of state to conduct National Lottery**

13A. (1) In the event that the Minister decides on justifiable grounds not to issue a licence as contemplated in section 13, the Minister may, after consultation with the board, licence or authorise an organ of state to conduct the National Lottery for a period not exceeding eight years, on such terms and conditions as the Minister deems appropriate, including such conditions as stipulated in section 14(1) and (2).

(2) In deciding whether justifiable grounds contemplated in subsection (1) exist, the Minister shall consider any relevant factor including but not limited to—

(a) national government policies or priorities;
(b) the need to grow local industries and to procure goods from local manufacturers;
(c) the need to transfer skills and technology to the citizens of the Republic; and
(d) the need to comply with the legislative framework for the promotion of broad-based black economic empowerment and transformation.

(3) In appointing an organ of state to conduct the National Lottery, the requirements contemplated in section 13(2)*(a)* do not apply.

(4) The licence issued to an organ of state may allow such organ of state to appoint any other person to conduct certain lotteries of the National Lottery on behalf of such organ of state, subject to the written approval of the Minister: Provided that the board has made a recommendation to the Minister to allow such appointment if the person to be appointed has satisfied the provisions of section 13(2)*(b)* and any other requirements or conditions as directed by the Minister.

(5) The Minister shall publish in the *Gazette* the appointment of an organ of state to conduct the National Lottery in terms of this section.

Temporary licence

13B. 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;
(b) the licence to conduct the National Lottery is suspended for any reason whatsoever;
(c) the licence to conduct the National Lottery is revoked in terms of this Act; or
(d) the licence to conduct the National Lottery has expired,

after consultation with the board, appoint or authorise any person or organ of state as the case may be, for a non-renewable period not exceeding 24 months to conduct the National Lottery on such terms and conditions the Minister deems appropriate.".

Amendment of section 14 of Act 57 of 1997, as substituted by section 1 of Act 10 of 2000

14. Section 14 of the principal Act is hereby amended—

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

"(1) A licence granted in terms of section 13 or 13A shall be in writing, shall specify the conditions attached to it and shall be granted for a **[minimum period of five years or a maximum]** period **[of]** not exceeding eight years: Provided that the Minister may, after consultation

Invoeging van artikels 13A en 13B in Wet 57 van 1997

13. Die volgende artikels word hierby na artikel 13 van die Hoofwet ingevoeg:

"**Aanstelling van staatsorgaan om Nasionale Lotery te bedryf**

13A. (1) Indien die Minister op regverdigbare gronde besluit om nie 'n lisensie soos beoog in artikel 13 uit te reik nie, kan die Minister, na oorleg met die raad, 'n staatsorgaan lisensieer of magtig om die Nasionale Lotery vir 'n tydperk van hoogstens agt jaar te bedryf, op sodanige bedinge en voorwaardes wat die Minister gepas ag, met inbegrip van die voorwaardes soos in artikel 14(1) en (2) bepaal.

(2) Wanneer die Minister besluit of regverdigbare gronde beoog in subartikel (1) bestaan, moet die Minister enige tersaaklike faktor oorweeg, met inbegrip van, maar nie beperk nie tot—

(a) nasionale regeringsbeleid of -prioriteite;
(b) die nodigheid om plaaslike nywerhede te laat groei en goedere van plaaslike vervaardigers te verkry;
(c) die nodigheid om vaardighede en tegnologie na die burgers van die Republiek oor te dra; en
(d) die nodigheid om aan die wetgewende raamwerk vir die bevordering van breë-basis swart ekonomiese bemagtiging en transformasie, te voldoen.

(3) Die vereistes in artikel 13(2)*(a)* beoog is nie van toepassing by die aanstelling van 'n staatsorgaan om die Nasionale Lotery te bedryf nie.

(4) Die lisensie aan 'n staatsorgaan uitgereik kan sodanige staatsorgaan toelaat om enige ander persoon aan te stel om sekere loterye van die Nasionale Lotery namens die staatsorgaan te bedryf, onderhewig aan die skriftelike goedkeuring van die Minister: Met dien verstande dat die raad 'n aanbeveling aan die Minister gedoen het om die aanstelling toe te laat indien die persoon wat aangestel gaan word aan die bepalings van artikel 13(2)*(b)* en enige ander vereistes of voorwaardes soos deur die Minister gelas, voldoen het.

(5) Die Minister moet die aanstelling ingevolge hierdie artikel van 'n staatsorgaan om die Nasionale Lotery te bedryf, in die *Staatskoerant* publiseer.

Tydelike lisensie

13B. Die Minister kan te eniger tyd, weens die feit dat—

(a) die lisensiehouer om enige rede ook al nie die Nasionale Lotery ingevolge die voorwaardes van die lisensie kan bedryf nie of nie na oortuiging van die Minister kan voldoen aan die voorwaardes van die lisensie nie;
(b) die lisensie om die Nasionale Lotery te bedryf om enige rede opgeskort is;
(c) die lisensie om die Nasionale Lotery te bedryf ingevolge hierdie Wet herroep is; of
(d) die lisensie om die Nasionale Lotery te bedryf, verstryk het,

na oorleg met die raad, enige persoon of staatsorgaan aanstel of magtig, na gelang van die geval, vir 'n niehernubare tydperk van hoogstens 24 maande, om die Nasionale Lotery te bedryf op sodanige bedinge en voorwaardes wat die Minister gepas ag.".

Wysiging van artikel 14 van Wet 57 van 1997, soos vervang deur artikel 1 van Wet 10 van 2000

14. Artikel 14 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Lisensie toegestaan ingevolge artikel 13 of 13A moet op skrif wees, moet die voorwaardes daaraan verbonde spesifiseer en moet toegestaan word vir 'n **[minimum tydperk van vyf jaar of 'n maksimum]** tydperk van hoogstens agt jaar: Met dien verstande dat die

with the board[**, in a case where the licence has been granted for less than eight years,**] and at least one year before the expiry of that licence, extend that licence for [**such further period as would, together with the initial period for which that licence was granted, not exceed eight years**] a non-renewable period not exceeding 24 months: 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."; and

(b) by the substitution in subsection (2) for paragraphs *(a)*, *(b)* and *(c)* of the following paragraphs, respectively:

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

(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;

(c) to ensure that such requirements as the Minister [**or**] after consultation with 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

15. Section 15 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"The Minister [**or the board**] may after consultation with the board vary any condition in the licence granted under section 13 or 13A—;"

(b) by the substitution in subsection (1)*(b)* for subparagraph (ii) of the following subparagraph:

"(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.";

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

"(2) If the Minister [**or**] after consultation with 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

(d) by 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 [**or**] after consultation with 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

16. 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 or 13A;

(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

Minister**[, in die geval waar die lisensie vir minder as agt jaar toegestaan is,]** en ten minste een jaar voordat daardie lisensie verval, na oorleg met die raad daardie lisensie vir **[die verdere tydperk kan verleng wat tesame met die oorspronklike tydperk ten opsigte waarvan daardie lisensie toegestaan is, nie agt jaar oorskry nie]** 'n niehernubare tydperk van hoogstens 24 maande verleng: Met dien verstande voorts dat die lisensiehouer geen regte of regmatige verwagtinge ten opsigte van 'n verlenging van die tydperk van die geldigheid van die lisensie anders as die regte verleen by hierdie subartikel het nie."; en

(b) deur paragrawe *(a)*, *(b)* en *(c)* in subartikel (2) onderskeidelik deur die volgende paragrawe te vervang:

"*(a)* om die **[raad]** Minister se toestemming te verkry na oorleg met die raad voordat enigiets vermeld in die lisensie gedoen word;

(b) om bepaalde aangeleenthede na die raad te verwys vir goedkeuring en die raad moet die aangeleenthede na die Minister **[of na die raad, na gelang van die geval, te]** verwys vir goedkeuring;

(c) om te verseker dat die vereistes wat die Minister **[of]** na oorleg met die raad van tyd tot tyd bepaal of goedkeur ingevolge die lisensie, nagekom word, met inbegrip van die oplegging van boetes soos in artikel 62 beoog in die geval waar die lisensiehouer nie aan enige bepaling van hierdie Wet of die lisensie voldoen nie.".

Wysiging van artikel 15 van Wet 57 van 1997

15. Artikel 15 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die Minister **[of die raad]** kan na oorleg met die raad enige voorwaarde in die lisensie uitgereik kragtens artikel 13 of 13A, wysig—;";

(b) deur subparagraaf (ii) in subartikel (1)*(b)* deur die volgende subparagraaf te vervang:

"(ii) die lisensiehouer 'n redelike geleentheid gebied is om vertoë tot die Minister **[of die raad, na gelang van die geval,]** te rig oor die voorgenome wysiging.";

(c) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien die Minister **[of]** na oorleg met die raad, en na oorweging van die lisensiehouer se vertoë, besluit om 'n voorwaarde in die lisensie te wysig in ooreenstemming met daardie lisensie maar sonder die toestemming van die lisensiehouer, moet die Minister **[of die raad, na gelang van die geval,]** toesien dat 'n kennisgewing op die lisensiehouer beteken word waarin die lisensiehouer van die wysiging en die datum waarop die wysiging in werking sal tree, in kennis gestel word, welke datum nie minder nie as 21 dae na die datum van betekening van sodanige kennisgewing moet wees, tensy die lisensiehouer skriftelik tot 'n korter tydperk toestem."; en

(d) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die bepalings in die lisensie wat die wysiging van 'n voorwaarde van die lisensie kragtens subartikel (1) toelaat, kan die Minister **[of]** na oorleg met die raad magtig om 'n voorwaarde tot die lisensie te voeg of om 'n voorwaarde van die lisensie weg te laat.".

Wysiging van artikel 16 van Wet 57 van 1997

16. Artikel 16 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Indien die Minister **[of die raad]** van oordeel is—

(a) dat 'n **[persoon]** lisensiehouer 'n voorwaarde in die lisensie uitgereik kragtens artikel 13 of 13A waarskynlik nie sal nakom nie;

(b) dat 'n **[persoon]** lisensiehouer so 'n voorwaarde nie nagekom het nie en daar 'n redelike waarskynlikheid is dat die nienakoming sal voortduur of herhaal sal word; of

(c) that a **[person]** licensee has contravened such a condition and that the contravention can be remedied,

the Minister **[or the board, as the case may be,]** may, after consultation with the board—

(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

17. Section 17 of the principal Act is hereby amended by the substitution for the words preceding paragraph *(a)* of the following words:

"The licence granted under section 13 or 13A may be revoked by the Minister **[or]**, after consultation with the board, on the following grounds:".

Amendment of section 18 of Act 57 of 1997

18. Section 18 of the principal Act is hereby amended—

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

"(1) If the Minister **[or]**, after consultation with the board, is satisfied that grounds exist for the revocation of the licence granted in terms of section 13**[,]** or 13A, 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) by 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 **[or]** after consultation with the board **[, as the case may be,]** shall forthwith inform the licensee and Parliament in writing of that fact and of the date upon which the licence ceased to be valid, and if Parliament is not then in session, **[it shall be so informed on the first of the next session]** the Minister shall forthwith inform the Speaker of the National Assembly and the Chairperson of the National Council of Provinces of that fact.".

Amendment of section 19 of Act 57 of 1997

19. Section 19 of the principal Act is hereby amended—

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

"(1) The Minister **[or]**, after consultation with 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) by the substitution for subsection (2) of the following subsection:

"(2) If the Minister **[or]**, after consultation with 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, **[on the first day of the next session of Parliament]** the Minister shall forthwith inform the Speaker of the National Assembly and the Chairperson of the National Council of Provinces of that fact."; and

(c) dat 'n **[persoon]** lisensiehouer so 'n voorwaarde nie nagekom het nie en dat die nienakoming reggestel kan word,

kan die **[raad of die]** Minister**[, na gelang van die geval]**, na oorleg met die raad—

(i) die lisensiehouer verwittig van die nienakoming;

(ii) die lisensiehouer opdrag gee om die nienakoming binne 'n tydperk in die kennisgewing aangedui, reg te stel; of

(iii) by 'n Hoër Hof aansoek doen om 'n bevel om die nienakoming te verbied of, na gelang van die geval, wat van die lisensiehouer en enige ander persoon wat vir die hof voorkom 'n party tot die nienakoming te wees, vereis om die stappe te doen wat die hof beveel.".

Wysiging van artikel 17 van Wet 57 van 1997

17. Artikel 17 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die lisensie kragtens artikel 13 of 13A toegestaan, kan op die volgende gronde deur die Minister **[of]**, na oorleg met die raad, ingetrek word:".

Wysiging van artikel 18 van Wet 57 van 1997

18. Artikel 18 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Indien die Minister **[of]** na oorleg met die raad oortuig is dat gronde bestaan vir die intrekking van die lisensie wat ingevolge artikel 13 of 13A toegestaan is, moet **[hy of sy of die raad, na gelang van die geval,]** die Minister die lisensiehouer skriftelik in kennis stel van die bestaan van sodanige gronde en van die lisensiehouer vereis om binne 14 dae na betekening van daardie kennisgewing by die geregistreerde fisiese adres van die lisensiehouer redes te verstrek waarom die lisensie nie ingetrek behoort te word nie, by gebrek aan voldoening waaraan die lisensie by verstryking van genoemde tydperk van 14 dae nie meer geldig sal wees nie."; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien die lisensie vir die Nasionale Lotery ingevolge subartikel (1) nie meer geldig is nie, moet die Minister **[of]** na oorleg met die raad**[, na gelang van die geval,]** onverwyld die lisensiehouer en die Parlement skriftelik verwittig van daardie feit en die datum waarop die lisensie opgehou het om geldig te wees, en indien die Parlement nie dan in sitting is nie, **[word hy op die eerste dag van die daaropvolgende sitting aldus in kennis gestel]** moet die Minister die Speaker van die Nasionale Vergadering en die Voorsitter van die Nasionale Raad van Provinsies onverwyld van daardie feit verwittig.".

Wysiging van artikel 19 van Wet 57 van 1997

19. Artikel 19 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die Minister **[of]**, na oorleg met die raad, kan in die kennisgewing beoog in artikel 18(1) gelas dat die lisensie opgeskort word vanaf die datum van betekening van daardie kennisgewing vir 'n tydperk van hoogstens 30 dae nadat die lisensiehouer redes aangevoer het waarom die lisensie nie ingetrek behoort te wees nie**[: Met dien verstande dat die Minister of die raad, wie ook al ingevolge hierdie artikel optree, die ander moet verwittig van sy of haar optrede]**.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien die Minister **[of]** na oorleg met die raad besluit om die lisensie ingevolge subartikel (1) op te skort, moet die Minister die raad en die Parlement onverwyld van daardie feit en van die gronde vir opskorting verwittig, en indien die Parlement nie dan in sitting is nie, **[op die eerste dag van die daaropvolgende sitting van die Parlement]** moet die Minister die Speaker van die Nasionale Vergadering en die Voorsitter van die Nasionale Raad van Provinsies onverwyld van daardie feit verwittig."; en

(c) by 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, **[on the first day of the next session of Parliament]** the Minister shall forthwith inform the Speaker of the National Assembly and the Chairperson of the National Council of Provinces of that fact.".

Amendment of section 20 of Act 57 of 1997

20. Section 20 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

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

(b) by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:

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

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

"(2) If the Minister **[or]**, after consultation with the board, decides to revoke the licence, **[he or she or it]** the Minister 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

(d) by the substitution for subsection (3) of the following subsection:

"(3) If the Minister **[or]**, after consultation with the board, decides to revoke the licence in terms of subsection (1), the Minister **[or the board, as the case may be,]** shall inform the Minister of Finance and Parliament of that fact and of the grounds for that revocation forthwith, and if Parliament is not then in session **[on the first day of the next session of Parliament]**, the Minister shall forthwith inform the Speaker of the National Assembly and the Chairperson of the National Council of Provinces of that fact.".

Amendment of section 21 of Act 57 of 1997

21. 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 report]** financial reports in accordance with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), in Parliament in respect of the **[fund]** distributed funds, which **[may]** financial report must form part of the report contemplated in section 12(1)*(b)*.".

Amendment of section 22 of Act 57 of 1997

22. Section 22 of the principal Act is hereby amended—

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

"**[Fund to vest in and to be administered by board] Administration of the fund**";

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

"(1) The fund shall **[vest in and]** be administered by the board."; and

(c) by the addition of the following subsection:

"(3) The fund shall be held in trust by the board for distribution of any sum paid into the fund as is allocated for expenditure referred

(c) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Die Minister moet die Parlement onverwyld verwittig indien die lisensie ingevolge subartikel (3) ongeldig geword het, en indien die Parlement nie dan in sitting is nie, **[op die eerste dag van die daaropvolgende sitting van die Parlement]** moet die Minister die Speaker van die Nasionale Vergadering en die Voorsitter van die Nasionale Raad van Provinsies onverwyld van daardie feit verwittig.".

Wysiging van artikel 20 van Wet 57 van 1997

20. Artikel 20 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Indien redes deur die lisensiehouer verstrek is soos in artikel 18(1) beoog, moet die Minister **[of]**, na oorleg met die raad**[, na gelang van die geval]**, na oorweging van die redes—";

(b) deur paragraaf *(b)* in subartikel (1) deur die volgende paragraaf te vervang:

"*(b)* die lisensiehouer oproep om voor die raad op 'n bepaalde datum te verskyn om mondelinge vertoë te rig ter aanvulling van enige skriftelike vertoë wat die lisensiehouer verstrek het of om die vrae wat die Minister **[of die raad, na gelang van die geval]**, met betrekking tot daardie skriftelike vertoë het, te beantwoord, waarna die Minister **[of]**, na oorleg met die raad, die geval moet oorweeg en besluit of die lisensie ingetrek moet word, al dan nie.";

(c) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien die Minister **[of]**, na oorleg met die raad, besluit om die lisensie in te trek, moet **[hy of sy of die raad]** die Minister by skriftelike kennisgewing wat op die geregistreerde hoofkantoor van die lisensiehouer beteken is, die lisensiehouer verwittig van daardie feit, en van die gronde vir daardie intrekking en van die datum waarop daardie intrekking 'n aanvang neem."; en

(d) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Indien die Minister **[of]**, na oorleg met die raad, besluit om die lisensie ingevolge subartikel (1) in te trek, moet die Minister **[of die raad, na gelang van die geval,]** die Minister van Finansies en die Parlement onverwyld van daardie feit en van die gronde vir daardie intrekking verwittig, en indien die Parlement nie dan in sitting is nie, **[op die eerste dag van die daaropvolgende sitting van die Parlement]** moet die Minister die Speaker van die Nasionale Vergadering en die Voorsitter van die Nasionale Raad van Provinsies onverwyld van daardie feit verwittig.".

Wysiging van artikel 21 van Wet 57 van 1997

21. Artikel 21 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die raad lê jaarliks **['n verslag]** finansiële verslae ooreenkomstig die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999) in die Parlement ter tafel ten opsigte van die **[fonds]** verspreide fondse, **[wat]** welke finansiële verslag deel **[kan]** moet vorm van die verslag beoog in artikel 12(1)*(b)*.".

Wysiging van artikel 22 van Wet 57 van 1997

22. Artikel 22 van die Hoofwet word hierby gewysig—

(a) deur die opskrif van die artikel deur die volgende opskrif te vervang:

" **[Fonds berus by en word beheer deur raad]** **Administrasie van die fonds**";

(b) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die fonds **[berus by en]** word beheer deur die raad."; en

(c) deur die volgende subartikel by te voeg:

"(3) Die fonds word in trust gehou deur die raad vir verspreiding deur die distribusieagent van enige bedrag in die fonds inbetaal soos toegeken

to in section 26(3)*(b)*, *(c)*, *(d)* and *(e)*, after the distributing agency has considered, evaluated and adjudicated an application for a grant or following a recommendation of funding of worthy good causes from the Commission after research conducted in terms of this Act.''.

Amendment of section 26 of Act 57 of 1997

23. Section 26 of the principal Act is hereby amended by the deletion in subsection (3) of paragraph *(a)*.

Insertion of sections 26A, 26B, 26C, 26D, 26E, 26F, 26G and 26H in Act 57 of 1997

24. The following sections are hereby inserted after section 26 of the principal Act:

''**Distributing agency**

26A. The distributing agency contemplated in section 22(3) shall be—
(a) appointed by the Minister in terms of this Act; and
(b) accountable to the board.

Function, composition, appointments and conditions of service of distributing agency

26B. (1) The distributing agency shall be responsible for—
(a) considering, evaluating and adjudicating applications for grants or recommendations of funding of worthy good causes received from the Commission; and
(b) preparing reports on grants already awarded and on the performance of its functions to the board on a quarterly basis or as and when requested by the board.

(2) The number of the distributing agency members in each category shall be determined by the Minister after consultation with the board in line with the size of the funds in such category: Provided that such number shall not exceed nine in each category.

(3) Members of the distributing agency shall be appointed for a period of five years, which may be renewed only once, to serve on a full-time basis as members of the distributing agency and staff members of the Commission responsible for adjudication of applications for grants or recommendations of funding of worthy good causes received from the Commission.

(4) The Minister may, after consultation with the board—
(a) appoint persons with suitable combination of qualifications, skills and expertise to consider, evaluate and adjudicate applications for grants or recommendations of funding of worthy good causes received from the Commission on such terms and conditions determined by the Minister in consultation with the Minister of Finance; and
(b) designate one person from amongst the members of the distributing agency as a full-time chairperson, for a non-renewable period of five years on such terms and conditions determined by the Minister in consultation with the Minister of Finance.

(5) A member designated as a full-time chairperson shall upon the expiry of such period become an ordinary member entitled only to ordinary full-time member's conditions of appointment and remuneration unless his or her appointment as a member of the distributing agency has expired.

Disqualifications for distributing agency membership

26C. (1) The Minister may not appoint a person as a member of the distribution agency if such a person—
(a) is a political office-bearer;

vir uitgawes soos in artikel 26(3)*(b)*, *(c)*, *(d)* en *(e)* bedoel, nadat die distribusieagent 'n aansoek om 'n toekenning oorweeg, geëvalueer en beoordeel het of na aanleiding van 'n aanbeveling deur die Kommissie van verdienstelike goeie sake vir befondsing na aanleiding van navorsing wat ingevolge hierdie Wet gedoen is.".

Wysiging van artikel 26 van Wet 57 van 1997

23. Artikel 26 van die Hoofwet word hierby gewysig deur paragraaf *(a)* in subartikel (3) te skrap.

Invoeging van artikels 26A, 26B, 26C, 26D, 26E, 26F, 26G en 26H in Wet 57 van 1997

24. Die volgende artikels word hierby na artikel 26 van die Hoofwet ingevoeg:

"**Distribusieagent**

26A. Die distribusieagent in artikel 22(3) beoog—
(a) word ingevolge hierdie Wet deur die Minister aangestel; en
(b) is tot die raad verantwoordbaar.

Funksie, samestelling, aanstellings en diensvoorwaardes van distribusieagent

26B. (1) Die distribusieagent is daarvoor verantwoordelik om—
(a) aansoeke om toekennings of aanbevelings van befondsing van verdienstelike sake van die Kommissie ontvang, te oorweeg, te evalueer en te beoordeel; en
(b) kwartaalliks of soos en wanneer die raad dit versoek, verslae vir die raad voor te berei oor toekennings wat reeds gemaak is en oor die verrigting van sy werksaamhede.

(2) Die getal distribusieagentlede in elke kategorie word deur die Minister, na oorleg met die raad, bepaal ooreenkomstig die grootte van die fondse in die kategorie: Met dien verstande dat sodanige getal nie nege in elke kategorie oorskry nie.

(3) Lede van die distribusieagent word vir 'n tydperk van vyf jaar aangestel, wat slegs eenkeer hernu kan word, om voltyds te dien as lede van die distribusieagent en personeellede van die Kommissie verantwoordelik vir die beoordeling van aansoeke om toekennings of aanbevelings van befondsing van verdienstelike sake van die Kommissie ontvang.

(4) Die Minister kan, na oorleg met die raad—
(a) persone met die geskikte kombinasie van kwalifikasies, vaardighede en kundigheid aanstel om die aansoeke om toekennings of aanbevelings vir befondsing van verdienstelike goeie sake van die Kommissie te ontvang, oorweeg, evalueer en te beoordeel, op die bedinge en voorwaardes deur die Minister, in oorleg met die Minister van Finansies, bepaal; en
(b) een persoon vanuit die geledere van die lede van die distribusieagent aanwys as 'n voltydse voorsitter, vir 'n niehernubare tydperk van vyf jaar, op die bedinge en voorwaardes deur die Minister, in oorleg met die Minister van Finansies, bepaal.

(5) Die lid as voltydse voorsitter aangewys, word by verstryking van sodanige tydperk 'n gewone lid wat slegs op gewone voltydse lede se aanstellingsvoorwaardes en besoldiging geregtig is, tensy sy of haar aanstelling as 'n lid van die distribusieagent verstryk het.".

Onbevoegdheid vir lidmaatskap van distribusieagent

26C. (1) Die Minister kan nie 'n persoon as 'n lid van distribusieagent aanstel nie indien die persoon—
(a) 'n politieke ampsdraer is;

(*b*) is or becomes an unrehabilitated insolvent or commits an act of insolvency;
(*c*) is disqualified to act as a director of a company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);
(*d*) 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, unprofessionally, dishonourably 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 years;
(*e*) has been removed from a position of trust in the past five years on account of misconduct;
(*f*) has been subjected to a disciplinary hearing resulting in his or her membership of a board or any other accounting authority of a public entity, been prematurely terminated in the past five years;
(*g*) has been at any time found to be in contravention of this Act or any other Act applicable to the public service in the past five years; or
(*h*) has been declared to be of unsound mind by a court of law.

(2) Nothing in this Act prevents the Minister from subjecting a prospective member or a member of the distributing agency to a probity test to determine suitability or continued suitability of a candidate for appointment as a member of the board or continued membership of the board, as the case may be.

Conflict and declaration of interest

26D. (1) A member of the distributing agency must, before appointment, submit to the Minister, board and the Commission a written statement in which he or she declares whether or not he or she has any direct or indirect interest, financially or otherwise, whether or not such interests—
(*a*) may constitute a conflict of interest in respect of his or her functions as a member of the distributing agency; or
(*b*) could reasonably be expected to compromise the distributing agency in the performance of its functions.

(2) If such a member acquires any interest as contemplated in subsection (1), he or she must, within 30 days in writing, declare that fact to the Minister, board and the Commission.

(3) A member must not be present at, or take part in, the discussion of or the taking of a decision on any matter before the distributing agency in which that member has an interest contemplated in subsection (1).

(4) A member must not use his or her position or privileges, or confidential information obtained as a member of the distributing agency, for personal gain or to improperly benefit another person.

(5) 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 member of the distributing agency, the Minister may, after consultation with the board immediately order such person to stop executing any duties related to distributing grants pending any investigation or inquiry.

(6) Should any member of the distributing agency become aware of any conflict of interest or perceived conflict of interest or circumstances that are 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 days of becoming aware of such conflict or perceived conflict or circumstances inform the Minister, board and the Commission of any such conflict or circumstances and the Minister must, after consultation with the board consider whether such conflict or circumstances is likely to compromise the impartiality of such person in the performance of his or her duties.

(*b*) 'n ongerehabiliteerde insolvent is of word of 'n insolvensiehandeling pleeg;
(*c*) onbevoeg is om as 'n direkteur op te tree van 'n maatskappy ingevolge die Maatskappywet, 2008 (Wet No. 71 van 2008), ingelyf;
(*d*) wat deur 'n geregshof in enige siviele of strafregtelike verrigtinge bevind is bedrieglik, oneerlik, onprofessioneel, oneervol of in stryd met 'n vertrouensplig op te getree het, of van enige ander oortreding waarvoor sodanige persoon tot direkte gevangenisstraf sonder die opsie van 'n boete, gevonnis is;
(*e*) wat in die voorafgaande vyf jaar op grond van misdryf uit 'n vertrouensposisie onthef is;
(*f*) wat in die voorafgaande vyf jaar aan 'n dissiplinêre verhoor onderwerp is, wat tot die vroeë beëindiging van sy of haar lidmaatskap van 'n raad of enige ander rekenpligtige owerheid van 'n openbare entiteit, gelei het;
(*g*) wat in die voorafgaande vyf jaar te eniger tyd bevind is hierdie Wet of enige ander Wet van toepassing op die staatsdiens te oortree het; en
(*h*) in sy of haar geestesvermoë gekrenk is en deur 'n bevoegde hof aldus verklaar is.

(2) Niks in hierdie Wet weerhou die Minister daarvan om 'n moontlike lid of 'n lid van die raad aan 'n eerlikheidstoets te onderwerp nie, ten einde geskiktheid of voortgesette geskiktheid van 'n kandidaat vir aanstelling as 'n lid van die distribusieagent of voortgesette aanstelling as 'n lid van die raad, vas te stel.

Botsing en verklaring van belange

26D. (1) 'n Lid van die distribusieagent moet, voor aanstelling, 'n skriftelike verklaring aan die Minister, raad en die Kommissie voorlê, waarin hy of sy verklaar of hy of sy enige direkte of indirekte belang, finansieel of andersins, het al dan nie en of die belang—
(*a*) 'n botsing van belange ten opsigte van sy of haar werksaamhede as 'n lid van die distribusieagent mag daarstel; of
(*b*) redelik verwag kan word dat dit die distribusieagent in die verrigting van sy werksaamhede onder verdenking sal bring.

(2) As so 'n lid enige belang soos in subartikel (1) beoog verkry, moet hy of sy daardie feit binne 30 dae skriftelik aan die Minister, raad en die Kommissie verklaar.

(3) 'n Lid moet nie teenwoordig wees by, of deelneem aan, die bespreking of neem van 'n besluit oor enige aangeleentheid voor die distribusieagent waarin daardie lid 'n belang beoog in subartikel (1) het nie.

(4) 'n Lid moet nie sy of haar posisie of voorregte, of vertroulike inligting as 'n lid van die distribusieagent verkry, gebruik vir persoonlike gewin of om 'n ander persoon onbehoorlik te bevoordeel nie.

(5) Sou die Minister of die raad bewus word van enige botsing van belange of vermoedelike botsing van belange of omstandighede wat die onpartydigheid van 'n persoon onder verdenking mag bring in die verrigting van sy of haar pligte as 'n lid van die distribusieagent, kan die Minister, na oorleg met die raad, onmiddellik beveel dat die persoon ophou om enige pligte te verrig wat met die distribusie van toekennings verband hou, hangende enige ondersoek of navraag.

(6) Sou enige lid van die distribusieagent bewus word van enige botsing van belange of vermoedelike botsing van belange of omstandighede wat sy of haar onpartydigheid in die verrigting van sy of haar pligte onder verdenking mag bring, moet die persoon onmiddellik ophou om die pligte te verrig en moet binne sewe dae nadat hy of sy van die botsing of vermoedelike botsing of omstandighede bewus geword het, die Minister, raad en die Kommissie verwittig van enige sodanige botsing of omstandigheid en die Minister moet, na oorleg met die raad, oorweeg of die botsing of omstandighede die onpartydigheid van die persoon in die verrigting van sy of haar pligte waarskynlik onder verdenking mag bring.

(7) The Minister may, after consultation with the board, institute disciplinary proceedings against any member of the distributing agency who fails or refuses to comply with or contravenes this section.

(8) The Minister, board and the Commission must keep a register of the interests of members of the distributing agency disclosed in terms of this section and must update that register from time to time.

(9) The Minister may, 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 inquiry to probe such conflict or circumstances; or
(c) dismissal of such a person from executing his or her duties as a distributor of grants on the ground of serious misconduct,

where such person has failed to inform the Minister, board and the Commission of the existence of such conflict.

Restraint of trade

26E. A member of the distributing agency or his or her spouse, life partner, immediate family member or business partner or associate, may not during the time of his or her membership or for a period of 24 months after the termination or expiry of such membership, take up employment or in any way receive any benefit from any person who received a grant or intends to apply or has applied for a grant in terms of this Act.

Control and management of affairs of distributing agency

26F. The distributing agency is accountable to the board and the board may—

(a) determine the operational policy for the performance of all financial, administrative and clerical functions of the distributing agency;
(b) 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;
(c) ensure that the distributing agency performs its function independently and without fear, favour or prejudice; and
(d) ensure that the distributing agency adheres to any policy, directive or code of ethics approved by the board and applicable within the public sector.

Applications for grants

26G. (1) The distributing agency shall consider, evaluate and adjudicate applications for grants or recommendations of funding of worthy good causes received from the Commission after research conducted in terms of this Act.

(2) The distributing agency shall consider, evaluate and adjudicate recommendations of funding of worthy good causes from the Commission following research conducted in terms of this Act.

(3) 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.

Review

26H. (1) A decision of the distributing agency concerning an application for a grant is subject to review by the board only on application by an aggrieved applicant in the manner prescribed: Provided that such review shall be adjudicated by a board committee set up for such purpose without delay.

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(7) Die Minister kan, na oorleg met die raad, dissiplinêre verrigtinge instel teen enige lid van die distribusieagent wat versuim of weier om aan hierdie artikel te voldoen of dit nie nakom nie.

(8) Die Minister, raad en die Kommissie moet 'n register hou van die belange van die lede van die distribusieagent openbaargemaak ingevolge hierdie artikel en moet daardie register van tyd tot tyd bywerk.

(9) Die Minister kan, na oorweeg is of die botsing of omstandighede die onpartydigheid van die persoon moontlik in gedrang kan bring, die persoon inlig van sy of haar besluit, wat kan insluit—

(a) om die persoon te skors hangende verdere ondersoek;

(b) om 'n dissiplinêre ondersoek in te stel ten einde die botsing of omstandighede te peil; of

(c) om die persoon te ontslaan uit die verrigting van sy of haar pligte as 'n distribueerder van toekennings op grond van ernstige wangedrag,

waar sodanige persoon versuim het om die Minister, raad en die Kommissie te verwittig van die bestaan van sodanige botsing.

Handelsbeperking

26E. 'n Lid van die distribusieagent of sy of haar gade, lewensmaat, onmiddellike gesinslid of sakevennoot of medewerker, mag nie tydens die tyd van sy of haar lidmaatskap of vir 'n tydperk van 24 maande na beëindiging van die lidmaatskap, 'n betrekking aanvaar of op enige wyse enige voordeel ontvang van enige persoon wat 'n toekenning ontvang het of wat aansoek wil doen of gedoen het om 'n toekenning ingevolge hierdie Wet nie.

Beheer en bestuur van sake van distribusieagent

26F. Die distribusieagent is tot die raad aanspreeklik en die raad mag—

(a) die operasionele beleid vir die verrigting van alle finansiële, administratiewe en klerklike werksaamhede van die distribusieagent bepaal;

(b) die verrigting van enige ander aangeleentheid wat daarop gerig is om die optimale funksionering van die raad en die distribusie van toekennings te verbeter, te bepaal of te rig of te orden;

(c) verseker dat die distribusieagent sy werksaamheid onafhanklik en sonder vrees, guns of benadeling verrig; en

(d) verseker dat die distribusieagent voldoen aan enige beleid, opdrag of etiese kode deur die raad aanvaar en van toepassing in die openbare sektor.

Aansoeke om toekennings

26G. (1) Die distribusieagent moet aansoeke om toekennings of aanbevelings van befondsing vir verdienstelike goeie sake van die Kommissie ontvang oorweeg, evalueer en beoordeel nadat navorsing ingevolge hierdie Wet gedoen is.

(2) Die distribusieagent oorweeg, evalueer en beoordeel aanbevelings van befondsing van verdienstelike goeie sake van die Kommissie nadat navorsing ingevolge hierdie Wet gedoen is.

(3) Geen aansoeke om toekennings deur 'n regspersoon wat 'n agent, verteenwoordiger of spreekbuis van enige potensiële begunstigdes is, sal oorweeg word nie, tensy goeie gronde aangevoer word waarom die potensiële begunstigde nie self 'n aansoek kan doen nie.

Hersiening

26H. (1) 'n Besluit van die distribusieagent rakende 'n aansoek om 'n toekenning is onderhewig aan hersiening van die raad slegs op aansoek, op die voorgeskrewe wyse, deur 'n aansoeker wat te nagekom voel: Met dien verstande dat die hersiening deur 'n raadskomitee wat onverwyld vir die doel opgestel is, beoordeel word.

(2) If the board overrules the decision of the distributing agency, the board may either—
(a) order the distributing agency to re-evaluate the application taking into consideration matters raised by the board; or
(b) set aside the decision of the distributing agency and substitute it with an order the board deems appropriate.".

Repeal of section 27 of Act 57 of 1997

25. Section 27 of the principal Act is hereby repealed.

Amendment of section 28 of Act 57 of 1997

26. Section 28 of the principal Act is hereby amended—
(a) by 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, skills and expertise]** Commission to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.";
(b) by the substitution for subsection (2) of the following subsection:
"(2) The distributing agency shall consider, evaluate and adjudicate applications for grants and **[may, subject to section 33,]** the Commission shall pay such grants to appropriate recipients in accordance with this Act and subject to the conditions **[applying to its appointment]** imposed and to any directions issued by the **[Minister after consultation with the Minister responsible for welfare and population development in the national sphere of government, or by the Minister of Finance]** board, from the sum allocated for charitable purposes."; and
(c) by the deletion of subsection (3).

Amendment of section 29 of Act 57 of 1997

27. Section 29 of the principal Act is hereby amended—
(a) by 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)*(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]** Commission to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.";
(b) by the substitution for subsection (2) of the following subsection:
"(2) The distributing agency shall consider, evaluate and adjudicate applications for grants and **[may, subject to section 33,]** the Commission shall pay such grants to appropriate recipients in accordance with this Act and subject to the conditions **[applying to its appointment]** imposed and to any directions issued by the **[Minister after consultation with the Minister of Sport and Recreation, or by the Minister of Finance]** board, from the sum allocated for the development of sport and recreation."; and
(c) by the deletion of subsection (3).

Amendment of section 30 of Act 57 of 1997

28. Section 30 of the principal Act is hereby amended—
(a) by 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)*(d)*, shall be held in the fund for

(2) Indien die raad die besluit van die distribusieagent verwerp, kan die raad—
(a) die distribusieagent opdrag gee om die aansoek te herevalueer, met inagneming van die aangeleenthede wat die raad opper; of
(b) die besluit van die distribusieagent verwerp en dit vervang met 'n bevel wat die raad gepas ag.".

Herroeping van artikel 27 van Wet 57 van 1997

25. Artikel 27 van die Hoofwet word hierby herroep.

Wysiging van artikel 28 van Wet 57 van 1997

26. Artikel 28 van die Hoofwet word hierby gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:
"(1) Soveel van enige bedrag wat aan die fonds betaal word wat toegeken is vir die onkoste vermeld in artikel 26(3)*(b)*, word in die fonds gehou vir toekenning deur die **[distribusieagent aangestel deur die Minister in oorleg met die Minister verantwoordelik vir welsyn en bevolkingsontwikkeling in die nasionale sfeer van regering wat oor die nodige kundigheid en vaardigheid beskik]** Kommissie om die toegekende bedrag regverdig en billik te versprei onder alle persone wat aan die voorgeskrewe vereistes voldoen.";
(b) deur subartikel (2) deur die volgende subartikel te vervang:
"(2) Die distribusieagent oorweeg, evalueer en beoordeel aansoeke vir toekennings en **[kan, behoudens artikel 33,]** die Kommissie moet sodanige toekennings betaal aan toepaslike ontvangers in ooreenstemming met hierdie Wet en behoudens die voorwaardes **[wat op sy aanstelling van toepassing is]** neergelê en die voorskrifte wat deur die **[Minister]** raad uitgereik is **[na oorleg met die Minister verantwoordelik vir welsyn en bevolkingsontwikkeling in die nasionale sfeer van regering, of deur die Minister van Finansies,]** vanuit die bedrag toegeken vir liefdadigheidsdoeleindes."; en
(c) deur subartikel (3) te skrap.

Wysiging van artikel 29 van Wet 57 van 1997

27. Artikel 29 van die Hoofwet word hierby gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:
"(1) Soveel van enige bedrag wat aan die fonds betaal word wat toegeken is vir die onkoste vermeld in artikel 26(3)*(c)*, word in die fonds gehou vir toekenning deur die **[distribusieagent aangestel deur die Minister in oorleg met die Minister verantwoordelik vir sport en ontspanning in die nasionale sfeer van regering]** Kommissie om die toegekende bedrag regverdig en billik te versprei onder alle persone wat aan die voorgeskrewe vereistes voldoen.";
(b) deur subartikel (2) deur die volgende subartikel te vervang:
"(2) Die distribusieagent oorweeg, evalueer en beoordeel aansoeke vir toekennings en **[kan, behoudens artikel 33,]** die Kommissie moet sodanige toekennings betaal aan toepaslike ontvangers in ooreenstemming met hierdie Wet en behoudens die voorwaardes **[wat op sy aanstelling van toepassing is]** neergelê en die voorskrifte wat deur die **[Minister]** raad uitgereik is **[na oorleg met die Minister van Sport en Ontspanning, of deur die Minister van Finansies,]** vanuit die bedrag toegeken vir die ontwikkeling van sport en ontspanning."; en
(c) deur subartikel (3) te skrap.

Wysiging van artikel 30 van Wet 57 van 1997

28. Artikel 30 van die Hoofwet word hierby gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:
"(1) Soveel van enige bedrag wat aan die fonds betaal word wat toegeken is vir die onkoste vermeld in artikel 26(3)*(d)*, word in die fonds

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]** Commission to distribute the allocated sum fairly and equitably amongst all persons who meet the prescribed requirements.";

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

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

(c) by the deletion of subsection (3).

Amendment of section 31 of Act 57 of 1997

29. Section 31 of the principal Act is hereby amended—

(a) by the deletion of subsection (2);

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

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

(c) by the deletion of subsection (4).

Amendment of section 32 of Act 57 of 1997

30. Section 32 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"The **[Minister shall, after consultation with the]** Commission 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]** Commission or in respect of a grant which **[a distributing agency]** the Commission may pay to a recipient, impose such conditions **[as he or she]** it deems fit, in addition to conditions requiring—";

(b) by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(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,]** Commission in consultation with the board **[or the distributing agency, as the case may be,]** may impose;";

(c) by the deletion in subsection (1) of paragraph *(b)*;

(d) by the substitution in subsection (1) for paragraphs *(c)* and *(d)* of the following paragraphs, respectively:

"*(c)* that a category of juristic person as 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 may be, **[audited accounts]** of all amounts distributed; **[and]**

gehou vir toekenning deur die **[distribusieagent aangestel deur die Minister in oorleg met die Ministers verantwoordelik vir kuns, kultuur, wetenskap en tegnologie, en omgewingsake en toerisme, in die nasionale sfeer van regering,]** Kommissie om die toegekende bedrag regverdig en billik te versprei onder alle persone wat aan die voorgeskrewe vereistes voldoen.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die distribusieagent oorweeg, evalueer en beoordeel aansoeke om toekennings en **[kan, behoudens artikel 33,]** die Kommissie moet sodanige toekennings betaal aan toepaslike ontvangers in ooreenstemming met hierdie Wet en behoudens die voorwaardes **[wat op sy aanstelling van toepassing is]** neergelê en **[die]** enige voorskrifte wat deur die **[Minister]** raad uitgereik is **[na oorleg met die Ministers verantwoordelik vir kuns, kultuur, wetenskap en tegnologie, en omgewingsake en toerisme, in die nasionale sfeer van regering, of deur die Minister van Finansies,]** vanuit die bedrag toegeken vir die ontwikkeling van die kunste, kultuur, en die nasionale historiese, natuur, kulturele en argitektoniese erfenis."; en

(c) deur subartikel (3) te skrap.

Wysiging van artikel 31 van Wet 57 van 1997

29. Artikel 31 van die Hoofwet word hierby gewysig—

(a) deur subartikel (2) te skrap;

(b) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die distribusieagent oorweeg, evalueer en beoordeel aansoeke om toekennings en **[kan, behoudens artikel 33,]** die Kommissie moet sodanige toekennings betaal aan toepaslike ontvangers in ooreenstemming met hierdie Wet en behoudens die voorwaardes **[wat op sy aanstelling van toepassing is]** neergelê en die voorskrifte wat deur die **[Minister]** raad uitgereik is**[, of deur die Minister van Finansies,]** vanuit die bedrag toegeken vir enige spesifieke doel geïdentifiseer deur die Minister na oorleg met die raad."; en

(c) deur subartikel (4) te skrap.

Wysiging van artikel 32 van Wet 57 van 1997

30. Artikel 32 van die Hoofwet word hierby gewysig—

(a) deur die woorde wat paragraaf *(a)* in subartikel (1) voorafgaan deur die volgende woorde te vervang:

"Die **[Minister moet, na]** Kommissie in oorleg met die raad**[,]** kan die voorwaardes neerlê wat **[hy of sy]** die Kommissie goeddink met betrekking tot enige toekenning aan 'n spesifieke goeie saak wat die raad aan die **[distribusieagent wat deur die Minister aangestel is,]** Kommissie oorbetaal, of met betrekking tot 'n toekenning wat **['n distribusieagent]** die Kommissie aan 'n ontvanger betaal, benewens voorwaardes wat vereis dat—

(b) deur paragraaf *(a)* in subartikel (1) deur die volgende paragraaf te vervang:

"*(a)* die bedrag van 'n toekenning of 'n bewilliging onmiddellik terugbetaal word by die nienakoming van enige voorwaarde benewens enige strawwe wat die **[Minister,]** die distribusieagent in oorleg met die raad **[of die distribusieagent, na gelang van die geval,]** oplê;";

(c) deur paragraaf *(b)* in subartikel (1) te skrap;

(d) deur paragrawe *(d)* en *(d)* in subartikel (1) onderskeidelik deur die volgende paragrawe te vervang:

"*(c)* 'n kategorie van regspersoon soos deur die Minister voorgeskryf na oorleg met die raad ten opsigte van bedrae deur die Minister na oorleg met die raad voorgeskryf, wat aan hom of haar toegeken is, van tyd tot tyd **[die raad of]** die distribusieagent van **[geouditeerde rekeninge]** finansiële state wat geouditeer of onafhanklik hersien word, na gelang van die geval van alle uitbetaalde bedrae moet voorsien; **[en]**

(*d*) any recipient of a grant to provide **[the board or]** the distributing agency with any relevant information it may require**[.]**; and";

(*e*) by the addition in subsection (1) of the following paragraph:

"(*e*) a directive on the splitting of the grant distributed between administrative costs and the actual cause funded.";

(*f*) by 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,]** Commission shall be satisfied that any such juristic person is competent to allocate the amounts equitably among all the members it represents.";

(*g*) by 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 **[directions given to it]** criteria prescribed or issued 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."; and

(*h*) by the deletion of subsection (4).

Substitution of section 33 of Act 57 of 1997

31. The following section is hereby substituted for section 33 of the principal Act:

"**Power of Minister to prohibit, withdraw or reduce certain grants**

33. The Minister shall at any time after receiving a recommendation from the board or information from any other person that the grant awarded by the distributing agency—

(*a*) is utilised or is likely to be utilised in an unauthorised manner that does not comply with the purpose or conditions stipulated in the grant;

(*b*) is utilised or is likely to be utilised for an unlawful purpose; or

(*c*) was applied for in a misleading or fraudulent manner,

prohibit, withdraw or reduce any such grant and may impose any such conditions as the Minister considers appropriate.".

Amendment of section 60 of Act 57 of 1997

32. Section 60 of the principal Act is hereby amended—

(*a*) by the substitution for the words preceding paragraph (*a*) of the following words:

"The Minister may, **[with the concurrence of]** after consultation with the board, make regulations regarding—";

(*b*) by the insertion in paragraph (*a*) after subparagraph (vii) of the following subparagraphs:

"(viiA) the procedures for review against the decisions of the distributing agency as contemplated in section 10(1)(*p*);

(viiB) the limits on the amounts of the grant to be awarded to an applicant in a twelve month period;";

(*c*) by the deletion of the full stop at the end of paragraph (*b*) and by the substitution of a semicolon; and

(*d*) enige ontvanger van 'n toekenning **[die raad of]** die distribusie-agent met enige toepaslike inligting wat die raad of die distribusieagent verlang, moet voorsien**[.]**; en";

(e) deur die volgende paragraaf by subartikel (1) te voeg:

"*(e)* 'n voorskrif oor die verdeling van die toekenning versprei tussen administratiewe kostes en die werklike saak wat befonds is.";

(f) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) By die besluit oor die regspersone aan wie toekennings gemaak word, moet die **[Minister of die distribusieagent, na gelang van die geval,]** Kommissie oortuig wees dat enige sodanige regspersoon bevoeg is om die bedrae billik toe te ken tussen al die lede wat hy verteenwoordig.";

(g) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) *(a)* By die oorweging van enige aansoek om 'n toekenning ingevolge hierdie Hoofstuk moet die distribusieagent aan enige **[opdragte]** maatstawwe voldoen wat die Minister **[aan hom gee]** voorskryf of uitreik na oorleg met die raad ten opsigte van die aangeleenthede wat in ag geneem moet word by die bepaling van die persone aan wie, die doeleindes waarvoor en die voorwaardes waaronder daardie distribusieagent enige bedrae toeken.

(b) By die bepaling van aangeleenthede wat in ag geneem moet word by die bepaling van persone aan wie, doel aan wie, die doel waarvoor, en die voorwaardes onderhewig waaraan die distribusieagent enige bedrae moet toeken, moet die raad in oorleg met die Minister, algemene ontwikkeling in die Republiek en regeringsprioriteite op daardie stadium, in ag neem."; en

(h) deur subartikel (4) te skrap.

Vervanging van artikel 33 van Wet 57 van 1997

31. Artikel 33 van die Hoofwet word hierby deur die volgende artikel vervang:

"**Bevoegdheid van Minister om sekere toekennings te verbied, in te trek of te verminder**

33. Die Minister moet te eniger tyd na ontvangs van 'n aanbeveling van die raad of inligting van enige ander persoon dat die toekenning deur die distribusieagent toegeken—

(a) op 'n ongemagtigde wyse gebruik word of moonlik gebruik mag word wat nie voldoen aan die doel of voorwaardes in die toekenning bepaal nie;

(b) gebruik word of moontlik gebruik mag word vir 'n onregmatige doel; of

(c) op 'n misleidende of bedrieglike wyse om aansoek gedoen is,

enige sodanige toekenning verbied, intrek of verminder en die Minister kan enige sodanige voorwaardes wat die Minister gepas ag, neerlê.".

Wysiging van artikel 60 van Wet 57 van 1997

32. Artikel 60 van die Hoofwet word hierby gewysig—

(a) deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die Minister kan, **[met die instemming van]** na oorleg met die raad, regulasies uitvaardig betreffende—";

(b) deur na subparagraaf (vii) in paragraaf *(a)* die volgende subparagraaf in te voeg:

"(viiA) die prosedures vir hersiening teen die besluite van die distribusieagent soos in artikel 10(1)*(p)* beoog;

(viiB) die beperkings op die bedrae van die toekenning wat in 'n tydperk van twaalf maande aan 'n aansoeker toegeken moet word;";

(c) deur die punt aan die einde van paragraaf *(b)* te skrap en deur 'n kommapunt te vervang; en

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(d) by the addition of the following paragraphs:

"*(c)* the period within which an application for a grant or recommendation of funding shall be finalised; and

(d) any other process that facilitates the efficient and effective application for grants and the distribution thereof.".

Transitional provisions

33. (1) Upon commencement of the Lotteries Amendment Act, 2013 (in this section referred to as the Amendment Act)—

(a) every person employed by the board immediately prior to the commencement of the Amendment Act in terms of section 7, 28, 29, 30 or 31, is regarded as having been appointed in terms of section 2D or 26A of this Act;

(b) the remuneration and other terms and conditions of service of any person contemplated in paragraph *(a)* may not be less favourable than the remuneration, terms and conditions applicable to that person immediately before the commencement of this Act and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before that date, including—

(i) employer contribution to a pension fund;

(ii) employer contribution to a medical aid scheme;

(iii) employer contributions in connection with such membership;

(iv) accrued pensionable service;

(v) accrued leave benefits; and

(vi) retirement at a specific age; and

(c) every person contemplated in paragraphs *(a)* and *(b)* remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before the commencement of this Act.

(2) For purposes of the Income Tax, 1962 (Act No. 58 of 1962), no change of employer must be regarded as having taken place when a person is transferred to the service of the Commission in terms of subsection (1).

(3) Upon commencement of the Amendment Act—

(a) save where the Act provides otherwise, all movable and immovable property of the board, including, administrative and other records of board and all documents in the possession of the board, is transferred to the Commission, which then acquires such property;

(b) save where the Act provides otherwise, the rights, duties, liabilities and obligations relating to the board are transferred to the Commission; and

(c) all valid and binding agreements entered into by the board shall be binding on the Commission until termination or upon expiry.

Short title and commencement

34. 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*.

(d) deur die volgende paragrawe by te voeg:

"*(c)* die tydperk waarin 'n aansoek om 'n toekenning of aanbeveling van befondsing afgehandel moet word; en

(d) enige ander proses wat doeltreffende en doelmatige aansoeke om toekennings en die verspreiding daarvan, vergemaklik.".

Oorgangsbepalings

33. (1) By inwerkingtreding van die Wysigingswet op Loterye, 2013 (in hierdie artikel die Wysigingswet genoem)—

(a) word elke persoon wat onmiddellik voor die inwerkingtreding van die Wysigingswet ingevolge artikel 7, 28, 29, 30 of 31 in diens van die raad is, geag ingevolge artikel 2D of 26A van hierdie Wet aangestel te wees;

(b) mag die besoldiging en ander voorwaardes en bedinge van diens van 'n persoon in paragraaf *(b)* beoog, nie minder gunstig wees as die vergoeding, bedinge en voorwaardes van toepassing op daardie persoon onmiddellik voor die inwerkingtreding van hierdie Wet nie en hy of sy bly geregtig op alle regte, voordele en voorregte waarop hy of sy onmiddellik voor daardie datum geregtig was, met inbegrip van—

(i) werkgewerbydrae tot 'n pensioenfonds;

(ii) werkgewerbydrae tot 'n mediese fonds;

(iii) werkgewerbydraes in verband met sodanige lidmaatskap;

(iv) opgelope pensioengewende diens;

(v) opgelope verlofvoordele; en

(vi) aftrede teen 'n bepaalde ouderdom; en

(c) elke persoon beoog in paragrawe *(a)* en *(b)* bly onderhewig aan enige besluite, verrigtinge, beslissings en opdragte van toepassing op daardie persoon onmiddellik voor die inwerkingtreding van hierdie Wet.

(2) By die toepassing van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), moet geen verandering van werkgewer geag word plaas te gevind het wanneer 'n persoon ingevolge subartikel (1) na die diens van die Kommissie oorgeplaas word nie.

(3) By inwerkingtreding van die Wysigingswet—

(a) buiten waar die Wet anders bepaal, word alle roerende en vaste eiendom van die raad, met inbegrip van administratiewe en ander rekords van die raad en alle dokumente in besit van die raad, na die Kommissie oorgedra, wat dan sodanige eiendom verkry;

(b) buiten waar die Wet anders bepaal, word die regte, pligte, laste en verpligtinge met betrekking tot die raad aan die Kommissie oorgedra; en

(c) alle geldige en bindende ooreenkomste deur die raad aangegaan is tot beëindiging of by verstryking, bindend op die raad.

Kort titel en inwerkingtreding

34. Hierdie Wet heet die Wysigingswet op Loterye, 2013, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.