

NO. 210 OF 1993: LOTTERIES AND GAMBLING BOARD ACT, 1993.

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

ACT

To provide for the establishment of a board with a view to the implementation of lottery, gambling and fund-raising activities; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 14 January 1994.)

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

ARRANGEMENT OF SECTIONS

Section

Definitions

CHAPTER 1 Lotteries and Gambling Board

CHAPTER 2 Existing lottery, gambling and fund-raising activities.

CHAPTER 3 Permanent measures

CHAPTER 4 Interim measures

CHAPTER 5 General provisions

Definitions

1. In this Act, unless the context otherwise indicates-

(i) "advisory panel" means an advisory panel appointed in terms of section 6; (iv)

(ii) "board" means the Lotteries and Gambling Board established under section 2; (iii)

(iii) "executive committee" means an executive committee appointed in terms of section 5(1); (v)

(iv) "member" means a member appointed in terms of section 3(1); (i)

(v) "Minister" means the Minister of Justice; (ii)

(vi) "prescribed" means prescribed by regulation. (vi)

CHAPTER 1

Lotteries and Gambling Board

Establishment of Lotteries and Gambling Board

2. There is hereby established a board to be known as the Lotteries and Gambling Board.

Composition of board

3. (1) The board shall consist of-

- (a) a chairman, who, in the opinion of the Minister, shall be a person with applicable knowledge or experience with regard to matters connected with the objects of the board, and who shall not be in the full-time service of the State;
- (b) an officer of the Department of Finance designated by the Minister of Finance
- (c) an officer of the Department of Justice designated by the Minister;
- (d) an officer of the Department of National Health and Population Development designated by the Minister for National Health and Welfare;
- (e) with due regard to regional interests, six members, at least three of whom shall not be in the full-time service of the State or a province, who, in the opinion of the Minister, shall have proven business acumen or applicable knowledge or experience in the field of welfare, disability, community development, sport and socioeconomic development; and if requested by the government of a province, not more than one representative of each province designated by the government of such province, who shall be appointed by the Minister.

(2) The members of the board shall not be appointed unless the Minister, in respect of the members referred to in subsection (1)(a) and (e), has invited interested parties by notice in the Gazette to nominate candidates for consideration by the Minister within 14 days of the publication of such notice.

(3) A person shall not be appointed or remain a member if such person, whether personally or through his or her spouse, partner or associate, has a direct or indirect financial interest in any lottery, gambling or fund-raising activity.

(4) A member of the board shall hold office for such period, not exceeding two years, as the Minister may determine at the time of his appointment, and shall be eligible for reappointment at the termination of his term of office.

(5) The Minister may at any time terminate the term of office of any member if there are good reasons for doing so.

(6) The Minister shall, subject to subsection (2), fill a casual vacancy on the board, in the case of-

- (a) the chairman, by the appointment of another person as chairman; and
- (b) any other member appointed under subsection (1), by the appointment of another person as a member, for such period, not exceeding two years, as the Minister may determine at the time of his appointment.

Meetings of board

4. (1) Meetings of the board shall be held on such dates and at such times and places as the chairman may determine.

(2) The proceedings at a meeting of the board shall, subject to the provisions of this section, be determined by the chairman.

(3) The quorum for a meeting of the board shall be the majority of the members of the board.

(4) A decision of the board shall be taken by a majority of the votes of the members present at a meeting of the board, and in the event of an equality of votes on any matter, the chairman shall have a casting vote in addition to his deliberative vote.

(5) Subject to subsections (6) and (7), any meeting of the board shall be accessible to the public.

(6) The chairman may in his discretion direct that any person whose presence is in his opinion not desirable at the meeting concerned, may not attend the meeting or shall leave the meeting.

(7) The deliberations with a view to making decisions and to voting thereon in respect of any matter at a meeting shall take place behind closed doors.

Executive committees of board

5. (1) The board shall, subject to the provisions of this Act, from time to time appoint an executive committee to perform the functions and exercise the powers-

- (a) delegated to it by the board; and
- (b) conferred upon it in terms of this Act.

(2) An executive committee shall consist of-

- (a) such members of the board as the board may designate; or
- (b) such members of the board as the board may designate and such other persons as the Minister may, with the concurrence of the board and subject to section 3(2) and (3), appoint.

(3) The Minister may, with the concurrence of the board, at any time terminate the appointment of a person appointed by him to an executive committee in terms of subsection (2)(b).

(4) The board shall designate the chairman of an executive committee.

(5) (a) An executive committee shall perform its functions and exercise its powers subject to 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 or delegated power so exercised shall be deemed to have been performed by the board.

(6) The Minister may, with the concurrence of the board, at any time dissolve an executive committee.

Advisory panels and consultation

6. (1) The board shall, subject to the provisions of this Act, appoint one or more advisory panels consisting of persons who have applicable knowledge and who are not members of the board, to assist the board or an executive committee in the performance of its functions.

(2) The board may-

(a) consult any person, organization or institution; or

(b) by notice in the Gazette invite interested parties to submit written representations, with regard to any matter deemed necessary by the board to enable the board to achieve its objects.

Remuneration and allowances of members of board, executive committees and advisory panels

7. (1) Members of the board and executive committees who are not in the full-time service of the State, may, in respect of their services, be paid such remuneration and allowances as may be determined by the Minister with the concurrence of the Minister of State Expenditure.

(2) The remuneration and allowances of the persons referred to in subsection (1) may differ according to the different offices held by them or the different functions performed by them.

(3) Members of an advisory panel may, in respect of their expenses, be paid such allowances as may be determined by the Minister with the concurrence of the Minister of State Expenditure.

Performance of administrative work of board

8. The administrative work incidental to the performance of the functions of the board or an executive committee shall be performed by officers of the Department of Justice designated for that purpose by the Director-General: Justice.

CHAPTER 2

Existing lottery, gambling and fund-raising activities

Lottery and gambling activities in certain territories

9. (1) Any person lawfully conducting or operating any lottery sports pool, casino or gambling game before or on 30 November 1993 %in a state the territory of which formerly formed part of the Republic, shall. if and when such state is reincorporated into the Republic, within 14 days after reincorporation. or if such state has already

been reincorporated at the commencement of this Act, within 14 days after such commencement, register in the prescribed manner such lottery, sports pool, casino or gambling game with the board.

(2) The conducting or operating of, and participation in, a lottery, sports pool, casino or gambling game registered as contemplated in subsection (1) shall, subject to the provisions of this Act, be deemed not to be in contravention of the provisions of the Gambling Act, 1965 (Act No. 51 of 1965).

Certain fund-raising activities in Republic

10. (1) Any person or organization authorized before or on 30 November 1993 to collect contributions from the public in terms of the provisions of the Fund-raising Act, 1978 (Act No. 107 of 1978), and who collects such contributions by means of any activity prohibited in terms of the Gambling Act, 1965 (Act No. 51 of 1965), shall within the period prescribed by the Minister by notice in the Gazette, apply in the prescribed manner for the registration of such activity with the board.

(2) The State President may, on the recommendation of the board, by notice in the Gazette grant to any person who or organization which is registered in terms of subsection (1) temporary immunity, either unconditionally or on such conditions as he may deem fit, from the institution of criminal proceedings for the contravention of any provision of the Gambling Act, 1965.

Operation of certain existing lottery, gambling and fund-raising activities

11. (1) Any person registered in terms of section 9(1) and any person or organization granted temporary immunity in terms of section 10 shall conduct or operate a lottery, sports pool, casino, gambling game or fund-raising activity subject to the control of an executive committee contemplated in subsection (2) and subject to the regulations made in terms of section 12.

(2) The board shall-

(a) appoint an executive committee for the control of casinos and gambling games referred to in section 9; and

(b) appoint an executive committee for the control of lotteries and sports pools referred to in section 9 and the fund-raising activities referred to in section 10, to exercise the relevant powers and perform the relevant functions conferred upon the board by the regulations made in terms of section 12.

Regulations regarding certain existing lottery, gambling and fund-raising activities

12. (1) The Minister may, with the concurrence of the board, make regulations regarding-

(a) the powers and functions of the board in respect of the control of the activities referred to in sections 9 and 10, including-

- (i) the manner and form in which an application for registration or a registration shall take place;
- (ii) the rules for and nature and manner of the conduct or operation of any such activity;
- (iii) the documents and records which shall be kept and submitted to the board;
- (iv) the registration fees, levies and taxes payable;
- (v) in respect of a lottery and sports pool, the manner in and the purposes for which the proceeds of such lottery and sports pool may be allocated;

(b) the conditions of appointment and powers of any inspector, auditor, technician or knowledgeable person necessary to ensure compliance with the regulations made in terms of paragraph (a) and (c) in general, any other matter which the Minister may consider it necessary or expedient to prescribe in order to achieve or promote the objects of the provisions of this Chapter.

(2) Any regulation made in terms of subsection (1) regarding taxes or which results in expenditure from the State Revenue Fund, shall be made with the concurrence of the Minister of Finance and the Minister of State Expenditure, respectively.

Termination of certain lottery, gambling and fund-raising activities

13. The State President may, on the recommendation of the board after proper investigation, at any time terminate the registration contemplated in section 9 or 10 or the immunity contemplated in section 10(2) by notice in the Gazette as from a date determined in such notice:

Provided that such notice shall precede the date of termination by not less than six months.

CHAPTER 3

Permanent measures

Objects of board regarding permanent measures

14. (1) The objects of the board, having due regard to the constitutional development in the Republic, with specific reference to the powers of the provinces, and the regional, economic, financial, social and moral interests of the Republic, shall be to make recommendations to the Minister regarding-

- (a) the implementation of a state-regulated national lottery, sports pools and other lotteries, and the establishment of a body to manage such national lottery, sports pools and lotteries;
- (b) the establishment of a body to control casinos and to regulate the game known as bingo or any similar game;
- (c) the determination of a national policy on betting on sporting events;
- (d) the determination of a national policy with regard to the administration and management of any matter referred to in paragraphs (a) and (b).

(2) The Minister may, after receipt of any recommendation of the board contemplated in subsection (1), request the board to advise him on the administrative and legislative measures necessary for the practical implementation of any such recommendation.

Functions of board regarding permanent measures

15. In order to achieve its objects referred to in section 14, the board shall advise the Minister regarding-

- (a) the measures necessary for the implementation of a state-regulated national lottery and sports pools with a view to the promotion of social upliftment, welfare activities and sport;
- (b) the institutions that should be considered as agents for a state-regulated lottery;
- (c) mechanisms for the manner of and control over the allocation of funds obtained from the proceeds of a state-regulated national lottery and sports pools;
- (d) the measures necessary for the implementation of other lotteries and the limitations and control to which such lotteries should be subject;
- (e) the establishment of a body to manage a state-regulated national lottery, sports pools and other lotteries, and the composition, powers and duties of such a body;
- (f) the legalization of casinos, the granting of casino licences and the criteria to be complied with before a licence is granted;
- (g) the restriction and control of the game of bingo or any similar game;
- (h) the establishment of a body to control casinos and the game of bingo or any similar game and the composition, powers and duties of such a body;
- (i) the determination of a national policy on betting on sporting events;
- (j) the time at which any matter referred to in section 14(1) (a), (b) and (c) should be implemented;
- (k) the fiscal implications of the implementation of any matter referred to in section 14;
- (l) any other matter on which the Minister requires the advice of the board.

Appointment of executive committees and advisory panels regarding permanent measures

16. In order to assist the board to achieve its objects referred to in section 14 and to perform its functions referred to in section 15, the board shall-

- (a) appoint at least one executive committee in respect of each of the objects referred to in section 14(1)(a), (b) and (c); and
- (b) appoint at least one advisory panel in respect of each of the objects referred to in section 14(1)(a), (b) and (c).

CHAPTER 4

Interim measures

Functions and powers of board regarding interim measures

17. (1) The Minister may, having due regard to the constitutional development in the Republic, with specific reference to the powers of the provinces, and the regional, economic, financial, social and moral interests of the Republic, authorize the board to perform such functions and exercise such powers as he may prescribe in order to enable the board-

- (a) to manage sports pools and a lottery other than a state-regulated national lottery;
- (b) to control casinos;
- (c) to regulate the game known as bingo or any similar game;
- (d) to determine a national policy on betting on sporting events, until such time as the administrative and legislative measures contemplated in section 14(2) have been adopted.

(2) The Minister may, after consultation with the board, in like manner, at any time, repeal, amend or supplement any function or power contemplated in subsection (1).

Regulations regarding interim measures

18. (1) The Minister may, with the concurrence of the board, make regulations regarding the powers and functions contemplated in section 17(1), including—

- (a) the granting, issuing, suspension, withdrawal and amendment of temporary licences and the criteria subject to which temporary licences shall be granted;
- (b) the manner in which and purposes for which the proceeds of any lottery or sports pools shall be allocated;
- (c) the determination of a national policy on betting on any sporting event;
- (d) the rules for and nature and manner of conduct of any licensed activity and the criteria which any person shall comply with in order to qualify as an agent of a licensee;
- (e) the documents and records which shall be kept and submitted to the board;
- (f) the licence fees, levies and taxes which shall be payable;
- (g) the conditions of appointment and powers -of any inspector, auditor, technician or knowledgeable person necessary to ensure compliance with the regulations made in terms of this section; and
- (h) in general, any other matter which the Minister may consider necessary or expedient to prescribe in order to achieve or promote the objects of the provisions of this Chapter.

(2) Any regulation made in terms of subsection (1) regarding taxes or which results in expenditure from the State Revenue Fund, shall be made with the concurrence of the Minister of Finance and the Minister of State Expenditure, respectively.

Saving

19. Any activity conducted under licence in terms of this Chapter and the participation in such activity shall, subject to the provisions of this Act, be deemed not to be in contravention of the provisions of the Gambling Act, 1965 (Act No. 51 of 1965).

CHAPTER 5

General provisions

Offences and penalties

20. Any person who contravenes or fails to comply with any provision of this Act or any regulation made under section 12 or 18 shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding five years.

Short title and commencement

21. This Act shall be called the Lotteries and Gambling Board Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.