



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

**Vol. 438   Cape Town   12   December   2001   No. 22927**

## **THE PRESIDENCY**

No. 1339                      12 December 2001

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

**No. 46 of 2001: Lotteries Amendment Act, 2001.**



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**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 6 December 2001.)*

**ACT**

**To amend the Lotteries Act, 1997, so as to further regulate the conduct of promotional competitions; and to provide for matters incidental thereto.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 54 of Act 57 of 1997**

1. Section 54 of the Lotteries Act, 1997, is amended by the substitution for subsections (1), (2) and (3) of the following subsections: 5

“(1) A promotional competition shall not be unlawful if—

- (a) it is conducted in the Republic;
- (b) the consideration payable in respect of the purchase of goods or the use of services in respect of which that promotional competition is conducted—
  - (i) is the price usually or ordinarily paid, excluding discounts, for such or similar goods or services without the opportunity of taking part in a promotional competition; 10
  - (ii) is not increased by the opportunity to participate in that promotional competition; and
  - (iii) is the only consideration payable for those goods or services and includes consideration for the right to compete; **[and]** 15
- (c) the opportunity of participating in the promotional competition is not the only or the only substantial inducement to a person to purchase or use the goods or services to which the promotional competition relates;
- (d) the promotional competition is conducted in accordance with the regulations prescribed by the Minister in terms of subsection (2) or (3); 20
- (e) the promotional competition or any conduct under it is not substantially comparable to—
  - (i) a business practice which has been declared unlawful in terms of the **[Harmful Business Practices]** Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988); or 25
  - (ii) a restrictive practice which has been declared unlawful in terms of the **[Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979)]** Competition Act, 1998 (Act No. 89 of 1998);
- (f) the Minister has not in terms of subsection (4) declared the promotional competition unlawful; 30

- (g) the goods or services manufactured, sold, supplied, distributed or delivered in connection with the right to participate in a promotional competition are usually or ordinarily manufactured, sold, supplied, distributed or delivered by the person for whose benefit the promotional competition is held; **[and**
- (h) **where the promotional competition is held in association or jointly with or in support of another promotional competition or in respect of or for the benefit of more than one person, the maximum values or limits prescribed by the Minister in respect of the total value or number of prizes, the frequency, duration or number of promotional competitions or the geographical area in which promotional competitions may be held, are not exceeded; and]**
- (i) the promotional competition is not substantially similar to any competition, game or sports pool conducted by or on behalf of the National Lottery; **and**
- (j) the consideration paid for the purchase of the goods or the use of the services promoted by a promotional competition is not increased by the opportunity to take part in that promotional competition to such an extent that that promotional competition does not mainly serve as a means, method or mechanism of promoting the relevant goods or services, but substantially as consideration for the opportunity to take part in that promotional competition.
- (2) The Minister **[shall]** may, after consultation with the board, with due regard to the effect of promotional competitions on the National Lottery, lotteries incidental to an exempt entertainment and society lotteries, make regulations **[in respect]** which are necessary for the proper conduct and regulation of promotional competitions in general. **[—**
- (a) **in general;**
- (b) **in respect of a particular category of promotional competitions;**
- (c) **in respect of a particular category of persons conducting or in any way associated with a promotional competition; or**
- (d) **in respect of a category of persons who may participate in a promotional competition or a category of promotional competitions.]**
- (3) **[The regulations shall include provisions]** Without derogating from the generality of subsection (2), the Minister may make regulations in respect of—
- (a) the minimum age of a person who may participate in any particular competition or category of competitions;
- [(b) (i) the maximum value of prizes in a calendar year, which shall not exceed R1 000 000;**
- (ii) the maximum number of prizes in a calendar year; and**
- (iii) the nature of prizes,**  
**which may be utilised in respect of a promotional competition or a specified number of such competitions by a person who or category of persons which conducts, promotes, organises or in any other way is associated with a promotional competition or such competitions;**
- (c) **subject to paragraph (b), the maximum value of prizes in a calendar year, which shall not exceed R1 000 000, the maximum number of prizes in a calendar year and the nature of prizes in respect of any specific promotional competition or category of promotional competitions;**
- (d) **notification of the board of every promotional competition, and the conditions and requirements in respect thereof, including the information required in respect of that notification and the payment of a fee to the board in respect of the processing of that notification;**
- (e) **the frequency, duration and maximum number of promotional competitions to be run in a calendar year by a person who or category of persons which conducts, promotes, organises or in any other way is associated with a promotional competition;**
- (f) **the geographical area in which a promotional competition or category of promotional competitions may be conducted, if such area is not the whole territory of the Republic; and]**
- (g) the conditions or circumstances under which the board or any person designated by it may without the consent of the person who conducts the promotional competition inspect any aspect, including any process or procedure, relating to a promotional competition, including the accounting

procedures and the process of identifying the winner or winners of that promotional competition;

- (h) any matter relating to the conduct of a promotional competition which may reasonably have a negative influence on or consequence for the public or a part or group thereof; and
- (i) offences and penalties for the contravention of the regulations.”.

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**Short title and commencement**

2. This Act is called the Lotteries Amendment Act, 2001, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.