

REPUBLIC OF SOUTH AFRICA

LOTTERIES BILL

(As introduced)

(MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT)

[B 47—96]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP LOTERYE

(Soos ingedien)

(MINISTER VIR PROVINSIALE SAKE EN STAATKUNDIGE ONTWIKKELING)

[W 47—96]

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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.
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BILL

To authorise, regulate and prohibit lotteries and sports pools; to establish a National Lotteries Board; consequentially to amend the Post Office Act, 1958, the Gambling Act, 1965, and the Gambling Act, 1982 (Ciskei), and to repeal the State Lotteries Act, 1984 (Ciskei), and the Lotteries Decree, 1989 (Transkei); and to provide for matters connected therewith.

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

Definitions

- 1.** In this Act, unless the context indicates otherwise—
- (i) “board” means the National Lotteries Board established by section 2; (xxi) 5
 - (ii) “broadcasting service” means broadcasting service as defined in section 1 of the Broadcasting Act, 1976 (Act No. 73 of 1976); (xxiv)
 - (iii) “charitable expenditure” means expenditure by any organisation or institution established for charitable, benevolent or philanthropic purposes, including friendly societies, welfare organisations and conduit organisations or trusts established in respect of any such organisation or institution; (xi) 10
 - (iv) “chief executive officer” means the chief executive officer appointed in terms of section 7(1)(a) or seconded in terms of section 7(3); (viii)
 - (v) “date”, in relation to a lottery, means the date on which the winners of that lottery are determined; (ii) 15
 - (vi) “distribute”, in relation to documents or other objects, includes distribution to persons or places within or outside the Republic; (iv)
 - (vii) “fund” means the National Lottery Distribution Trust Fund established by section 21; (v)
 - (viii) “licensing authority” means a body established by or in terms of a law of a provincial legislature for the licensing of casinos, gambling and wagering; (xii) 20
 - (ix) “lottery” includes any scheme, arrangement, system, plan or device for distributing prizes by lot or chance and any scheme, arrangement, system, plan or device which the Minister may by notice in the Gazette declare to be a lottery; (xiii) 25

- (x) “Minister” means the Minister to whom the administration of this Act has been assigned; (xiv)
- (xi) “National Lottery” means the lottery contemplated in Part I of this Act; (xv)
- (xii) “net proceeds of the National Lottery” means the sums that are payable to the board in terms of section 13(4)(a); (xvi) 5
- (xiii) “newspaper” includes a journal, magazine or other periodical publication; (x)
- (xiv) “participant”, in relation to a lottery, means a person who has bought a ticket or chance in the lottery; (iii)
- (xv) “place” means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vehicle, vessel or aircraft; (xvii) 10
- (xvi) “political office-bearer” means a political office-bearer as defined in section 190A(6) of the Constitution, and includes a member of a Provincial House of Traditional Leaders, the Council of Traditional Leaders, the Volkstaat Council and a local government, and any official of a political party; (xviii) 15
- (xvii) “prescribe” means prescribe by regulation, and “prescribed” has a corresponding meaning; (xxvi)
- (xviii) “private lottery” means a lottery in the Republic which is conducted—
- (a) for and by members of a social or sporting club which is not connected with any form of gambling; 20
- (b) for and by persons all of whom work on the same premises;
- (c) for and by persons all of whom reside on the same premises;
- (d) by persons each of whom—
- (i) is one of the persons for whom the lottery is conducted; and
- (ii) in the case of a lottery conducted for the members of a social or sporting club, has been authorised in writing by the governing body of the social or sporting club to conduct the lottery; (xix) 25
- (xix) “prize” means the prize awarded to the winner of a lottery; (xx)
- (xx) “society” includes any club, institution, organisation or association of persons, and any separate branch or section of such a club, institution, organisation or association; (xxv) 30
- (xxi) “society lottery” means a lottery contemplated in section 38; (vi)
- (xxii) “sporting event” means any football, rugby, cricket, golf or tennis match, any boxing, wrestling, shooting or swimming contest, any foot, cycle, motor, boat, dog or horse race, and any other sporting or athletic contest, competition, tournament or game usually attended by the public; (xxii) 35
- (xxiii) “sports pool” means any scheme under which—
- (a) any person is invited or undertakes to forecast the result of any series or combination of sporting events in competition with other participants; and 40
- (b) a prize is to be awarded to the competitor who forecasts the said result correctly or whose forecast is more nearly correct than the forecasts of other competitors, or a number of prizes are to be awarded on the basis aforesaid,
- and for the purposes of this definition the forecast of a result includes not only the forecast of the person or team that will be victorious or otherwise, but also any forecast relating to the system of scoring employed in the sporting event in question, or to the person who will be responsible for the score; (xxiii) 45
- (xxiv) “subscription” means the payment, posting or delivery of any money, article, matter or thing including any ticket, coupon or entry form for the right to compete in a lottery; (i) 50
- (xxv) “this Act” includes regulations made under this Act; (vii)
- (xxvi) “ticket” in relation to a lottery means any symbol, sign, token, coupon, warrant or list or any other means or device which confers or purports to confer the right to take part in a lottery. (ix) 55

PART I

THE NATIONAL LOTTERY

CHAPTER 1

*National Lotteries Board***Establishment of National Lotteries Board** 5

2. There is hereby established a board to be known as the National Lotteries Board, which shall be a juristic person.

Composition of board

3. (1) The Minister shall appoint the members of the board, which shall consist of—
- (a) a chairperson, who shall be a person with applicable knowledge or experience with regard to matters connected with the objects of the board; 10
 - (b) one member designated by the Minister;
 - (c) one member designated by the Minister of Finance;
 - (d) one member who is admitted to practise as a legal practitioner in the Republic;
 - (e) one member who is qualified as a chartered accountant in the Republic; 15
 - (f) one representative of each province designated by the government of such province;
 - (g) not more than four members, who have proven business acumen or applicable knowledge or experience with regard to matters connected with the objects of the board; and 20
 - (h) the chief executive officer of the board, who shall be a member of the board *ex officio*.

(2) At least six members of the board shall be persons who are not in the full-time service of the National Government or the government of a province.

(3) Before appointing the members contemplated in paragraphs (a), (d), (e) and (g) of subsection (1) the Minister shall by notice in the *Gazette* and in not less than two newspapers circulating throughout the Republic invite interested parties to nominate persons suitable for appointment as members in the categories referred to in the said paragraphs. 25

(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 term of office. 30

(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 (3), fill a casual vacancy on the board by the appointment of another person for such period, not exceeding five years, as the Minister may determine at the time of the appointment. 35

- (7) (a) A person shall not be appointed or remain a member of the board—
- (i) unless he or she is a fit and proper person for such membership;
 - (ii) if such person, whether personally or through his or her spouse, family member, partner or associate— 40
 - (aa) has or obtains a direct or indirect financial interest in any lottery; or
 - (bb) has or obtains any interest in any business or enterprise that may conflict or interfere with the proper performance of his or her duties as a member of the board; 45
 - (iii) if such person— 45
 - (aa) is or becomes a political office-bearer;
 - (bb) is or becomes an unrehabilitated insolvent;
 - (cc) has at any time been or is removed from an office of trust on account of misconduct; or 50
 - (dd) has at any time been or is convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury,

an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or any offence of which dishonesty is an element.

(b) A person shall, prior to his or her appointment as a member, submit to the Minister a written statement in which he or she declares whether or not he or she has any interest contemplated in paragraph (a)(ii). 5

(c) If any member during his or her term of office acquires an interest which could possibly be an interest contemplated in paragraph (a)(ii), he or she shall as soon as practicable after the acquisition of such interest in writing declare such acquisition to the Minister.

Meetings of board 10

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

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

(3) The quorum for a meeting of the board shall be the majority of the members of the board. 15

(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 chairperson shall have a casting vote in addition to his or her deliberative vote.

Executive committees of board 20

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.

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

(3) The board shall designate the chairperson of an executive committee. 25

(4) (a) An executive 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. 30

Remuneration and allowances of members of board

6. (1) Members of the board 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 after consultation with the Minister of Finance.

(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. 35

Staff of board

7. (1) The board shall in the performance of its functions under this Act, be assisted by— 40

(a) a suitably qualified and experienced person as chief executive officer, appointed by the board or seconded in terms of subsection (3) and accountable to the board for the performance of all financial, administrative and clerical functions of the board;

(b) such other staff, appointed by the board or seconded in terms of subsection (3), as may be necessary to enable the board to perform its functions. 45

(2) The persons appointed by the board in terms of subsection (1), other than seconded persons, shall receive such remuneration, allowances and other employment benefits and shall be appointed on such terms and conditions and for such periods as the board may determine in consultation with the Minister and the Minister of Finance. 50

(3) The board may, in the performance of the functions contemplated in subsection (1)(a), at its request and after consultation with the Public Service Commission, be assisted by officers in the public service seconded to the service of the board in terms of any law regulating such secondment.

(4) Any function of the board in terms of this Act may be delegated to the chief executive officer or to any other member of the staff of the board.

Funds of board

8. (1) The funds of the board shall consist of—

- (a) the payments to the board in terms of section 34; 5
- (b) application and licensing fees paid to the board in terms of section 14(4); and
- (c) other money lawfully paid to the board.

(2) The board may, up to an amount approved from time to time by the Minister in consultation with the Minister of Finance, raise short-term loans at any time, by way of overdrawing its account with a bank or otherwise, to meet any casual deficits that may arise. 10

Finances

9. There shall be paid out of payments made to the board in terms of section 34 such sums as are necessary to defray any expenses incurred by the board, including the remuneration, allowances and other employment benefits of the chief executive officer and members of the staff of the board. 15

Functions of board

10. The board shall, in addition to its other functions in terms of this Act—

- (a) authorise and control the conducting of the National Lottery;
- (b) ensure that— 20
 - (i) the National Lottery is conducted in accordance with this Act;
 - (ii) the interests of every participant in the National Lottery are protected;
 - (iii) the net proceeds of the National Lottery are as large as possible;
- (c) administer the fund and hold it in trust;
- (d) pay sums and allocate grants from the fund for the purposes mentioned in this Act; 25
- (e) ensure that allocations are equitably distributed among the provinces; and
- (f) advise the Minister on any matter relating to the National Lottery and other lotteries or any other matter on which the Minister requires the advice of the board. 30

Consultation by board

11. The board may consult any person, organisation or institution with regard to any matter deemed necessary by the board to enable the board to perform its functions effectively.

Audit and annual report 35

12. (1) The board shall—

- (a) keep proper books and records in relation to receipts and payments;
- (b) prepare a report of all the activities of the board, including financial statements in respect of each financial year; and
- (c) annually within three months after the end of each financial year, submit to the Minister the report and financial statements referred to in paragraph (b). 40

(2) In subsection (1) “financial year” means—

- (a) the period from the date on which the board is appointed for the first time to the last day of March in the following year; and
- (b) each period of twelve months thereafter ending on the last day of March. 45

(3) The financial statements shall comply with generally accepted accounting principles and any other directions that may be given by the Minister, as to the information to be contained in such statements, the manner in which such information is to be presented or the methods and principles according to which such statements are to be prepared. 50

(4) The financial statements of the fund shall be audited by the Auditor-General.

(5) The report referred to in subsection (1) shall be laid upon the Table in Parliament within 14 days after it is submitted to the Minister, if Parliament is then in session, or, if Parliament is not then in session, within 14 days after the commencement of the next ensuing session of Parliament.

(6) The report referred to in subsection (1) shall contain the recommendations of the board with regard to— 5

- (a) the percentages prescribed in terms of section 26(3); and
- (b) the matters for which grants may be made in terms of section 32(3).

CHAPTER 2

Licensing of National Lottery 10

Licence to conduct National Lottery

13. (1) The Minister may, in consultation with the board, by issuing a licence authorise a person to conduct the National Lottery.

(2) Before a licence is granted under this section—

- (a) the board shall by notice in the *Gazette* and in not less than two newspapers circulating throughout the Republic invite interested parties to apply in writing to the board before the date mentioned in the notice, furnishing the information required by the notice; 15
- (b) the Minister and the board shall be satisfied that— 20
 - (i) the applicant has sufficient appropriate knowledge or experience to conduct the National Lottery, or has access thereto;
 - (ii) the applicant has the necessary financial and other resources to conduct the National Lottery;
 - (iii) the applicant shows a clear commitment to the advancement, upliftment and economic empowerment of persons or groups or categories of persons disadvantaged by unfair discrimination; and 25
 - (iv) no political party in the Republic or political office-bearer has any direct or indirect financial interest in the applicant.

(3) In considering whether to grant such a licence, the Minister and the board may take into account— 30

- (a) whether any person who appears to the Minister and the board to be likely to manage the business or any part of the business of the National Lottery under the licence, is a fit and proper person to do so; and
- (b) whether any person for whose benefit that business is likely to be conducted is a fit and proper person to benefit from it. 35

(4) A licence granted under this section—

- (a) shall include a condition requiring the licensee to pay to the board at such times as may be specified in the licence, such sums out of the proceeds of the National Lottery as may be so specified; and
- (b) shall include a condition requiring the licensee to obtain the approval from the board for the rules of any lottery before the lottery is conducted under the licence. 40

Requirements and conditions of licence

14. (1) A licence granted in terms of section 13 shall be in writing and shall specify the period for which the licence is valid, which period shall not exceed five years. 45

(2) In addition to conditions required in terms of section 13, such a licence may include such conditions as the Minister may determine, after consultation with the board, and may in particular include conditions requiring the licensee—

- (a) to obtain the consent of the board before doing anything specified in the licence; 50
- (b) to refer specified matters to the board for approval;
- (c) to ensure that such requirements as the board may from time to time determine or approve are complied with;

- (d) to provide the board at the times specified by the board with such information as the board may require;
 - (e) to make such arrangements as may be specified in the licence, for ensuring that, in circumstances specified in the licence, such sums as may be so specified are paid to the board for payment to the fund in terms of section 21(2) and for distribution to participants in the National Lottery; and
 - (f) to do such things, including the transfer of property or any other rights, as the board may require, upon the expiration of the licence.
- (3) On the—
- (a) submission of an application to the board under section 13(2)(a); and
 - (b) granting of a licence under section 13,
- the applicant or the licensee, as the case may be, shall pay to the board the prescribed fee.

Variation of conditions in licences

- 15.** (1) The Minister may, in consultation with the board—
- (a) with the consent of the licensee, vary any condition in a licence granted under section 13; and
 - (b) without the consent of the licensee, vary any condition in a licence granted under section 13, if the licensee has been given a reasonable opportunity of making representations to the board in respect of the intended variation and any such representations received have been duly considered: Provided that a condition in such licence may not be varied in terms of this paragraph if the variation would result in the licensee having to transfer any property or rights.
- (2) Where the Minister varies a condition in a licence under subsection (1)(b)—
- (a) the board shall serve a notice on the licensee in which the licensee is informed of the variation; and
 - (b) the variation shall take effect on the date specified in such notice, which date shall not be less than 21 days after the date of such notice.
- (3) The power of the Minister to vary a condition in a licence under subsection (1) includes the power to add a condition to the licence or to omit a condition from the licence.

Enforcement of conditions in licence

- 16.** (1) If the board has reason to believe—
- (a) that a person is likely to contravene a condition in a licence granted under section 13;
 - (b) that a person has contravened such a condition and there is a reasonable likelihood that the contravention will continue or be repeated; or
 - (c) that a person has contravened such a condition and that the contravention can be remedied,
- the board may apply to the Supreme 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 to remedy it.
- (2) Any sum payable to the board in accordance with a condition included in a licence in terms of section 13(4)(a) shall be recoverable by the board as a debt due to the board from the licensee and the liability of the licensee to pay any such sum shall not be affected by the licence ceasing to be valid for any reason.

Grounds for revocation of licence

- 17.** A licence granted under section 13 may be revoked on the following grounds:

- (a) If the licensee or the chief executive officer of the licensee is no longer a fit and proper person to conduct the National Lottery, whether because of insolvency, liquidation, incarceration in a prison or other institution or for any other reason;
- (b) if a condition contained in the licence has been contravened; 5
- (c) if any information given by the licensee to the board—
 - (i) in or in connection with the application for the licence;
 - (ii) in accordance with a condition in the licence; or
 - (iii) in making representations under section 18(1)(c), is materially false; 10
- (d) if the licensee is not providing or proposing to provide facilities that are necessary or desirable for conducting the National Lottery;
- (e) if any person who is managing the business or any part of the business is not a fit and proper person to do so;
- (f) if any person for whose benefit such business is carried on is not a fit and proper person to benefit from it; or 15
- (g) if the licensee has failed to take reasonable steps to prevent the commission of fraud by participants in any lottery conducted under the licence.

Notice of proposed revocation

18. (1) If, on the advice of the board, the Minister is satisfied that grounds exist for the revocation of a licence granted in terms of section 13, he or she may in writing notify the licensee of the existence of such grounds and call upon the licensee to furnish reasons, within 30 days, 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 30 days. 20

(2) If the board has decided to suspend a licence in terms of section 19, that fact shall be mentioned in the notice contemplated in subsection (1). 25

(3) If the reasons contemplated in subsection (1) are not received by the board within the period of 30 days contemplated in that subsection, the licence in question shall cease to be valid and the board shall inform the Minister and licensee accordingly in writing.

Suspension of licence 30

19. (1) The board may suspend a licence as from the date of the notice contemplated in section 18, if—

- (a) the board has reason to believe that any of the grounds for revocation specified in such notice involve fraud by the licensee;
- (b) one of the grounds specified in such notice is the ground mentioned in section 17(d) or (g); 35
- (c) an application has been made to the Supreme Court for the sequestration or liquidation of the licensee in liquidation, as the case may be.

(2) Where a licence has been suspended under this section such suspension shall remain in force until the licence is revoked or the Minister lifts the suspension. 40

Revocation of licence

20. (1) If reasons are furnished by the licensee as contemplated in section 18(1), the Minister shall after considering such reasons and in consultation with the board—

- (a) decide whether or not to revoke the licence; or
- (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 him or her or to answer any questions which the board may have with regard to such written representations. 45

(2) If the Minister decides to revoke the licence, he or she shall notify the licensee accordingly in writing and the revocation shall not take effect until the expiration of such period as may be specified in such notice, which period shall not be shorter than 30 days. 50

CHAPTER 3

Distribution of net proceeds of National Lottery

Establishment of National Lottery Distribution Trust Fund

21. (1) There is hereby established a fund to be known as the National Lottery Distribution Trust Fund. 5

(2) The board shall forthwith pay to the fund all sums paid to the board in terms of section 13(4)(a).

Fund to vest in and to be administered by board

22. (1) The fund shall vest in and be administered by the board.

(2) The fund shall be held in trust by the board for the purposes mentioned in this Chapter. 10

Revenue of fund

23. The fund shall consist of—

- (a) the sums paid to the fund in terms of section 21(2);
- (b) interest and dividends derived from the investment of money standing to the credit of the fund; and 15
- (c) other money lawfully paid into the fund.

Banking account

24. Money in the fund shall, pending the application thereof in terms of this Chapter, be paid into an account to be known as “The National Lottery Distribution Trust Fund” at a financial institution. 20

Investment of money not immediately required

25. (1) Any money of the fund which is not required for immediate allocation in terms of section 26, may be invested with the Public Investment Commissioners or with a financial institution approved by the Minister of Finance and may be withdrawn when required. 25

(2) Any unexpended balance of the money of the fund at the end of any financial year shall be carried forward as a credit to the next succeeding financial year.

Allocation of money in fund

26. (1) Every sum that is paid to the fund shall be allocated by the board in accordance with subsections (2) and (3). 30

(2) So much of the sum referred to in subsection (1) as the Minister deems appropriate shall be allocated for making payments under section 34 and held in the fund for that purpose.

(3) Of the balance in the fund after the deduction of the allocated sum referred to in subsection (2)— 35

- (a) not less than the prescribed percentage shall be allocated for expenditure on or connected with reconstruction and development projects and other programmes referred to in section 3(a) of the Reconstruction and Development Programme Fund Act, 1994 (Act No. 7 of 1994); 40
- (b) not less than the prescribed percentage shall be allocated for charitable expenditure;
- (c) not less than the prescribed percentage shall be allocated for expenditure on or connected with sport and recreation;
- (d) not less than the prescribed percentage shall be allocated for expenditure on or connected with the arts, culture and the national heritage; and 45
- (e) not more than the prescribed percentage shall, subject to section 31(1), be allocated for expenditure on or connected with any other matter recommended by the board and approved by the Minister for that purpose.

Allocation to reconstruction and development programme

27. (1) The board shall pay so much of any sum paid to the fund as is allocated for expenditure referred to in section 26(3)(a) to the Reconstruction and Development Programme Fund established by section 2 of the Reconstruction and Development Programme Fund Act, 1994 (Act No. 7 of 1994). 5

(2) Any sum paid to the Reconstruction and Development Programme Fund in terms of subsection (1), shall be utilised by the Minister referred to in section 3(a) of the Reconstruction and Development Programme Fund Act, 1994 (Act No. 7 of 1994), in consultation with the Premiers of the provinces and with due regard to—

- (a) the financial requirements of provincial and local governments; 10
- (b) equitable allocations to provincial and local governments; and
- (c) any request by a provincial or local government that priority be given to specific projects or programmes.

Allocation to charities

28. (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 board. 15

(2) The board may, subject to section 33, make grants to any organisation or institution in order to assist it in meeting charitable expenditure.

Allocation to sport and recreation

29. (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 board. 20

(2) The board may, subject to section 33, make grants to any organisation or institution for the purpose of assisting it to—

- (a) develop and promote sport and recreation;
- (b) advance the interests of sportsmen and sportswomen; 25
- (c) promote sports education;
- (d) construct sporting and recreation facilities; and
- (e) create and develop an infrastructure to promote the matters referred to in paragraphs (a), (b), (c) and (d).

Allocation to arts, culture and national heritage 30

30. (1) So much of any sum paid into the fund as is allocated for expenditure referred to in section 26(3)(d), shall be held in the fund for distribution by the board.

(2) The board may, subject to section 33, make grants to any organisation or institution for the purpose of assisting it to—

- (a) preserve, protect and promote the arts in the Republic; 35
- (b) preserve, develop, foster and extend culture in the Republic and foster cultural relations with other countries; and
- (c) preserve and protect the historical and cultural heritage of the Republic.

Allocation for miscellaneous purposes

31. (1) So much of any sum paid into the fund as is allocated for expenditure referred to in section 26(3)(e), shall be held in the fund for distribution by the board with the concurrence of the Minister: Provided that in the event of any such sum not being allocated for expenditure referred to in subsection (2), the board may, without the concurrence of the Minister but subject to section 33, allocate such sum for any expenditure referred to in section 26 (3)(a), (b), (c) or (d). 40 45

(2) The Minister may, on the recommendation of the board, empower the board to make grants to organisations or institutions to meet specific expenditure in respect of a matter contemplated in section 26(3)(e).

Payment of grants

- 32.** (1) In making any grants under sections 28, 29, 30 and 31, the board may impose such conditions as it deems fit, including—
- (a) conditions requiring the amount of a grant to be repaid forthwith on breach of any condition; and 5
 - (b) conditions requiring that a percentage determined by the board shall be allocated to recipients in a specified province:
- Provided that such conditions shall include a condition that an organisation or institution shall, in respect of amounts granted to it from time to time provide the board with audited accounts of all amounts paid out; 10
- (2) In deciding on the organisations or institutions to which grants are to be made in terms of sections 28, 29 and 30, the board shall—
- (a) satisfy itself that any such organisation or institution—
 - (i) is a nationally representative body which is active in all the provinces;
 - (ii) is competent to allocate the amounts equitably— 15
 - (aa) among all the members it represents; and
 - (bb) among and in the respective provinces; and
 - (b) consult any Minister or member of the Executive Council of a province who has a responsibility in respect of any of the matters referred to in the said sections. 20
- (3) In considering any grants in terms of sections 28, 29, 30 and 31, the board shall comply with any directions given to it by the Minister 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 the board is to allocate any amounts.
- (4) In performing his or her function in terms of subsection (3), the Minister shall— 25
- (a) consult with the board before giving any directions to the board; and
 - (b) have due regard to—
 - (i) general development in the Republic with specific reference to the regional, economic, financial, social and moral interests of the Republic and the enhancement of the standard of living of all the people in the Republic; and 30
 - (ii) provincial and local interests, including—
 - (aa) the number of lottery tickets sold in each province;
 - (bb) the population of each province; and
 - (cc) the financial requirements of each province. 35

Power of Minister to prohibit certain grants

- 33.** The Minister may prohibit the board from making any grant under sections 28, 29, 30 and 31 if such grant is likely to be utilised for any unlawful or improper purposes: Provided that the Minister shall—
- (a) consult with the board before imposing any such prohibition; and 40
 - (b) disclose to the board any information at his or her disposal which may indicate that any such grant is likely to be utilised for any unlawful or improper purposes.

Payments from fund in respect of expenses

- 34.** (1) At such times as the Minister deems appropriate, payments shall be made to the board out of the money in the fund held under section 26(2). 45
- (2) The payments shall be of such amounts as the Minister deems sufficient for meeting the payments made or to be made under sections 6(1) and 7(2), or any other expenses incurred by the board.
- (3) In determining what amounts are sufficient for meeting the payments referred to in subsection (2), the Minister shall take into account sums paid or to be paid to the board in terms of section 14(3). 50

PART II
OTHER LOTTERIES
CHAPTER 1

Small and private lotteries

Lotteries incidental to exempt entertainment 5

36. (1) A lottery conducted as an incident of an exempt entertainment shall not be unlawful if—

- (a) all the proceeds of the entertainment, including the proceeds of the lottery, after deducting—
 - (i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery; 10
 - (ii) the expenses incurred in printing tickets in the lottery; and
 - (iii) such sum, if any, not exceeding the prescribed amount for any expenses incurred in purchasing prizes in the lottery, are devoted to purposes other than private gain; 15
- (b) none of the prizes in the lottery are money prizes;
- (c) tickets or chances in the lottery are not sold or issued, nor is the result of the lottery announced, except at the place where the entertainment takes place and while the entertainment is in progress; and
- (d) the opportunity of participating in lotteries under this section, or such opportunity together with any other opportunity of participating in lotteries or gambling, are not the only, or the only substantial, inducement to persons to attend the entertainment. 20

(2) For the purposes of subsection (1) “exempt entertainment” means a bazaar, sale, fête, dinner, dance, sporting event or other entertainment of a similar character, whether limited to one day or extending over two or more days. 25

Private lotteries

37. (1) A private lottery shall not be unlawful if—

- (a) all the proceeds, after deducting only expenses incurred for printing and stationery, are devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery conducted for the members of a society, such proceeds are devoted—
 - (i) to the provision of prizes; 30
 - (ii) to the purposes for which the society was established; or
 - (iii) as to part, to the provision of the said prizes and as to the remainder, to the purposes referred to in subparagraph (ii); 35
- (b) no written notice or advertisement of the lottery is exhibited, published or distributed other than—
 - (i) a notice thereof exhibited on the premises of the society for whose members the lottery is conducted or, as the case may be, on the premises on which the persons for whom the lottery is conducted work or reside; and 40
 - (ii) such announcement or advertisement of the lottery as is contained on the tickets, if any;
- (c) no person is employed for reward in connection with the conduct of the lottery; 45
- (d) no ticket in the lottery is sent through the post;
- (e) the total value of the tickets or chances sold or to be sold is not more than the prescribed amount determined by the Minister in consultation with the board; and 50
- (f) the sale of tickets in the lottery is confined—
 - (i) to the persons for whom the lottery is conducted; and
 - (ii) in the case of a lottery conducted for the members of a social or sporting club, also to any other person who is on the premises of such club at the time of sale. 55

(2) For the purposes of this section each local or affiliated branch or section or branch of a society shall be regarded as a distinct society.

CHAPTER 2

Society lotteries

Society lottery

- 38.** A society lottery shall not be unlawful if—
- (a) it is conducted in the Republic; 5
 - (b) the society is authorised to collect contributions from the public in terms of the provisions of the Fund-raising Act, 1978 (Act No. 107 of 1978);
 - (c) the lottery is conducted in accordance with a scheme approved by the society;
 - (d) the society is registered with the licensing authority in terms of section 41;
 - (e) the total value of the tickets or chances sold or to be sold in the lottery is not more than the prescribed amount; 10
 - (f) all the proceeds of the society lottery, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes, shall be applied to—
 - (i) charitable purposes; 15
 - (ii) participation in or support of sport or cultural activities; or
 - (iii) other purposes which are not purposes of private gain nor purposes of any commercial undertaking: Provided that any purpose for which a society is established and which is calculated to benefit the community as a whole, shall not be deemed to be a purpose of private gain by reason only that action in its fulfilment would result in benefit to any person as an individual; and 20
 - (g) the society lottery is conducted in accordance with the rules referred to in section 53.

Management of society lotteries 25

- 39.** No person shall manage a society lottery unless that person is—
- (a) a member of the society on whose behalf the lottery is conducted, acting in such capacity;
 - (b) an employee of that society acting in the course of his or her employment;
 - (c) a corporate body that is wholly owned by the society; 30
 - (d) certified as a lottery manager under section 47; or
 - (e) an employee of a person referred to in paragraph (d) acting in the course of his or her employment.

Frequency of society lotteries

- 40.** (1) The Minister may prescribe— 35
- (a) the maximum number of lotteries that may be conducted under section 38 in any period of twelve months by or on behalf of any one society; and
 - (b) the minimum number of days that must elapse between the dates of any two lotteries conducted under section 38 on behalf of the same society.
- (2) Anything prescribed under subsection (1) may make different provision for 40 different cases or circumstances.
- (3) The Minister shall not prescribe anything in terms of subsection (1) unless he or she has consulted the various licensing authorities mentioned in this Act.

CHAPTER 3

*Functions of licensing authorities in respect of society lotteries***Registration of societies**

41. (1) An application to the licensing authority for the registration of a society shall— 5
- (a) specify the address of the office or head office of the society;
 - (b) specify the purposes for which the society was established; and
 - (c) include a copy of any scheme approved by the society in terms of section 38(c).
- (2) Subject to the provisions of this section the licensing authority shall register the society in a register to be kept for that purpose. 10
- (3) A society shall not be registered under this section unless—
- (a) application on behalf of the society has been made to the licensing authority in writing as contemplated in subsection (1) and the applicant has furnished such further information as the licensing authority may require; 15
 - (b) the licensing authority is satisfied that—
 - (i) any person who will be conducting a lottery on behalf of the society is a fit and proper person;
 - (ii) the society has resources available to provide facilities that are necessary for conducting the lottery; 20
 - (iii) the society complies with the requirements of section 38;
 - (iv) no information given by the society to the licensing authority in or in connection with the society's application for registration was materially false;
 - (v) the address of the office or head office of the society is not the same as the address of the office or head office of another society that is established for the same or a connected purpose and is registered under this section; 25
 - (vi) every lottery conducted on behalf of the society within the last five years has been properly conducted;
 - (vii) the society has not failed to comply with a requirement imposed under section 44 or 45; 30
 - (viii) no act or omission by a person who is or will be connected with a lottery conducted or proposed to be conducted on behalf of the society caused—
 - (aa) the registration of another society to be refused or revoked on grounds referred to in subparagraph (iv) or section 44, 45 or 46; or 35
 - (bb) a lottery, in the conduct of which such person was involved, to be improperly conducted; and
 - (ix) the scheme attached to the application for registration, or any other scheme subsequently approved by the society under section 38(c), is lawful. 40

Revocation of registration

42. (1) The licensing authority—
- (a) shall revoke the registration of a society if the society requests the licensing authority to do so; and
 - (b) may revoke the registration of a society if the society has failed to comply with any requirement contained in section 41(3), 44, 45 or 46: Provided that— 45
 - (i) the registration shall not be revoked without giving the society an opportunity of being heard; and
 - (ii) the society shall be notified in writing of the revocation and the grounds therefor. 50
- (2) If there are grounds for the revocation of the registration of a society and the licensing authority does not revoke such registration, the board may, subject to subsection (1), revoke such registration: Provided that—

- (a) the board shall not exercise such power unless it has notified the licensing authority in writing of its intention to do so; and
 - (b) the board shall inform the licensing authority of such revocation in writing.
- (3) The revocation of the registration of a society shall not affect any lottery in respect of which any tickets or chances have been sold as at the date of revocation. 5

Fees and levies

43. A society registered under this Chapter shall pay to the licensing authority—
- (a) such fee or levy as the licensing authority may determine from time to time; and
 - (b) the fee or levy determined by the licensing authority for each society lottery conducted on behalf of the society. 10

Requirements after registration of society

44. (1) Any society registered under section 41 shall—
- (a) notify the licensing authority in writing of any change in the address of the society's office or head office not later than 21 days prior to the day on which such change takes effect; 15
 - (b) subject to subsection (2), notify the licensing authority in writing of any amendment or substitution of the scheme contemplated in section 38(c);
 - (c) within three months after the completion of a society lottery, submit to the licensing authority a return in respect of that lottery in such form and manner and with such information as the licensing authority may require; and 20
 - (d) preserve all documents including all information kept by the society otherwise than in writing, relating to a lottery conducted on behalf of the society for not less than five years after the date of the lottery.
- (2) Any notification in terms of subsection (1)(b) shall be given to the licensing authority not less than four weeks before any tickets or chances are sold, distributed or offered for sale, in respect of a lottery conducted in accordance with the scheme as modified, amended or substituted. 25
- (3) Any return submitted to the licensing authority in terms of subsection (1)(c) shall be preserved by the licensing authority for not less than 18 months and be open to the public for inspection. 30

Control of registered societies

45. The licensing authority may require a society registered under section 41 or a society that has applied for such registration—
- (a) to furnish the licensing authority with such information relating to any lottery conducted or to be conducted on behalf of the society as the licensing authority may require; 35
 - (b) to allow any person authorised by the licensing authority thereto, to inspect and take copies of any documents of the society, including any information kept by the society otherwise than in writing, relating to such a lottery; 40
 - (c) where such information is kept by means of a computer, to give the licensing authority such assistance as it may require to enable it to inspect and take copies of the information in a visible and legible form and to inspect the operation of any computer and any associated apparatus or material that is or has been in use in connection with the keeping of such information; and 45
 - (d) to allow the licensing authority to inspect any aspect of the management of such a lottery.

Audit of society lottery

46. (1) Where the total value of the tickets or chances sold in all lotteries conducted in any one year on behalf of the same society is more than the prescribed amount, the society shall submit to the licensing authority financial statements in respect of those lotteries together with a report on such statements prepared by an independent auditor 50

registered in terms of the Public Accountant's and Auditor's Act, 1991 (Act No. 80 of 1991).

(2) The financial statements referred to in subsection (1) shall—

- (a) be submitted to the licensing authority within three months of the end of the year in which the lotteries to which such statements relate, were held; and 5
- (b) comply with generally accepted accounting principles and any other directions that may be given by the licensing authority as to the information to be contained in such statements, the manner in which such information is to be presented or the methods and principles according to which such statements are to be prepared. 10

(3) The report of the auditor referred to in subsection (1), shall state whether in the said auditor's opinion—

- (a) the financial statements have been properly prepared in accordance with the principles and any directions contemplated in subsection (2)(b);
- (b) proper accounting records have been kept by the society; and 15
- (c) the society's accounts are in agreement with the financial statements:

Provided that if the said auditor is unable to obtain all the information and explanations that, to the best of his or her knowledge and belief, are necessary for the purposes of the audit, his or her report shall state accordingly.

(4) Subsection (1) shall not apply to a society in relation to any year during which every lottery conducted on behalf of the society in that year was managed by a person certified as a lottery manager in terms of section 47. 20

(5) For the purposes of this section—

- (a) a lottery shall be deemed to have been conducted in the year in which the date of the lottery falls; and 25
- (b) "year" means a period of 12 months starting on 1 January.

Application and certification of lottery managers

47. (1) An application by a person to be certified as a lottery manager shall be made to the licensing authority in such form and manner and shall contain such information as the licensing authority may require. 30

(2) A fee determined by the licensing authority shall be payable when the application is made.

(3) Subject to the provisions of this section, the licensing authority shall grant a certificate to an applicant certifying him or her as a lottery manager.

(4) A person shall not be granted a certificate under this section, if— 35

- (a) any person who would be likely to manage the business or any part of the business under the certificate is not a fit and proper person to do so;
- (b) any person for whose benefit that business would be likely to be carried on is not a fit and proper person to benefit from it;
- (c) any information given by the applicant to the licensing authority in or in 40 connection with the application is false in a material respect; or
- (d) the applicant does not have the appropriate knowledge, experience or resources available to manage the society lottery.

(5) If the licensing authority refuses to grant a certificate, the licensing authority shall notify the applicant in writing of the refusal and the grounds for such refusal. 45

Conditions of certificate

48. A certificate contemplated in section 47 may, subject to this Chapter, contain conditions aimed at—

- (a) protecting the interests of any society on behalf of which the holder of the certificate might conduct a lottery; 50
- (b) protecting the interests of participants in any lottery to be conducted by the holder of the certificate; and
- (c) ensuring proper management of a lottery by the holder of the certificate.

Variation of conditions of certificate

49. (1) The licensing authority may, after giving the certificate holder an opportunity of being heard, vary any condition in a certificate.

(2) If the licensing authority varies a condition under this section, the licensing authority shall give notice of the variation to the certificate holder. 5

(3) The variation of a condition shall take effect 21 days after the date of the notice in terms of subsection (2).

Period of validity of certificate

50. A certificate shall be valid until it is revoked by the licensing authority.

Revocation of certificate 10

51. (1) The following shall constitute grounds for the revocation of a certificate contemplated in section 47:

(a) If the certificate holder is no longer a fit and proper person to manage a society lottery, whether because of insolvency, liquidation, judicial management, incarceration in a prison or other institution, or for any other reason; 15

(b) if the certificate holder allows any person or body to derive a benefit from a lottery contrary to the provisions of this Act;

(c) if any information given by the certificate holder to the licensing authority in or in connection with the application for the certificate was false in a material respect; or 20

(d) if the certificate holder contravenes or fails to comply with a condition in the certificate or a provision of this Act.

(2) If the licensing authority is satisfied that grounds exist for the revocation of a certificate contemplated in section 47, it may in writing notify the certificate holder of the existence of those grounds and call upon him or her to furnish reasons, within 30 25 days, as to why the certificate should not be revoked, failing which the certificate will cease to be valid upon the expiration of the said period of 30 days.

(3) If the reasons contemplated in subsection (2) are not received by the licensing authority within the period of 30 days contemplated in that subsection, the certificate in question shall cease to be valid and the licensing authority shall inform all other 30 licensing authorities and the society or societies on whose behalf the certificate holder has conducted lotteries accordingly.

(4) If reasons are furnished by the certificate holder as contemplated in subsection (2), the licensing authority shall not revoke the certificate without having given due 35 consideration to such reasons.

(5) If the licensing authority revokes a certificate under this section the licensing authority shall give notice of the revocation to the certificate holder and inform him or her of the grounds for such revocation.

(6) The revocation of the certificate shall take effect 21 days after the date of the notice in terms of subsection (5). 40

Control of lottery managers and audit

52. The provisions of sections 44(1)(c) and (d), 45 and 46(1), (2), (3) and (5) shall apply *mutatis mutandis* to lottery managers, and in such application a reference in those sections to a society shall be construed as a reference to a lottery manager.

Rules of society lotteries 45

53. (1) A society lottery shall be conducted in accordance with the rules set out in subsection (2).

(2) (a) The promoter of the society lottery shall be a member of the society or a lottery manager certified in terms of section 47 and shall be authorised in writing by the governing body of the society to act as the promoter. 50

- (b) Every ticket distributed or sold shall specify the name and address of the promoter and the date of the lottery.
- (c) No ticket or chance in a society lottery shall be sold at a price exceeding the prescribed amount.
- (d) The price of every ticket or chance shall be the same, and the price of any ticket distributed or sold shall be stated on the ticket. 5
- (e) No person shall be admitted to participate in a society lottery in respect of a ticket or chance except after payment to the society or lottery manager of the whole price of the ticket or chance, and no money received for or on account of a ticket or chance shall in any circumstances be returned. 10
- (f) No payment other than the price of a ticket or chance shall be required of a person as a condition of his or her admission to participate in a society lottery.
- (g) No prize in a society lottery shall exceed the prescribed amount in value.
- (h) The total value of the tickets or chances sold in any one society lottery shall not exceed the prescribed amount. 15
- (i) The total value of the tickets or chances sold in all society lotteries conducted in any one year on behalf of the same society shall not exceed the prescribed amount.
- (j) The amount appropriated for the provision of prizes shall not exceed 50 percent of the proceeds of the lottery.
- (k) (i) The amount appropriated on account of expenses, excluding prizes, shall not exceed whichever is the lesser of— 20
- (aa) the expenses actually incurred;
 - (bb) whichever of the amounts specified in subparagraph (ii) applies.
- (ii) The amounts referred to in subparagraph (i)(bb) are— 25
- (aa) where the proceeds of the lottery do not exceed the prescribed amount, 25 percent of the proceeds or such lesser percentage as may be determined by the board; or
 - (bb) where the proceeds of the lottery exceed the prescribed amount, 15 percent of the proceeds or such larger percentage, not exceeding 25 percent, as may be so determined in general or in the case of a particular lottery. 30
- (iii) For the purposes of paragraph (k)(i), the amount of any expenses that are met—
- (aa) by the society on whose behalf the lottery is conducted; or
 - (bb) by any beneficiary of the lottery,
- shall be deemed to have been appropriated on account of expenses from the proceeds of the lottery. 35
- (iv) The amount of the proceeds of a society lottery appropriated for the provision of prizes and the amount of those proceeds appropriated on account of expenses, excluding prizes, shall not in aggregate exceed the prescribed percentage of the proceeds of the lottery.
- (3) (a) For the purposes of subsection (2)(k)(iii)(bb), “beneficiary of the lottery” 40 means a person or body, other than the society on whose behalf the lottery is conducted, to whom or for whose benefit any of the proceeds of the lottery, other than amounts appropriated in respect of expenses or prizes, are lawfully paid or applied.
- (b) For the purposes of this section, unless the context indicates otherwise, “year” means a period of twelve months commencing on 1 January: Provided that if this Act 45 comes into force on a date other than 1 January—
- (i) the period commencing on such other date and ending on the last day of the next December, shall be deemed to be the first year for the purposes of subsection (2)(i); and
 - (ii) in relation to the period mentioned in subparagraph (i) the reference to the 50 prescribed amount in subsection (2)(i) shall be construed as a reference to a proportionately smaller amount.

CHAPTER 4

Sports pools

Licence to conduct sports pools

54. (1) The Minister may, in consultation with the board, by licence authorise a person to conduct a national sports pool: Provided that the licence shall specify the sports pools, or descriptions of sports pools, the conduct of which it authorises. 5

(2) The provisions of Chapters 2 and 3 of Part I shall apply *mutatis mutandis* to the licensing of a sports pool and the distribution of the net proceeds of a sports pool, and in such application a reference in those Chapters to the National Lottery or a lottery shall be construed as a reference to a sports pool: Provided that the power of the Minister to prescribe the percentages in terms of section 26 may be exercised so as to make different provision in relation to sports pools. 10

PART III

General provisions

Newspaper and other competitions 15

55. No person shall conduct in or through any newspaper, broadcasting service or any other electronic device, or in connection with any trade or business or the sale of any article to the public—

- (a) any competition in which prizes are offered for forecasts of the result—
 - (i) either of a future event; 20
 - (ii) or of a past event the result of which is not yet ascertained or not yet generally known; or
- (b) any other competition in which success does not depend to a substantial degree on skill.

Offences 25

56. (1) No person shall participate in, conduct, facilitate, promote or derive any benefit from a lottery or sports pool unless such lottery or sports pool has been authorised by or under this Act.

(2) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence. 30

Offences relating to National Lottery and sports pools

- 57.** (1) Any person who—
- (a) advertises or offers the opportunity to participate in a lottery, competition or game of another description and who gives, by whatever means, a false indication that it is a lottery forming part of, or is otherwise connected with, the National Lottery or is a sports pool licensed in terms of section 54; 35
 - (b) with the intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a National Lottery ticket or sports pool ticket;
 - (c) influences or attempts to influence the winning of a prize through the use of coercion, fraud or deception, or through tampering with lottery or sports pool equipment or materials; or 40
 - (d) fails to comply with any regulation made under section 59, shall be guilty of an offence.

Prohibition of activities in Republic in relation to lottery or sports pool conducted outside Republic 45

58. In a prosecution arising from any thing done or not done in the Republic in connection with a lottery or sports pool, it shall not be a defence merely to prove that the

management, conduct or business of or concerning the lottery or sports pool in question is or was wholly or in part carried on at a place outside the Republic.

Regulations in respect of National Lottery and sports pools

- 59.** The Minister may, with the concurrence of the board, make regulations regarding— 5
- (a) the conduct of the National Lottery or sports pools, including—
 - (i) the minimum age of persons to whom or by whom tickets or chances may be sold;
 - (ii) the persons or categories of persons who shall be disqualified from participation; 10
 - (iii) the places where or circumstances or manner in which tickets or chances may be sold or persons may be invited to buy such tickets or chances;
 - (iv) the circumstances under which lotteries and sports pools may be advertised and the information that is to appear in an advertisement for a lottery or sports pool; 15
 - (v) the places where or circumstances or manner in which signs relating to a lottery or sports pool may be displayed;
 - (vi) the rules referred to in section 13(4)(b);
 - (vii) application and licensing fees referred to in section 14(3);
 - (viii) the percentages of the sums to be allocated in terms of section 26; and 20
 - (ix) in general any other matter which may be necessary or expedient to prescribe in order to achieve or promote the objects of Part I of this Act; and
 - (b) the making of oral representations as contemplated in section 20(1)(b).

Regulations in respect of small, private and society lotteries 25

- 60.** (1) The Minister may, with the concurrence of the board, and after consultation with the various licensing authorities, make regulations regarding the conduct of society lotteries, including—
- (a) the nature and requirements of any scheme contemplated in section 38(c);
 - (b) the persons or categories of persons to whom and by whom tickets or chances in a lottery may or may not be sold; 30
 - (c) the circumstances in which tickets or chances may be sold and persons may be invited to purchase tickets or chances;
 - (d) the minimum age at which any person may buy a ticket or chance;
 - (e) any information which shall, or shall not, appear on a ticket; 35
 - (f) the manner in which a lottery may be advertised;
 - (g) the use of postal services in connection with lotteries;
 - (h) the matters in respect of which expenses in a lottery may be incurred; and
 - (i) in general, any other matter which may be necessary or expedient to prescribe in order to achieve or promote the objects of Part II of this Act. 40
- (2) Any power to make regulations under this section may be exercised so as to make different provision in relation to different cases or different circumstances.

Penalties

- 61.** Any person convicted of an offence in terms of this Act shall be liable to a fine or to imprisonment for a period not exceeding ten years. 45

Savings

- 62.** Nothing in this Act shall apply in relation to any lottery, sports pool or competition in respect of which there is no subscription.

Transitional provisions

- 63.** (1) Every valid licence for—
- (a) a state lottery, issued in terms of the State Lotteries Act, 1984 (Act No. 14 of 1984) (Ciskei), or the Lotteries Decree, 1989 (Decree No. 14 of 1989) (Transkei), shall at the commencement of this Act cease to be valid; and 5
 - (b) a lottery or sports pool issued in terms of a law or provision repealed by section 65, or issued in terms of the Gaming and Betting Act, 1989 (Act No. 39 of 1989) (Bophuthatswana), shall be deemed to have been issued in terms of this Act, and the conduct of such a lottery or sports pool shall, from a date to be determined by the Minister by notice in the *Gazette*, be conducted in accordance with the provisions of this Act: Provided that— 10
 - (i) such notice shall precede the said date by not less than three months;
 - (ii) the conduct of such a lottery or sports pool prior to the said date shall be limited to the area for which the licence was granted.
- (2) All unexpended money in— 15
- (a) the Distribution Account referred to in the State Lotteries Act, 1984 (Act No. 14 of 1984) (Ciskei); and
 - (b) the State Lottery Trustee Account referred to in the Lotteries Decree, 1989 (Decree No. 14 of 1989) (Transkei),
- immediately before the commencement of this Act, shall be paid into the fund. 20

Lottery debts enforceable

64. Any lottery debt lawfully incurred by a person in the course of any lottery or sports pool shall, notwithstanding provisions of any law or the common law, be enforceable in a court of law.

Repeal and amendment of laws 25

65. The laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column thereof.

Short title and commencement

66. This Act shall be called the Lotteries Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 30

SCHEDULE

Laws repealed or amended

No. and year of Act	Title	Extent of repeal or amendment
Act No. 44 of 1958	Post Office Act, 1958	<p>The substitution for section 35 of following section:</p> <p>“Articles addressed to persons conducting a lottery or sports pool or dealing in indecent or obscene matters</p> <p>35. When the postal company is satisfied on enquiry or by any advertisement, letter, circular or other documentary evidence that any person is conducting or assisting as agent or otherwise in conducting a lottery or sports pool <u>in contravention of the Lotteries Act, 1996</u>, or is dealing in indecent or obscene matter, and is using the services of the postal company for the purpose, the postal company may detain or delay all postal articles addressed to such person (whether under his own or under a fictitious or assumed name) or his agent or representative, or to any address of any such person, agent or representative without the name of any person appearing thereon, and all such postal articles may be opened and returned to the senders thereof or otherwise disposed of as the postal company may deem fit.”.</p>
Act No. 51 of 1965	Gambling Act, 1965	<p>(a) Amendment of section 1 by the deletion of the definitions of “lottery”, “prize”, “sporting event”, “sports pool”, “subscription” and “ticket”.</p> <p>(b) Repeal of sections 2, 3, 4, 5 and 10.</p> <p>(c) Amendment of section 8 by the deletion of paragraphs (a), (b), (c), (i) and (ii).</p>

No. and year of Act	Title	Extent of repeal or amendment
Act No. 23 of 1982	Gambling Act, 1982 (Ciskei)	<p>(a) Amendment of section 1 by the deletion of the definitions of “lottery”, “sporting event” and “sports pool”.</p> <p>(b) Amendment of section 7 by the deletion of subparagraph (iii) of paragraph (c) of subsection (1) and subsection (4).</p> <p>(c) Amendment of section 9 by the substitution for paragraph (a) of subsection (1) of the following paragraph: “(a) grant such application subject to such conditions and restrictions as the President[-in-Council] may deem necessary[, including a condition requiring the holder of a lottery licence or a sports pool licence to furnish security in the amount fixed by the President-in-Council for the due payment of prizes; or].</p> <p>(d) Amendment of section 10 by the deletion of paragraph (b) of subsection (1).</p> <p>(e) Amendment of section 12 by the deletion of paragraph (c) of subsection (2).</p> <p>(f) Amendment of section 17 by the deletion of paragraph (b) of subsection (1).</p> <p>(g) Amendment of section 18 by the substitution for subsection (1) of the following subsection: “(1) No person shall participate, and no licence-holder or any person employed by him <u>or her</u> in connection with the management, supervision, control or administration or any activity authorized by such licence shall permit any person to participate, in any game in a casino or gaming room [or in any lottery or sports pool] unless payment therefor is in current money or by cheque: Provided that the licence-holder may, at his <u>or her</u> discretion, grant credit facilities to any person who furnishes a satisfactory guarantee of payment.”.</p>

No. and year of Act	Title	Extent of repeal or amendment
		<p>(h) Amendment of section 19—</p> <p>(i) by the deletion of subparagraph (iii) of paragraph (a) of subsection (1);</p> <p>(ii) by the deletion of paragraph (c) of subsection (1);</p> <p>(iii) by the substitution in subsection (1) for paragraph (d) of the following paragraph: “(d) perform any act with the object of acquiring or assisting any other person to acquire from any source in Ciskei or elsewhere any ticket in an unlicensed game of chance[, sports pool or lottery];”;</p> <p>(iv) by the substitution in subsection (1) for paragraph (e) of the following paragraph: “(e) print or publish, either in a newspaper, periodical publication or any printed document, any notice or advertisement of any unlicensed gaming house, gaming activity [sports pool or lottery];”;</p> <p>(v) by the substitution in subsection (1) for paragraph (g) of the following paragraph: “(g) distribute or cause to be distributed or deliver or cause to be delivered to any person any handbill or entrance form or other document conveying in print, writing or other way, notice of or information with regard to any unlicensed gaming-house, [sports pool, lottery] or place where games of chance are played or any activity prohibited by this Act is performed; or”.</p>

No. and year of Act	Title	Extent of repeal or amendment
		<p><i>(i)</i> Amendment of section 24 by the deletion of paragraph <i>(b)</i> of subsection (2).</p> <p><i>(j)</i> Amendment of Part A of the Schedule by the deletion of items 2 and 3.</p> <p><i>(k)</i> Amendment of Part B of the Schedule by the deletion of the last two items.</p>
Act No. 14 of 1984	State Lotteries Act, 1984 (Ciskei)	The whole.
Decree No. 14 of 1989	Lotteries Decree, 1989 (Transkei)	The whole.

**MEMORANDUM ON THE OBJECTS OF THE LOTTERIES BILL,
1996**

The Lotteries and Gambling Board established in terms of section 2 of the Lotteries and Gambling Board Act, 1993 (Act No. 210 of 1993), in its Main Report on Gambling in the Republic of South Africa (RP 85/1995) *inter alia* recommended the establishment of a national lottery for South Africa, owned and controlled by central government. It further recommended that the marketing and operation of the national lottery be awarded to a non-government organisation, and that small, private and society lotteries be allowed. The Bill seeks to give effect to these recommendations.

Chapter 1 of Part I of the Bill provides for the establishment of a National Lotteries Board. The Board will consist of members representing the national government, the private sector and the provincial governments.

Chapter 2 of Part I of the Bill makes provision for the licensing of the National Lottery. This will enable the government to appoint a corporate body to conduct the National Lottery.

Chapter 3 of Part I of the Bill provides for the distribution of the proceeds of the National Lottery. A National Lottery Distribution Trust Fund is established. It provides in clause 26 for the allocation of revenue from this Fund to the Reconstruction and Development Fund, and in support of charities, sport, recreation, the arts, culture and the national heritage.

Chapters 1 and 2 of Part II of the Bill make provision for small and private lotteries and for society lotteries under certain conditions and subject to specified criteria. Chapter 3 of Part II makes provision for the functions of licensing authorities in respect of society lotteries, and Chapter 4 of Part II authorises the establishment of a national sports pool.

The hearings of the Lotteries and Gambling Board were open to the public and the public was invited to make submissions. The Board also heard oral evidence. In addition, all Government ministries and the premiers of the provinces were consulted.