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**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.**

## DIE PRESIDENSIE

No. 1339 12 Desember 2001

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

**No. 46 van 2001: Wysigingswet op Loterye, 2001.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

**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.**

**BE 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:

“(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;
  - (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]**
- (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);
- (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
  - (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;

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- \_\_\_\_\_ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

*(Engelse teks deur die President geteken.)*  
*(Goedgekeur op 6 Desember 2001.)*

**WET**

**Tot wysiging van die Wet op Loterye, 1997, ten einde die bedryf van reklame-kompetisies verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 54 van Wet 57 van 1997**

1. Artikel 54 van die Wet op Loterye, 1997, word hierby gewysig deur subartikels (1),  
 (2) en (3) deur die volgende subartikels te vervang: 5
- “(1) 'n Reklamekompetisie is nie onregmatig nie indien—
- (a) dit in die Republiek bedryf word;
- (b) die vergoeding betaalbaar ten opsigte van die aankope van goedere of die gebruik van dienste ten opsigte waarvan die reklamekompetisie bedryf word— 10
- (i) die prys is wat gewoonlik of normaalweg sonder afslag betaal word vir sodanige of soortgelyke goedere sonder die geleentheid om aan 'n reklamekompetisie deel te neem;
- (ii) nie vermeerder word deur die geleentheid om aan daardie reklamekompetisie deel te neem nie; **en** 15
- (iii) die enigste vergoeding betaalbaar vir daardie goedere of dienste is en vergoeding vir die reg om mee te ding, insluit; **[en]**
- (c) die geleentheid om aan die reklamekompetisie deel te neem nie die enigste of die enigste wesenlike dryfveer is vir 'n persoon om die goedere te koop of te gebruik waarop die reklamekompetisie betrekking het nie; 20
- (d) die reklamekompetisie bedryf word ooreenkomstig die regulasies deur die Minister voorgeskryf kragtens subartikel (2) of (3);
- (e) die reklamekompetisie of enige gedrag wat daarmee verband hou nie wesenlik vergelykbaar is nie met—
- (i) 'n sakepraktyk wat ingevolge die **[Wet op Skadelike Sakepraktyke]** 25  
Wet op Verbruikersake (Onbillike Sakepraktyke), 1988 (Wet No. 71 van 1988), onwettig verklaar is; of
- (ii) 'n beperkende praktyk wat ingevolge die **[Wet op die Handhawing en Bevordering van Mededinging, 1979 (Wet No. 96 van 1979)]** Wet op Mededinging, 1998 (Wet No. 89 van 1998), onwettig verklaar is; 30
- (f) die Minister nie ingevolge subartikel (4) die reklamekompetisie onwettig verklaar het nie;

- (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



- (g) die goedere of dienste vervaardig, verkoop, verskaf, versprei of gelewer in verband met die reg om aan 'n reklamekompetisie deel te neem, alledaags of gewoonlik vervaardig, verkoop, verskaf, versprei of gelewer word deur die persoon ten behoeve van wie die reklamekompetisie aangebied word; **[en** 5
- (h) **waar die reklamekompetisie gehou word in assosiasie of gesamentlik met of ter ondersteuning van 'n ander reklamekompetisie of met betrekking tot of tot die voordeel van meer as een persoon, die maksimum waardes of limiete soos voorgeskryf deur die Minister met betrekking tot die totale waarde van of getal pryse, die gereeldheid, duur of aantal reklamekompetisies of die geografiese gebied waarin reklamekompetisies gehou mag word, nie oorskry word nie; en]** 10
- (i) die reklamekompetisie nie wesenlik soortgelyk is aan enige kompetisie, spel of sportpoel wat deur of namens die Nasionale Lotery bedryf word nie; **en**
- (j) die vergoeding betaal vir die aankoop van die goedere of die gebruik van die dienste wat deur 'n reklamekompetisie bevorder word, nie in so 'n mate deur die geleentheid om aan daardie reklamekompetisie deel te neem, verhoog word nie dat daardie reklamekompetisie nie hoofsaaklik as 'n middel, metode of meganisme dien om die betrokke goedere of dienste te bevorder nie, maar wesenlik as vergoeding vir die geleentheid om aan daardie reklamekompetisie deel te neem. 15 20
- (2) Die Minister **[moet] kan**, na oorleg met die raad, met inagneming van die uitwerking van reklamekompetisies op die Nasionale Lotery, loterye bykomstig tot vrygestelde vermaaklikheid en gemeenskapsloterye, regulasies opstel **[in verband met]** wat in die algemeen nodig is vir die behoorlike bedryf en regulering van reklamekompetisies[— 25
- (a) **in die algemeen;**
- (b) **in verband met 'n besondere kategorie van reklamekompetisies;**
- (c) **in verband met 'n besondere kategorie van persone wat op enige wyse reklamekompetisies bedryf of daarmee geassosieer word; of**
- (d) **in verband met 'n kategorie van persone wat aan 'n reklamekompetisie of kategorie van reklamekompetisies mag deelneem].** 30
- (3) **[Die regulasies moet bepalinge insluit]** Sonder om afbreuk te doen aan die algemeenheid van subartikel (2), kan die Minister regulasies uitvaardig in verband met—
- (a) die minimum ouderdom van 'n persoon wat aan enige besondere kompetisie of kategorie van kompetisies mag deelneem; 35
- [(b) (i) die maksimum waarde van pryse in 'n kalenderjaar, wat nie R1 000 000 mag oorskry nie;**
- (ii) die maksimum getal pryse in 'n kalenderjaar; en**
- (iii) die aard van pryse,** 40
- wat met betrekking tot 'n reklamekompetisie gebruik mag word deur 'n persoon of kategorie van persone wat reklamekompetisies bedryf, bevorder, organiseer of op enige wyse daarmee geassosieer word;**
- (c) **behoudens paragraaf (b), die maksimum waarde van pryse in 'n kalenderjaar, wat nie R1 000 000 mag oorskry nie, die maksimum aantal pryse in 'n kalenderjaar en die aard van die pryse met betrekking tot enige spesifieke reklamekompetisie of kategorie van reklamekompetisies;** 45
- (d) **kennisgewing aan die raad van elke reklamekompetisie, en die voorwaardes en vereistes in verband daarmee, met inbegrip van die inligting verlang in verband met daardie kennisgewing en die betaling van gelde aan die raad in verband met die prosessering van daardie kennisgewing;** 50
- (e) **die gereeldheid, duur en maksimum aantal reklamekompetisies wat in 'n kalenderjaar deur 'n persoon of kategorie van persone wat 'n reklamekompetisie bedryf, bevorder, organiseer of op enige ander wyse daarmee geassosieer is, aangebied word;** 55
- (f) **die geografiese gebiede waarin 'n reklamekompetisie of kategorie van reklamekompetisies bedryf mag word, indien sodanige gebied nie die hele territoriale gebied van die Republiek is nie; en]**
- (g) die voorwaardes en omstandighede waaronder die raad of enige persoon deur hom daartoe afgevaardig sonder die toestemming van die persoon wat die reklamekompetisie bedryf, enige aspek kan inspekteer, met inbegrip van enige proses of prosedure, met betrekking tot 'n reklamekompetisie, asook die 60

- 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*.

- rekenpligtige prosedure en die proses waardeur die wenner of weners van daardie reklamekompetisie geïdentifiseer word;
- (h) enige aangeleentheid in verband met die bedryf van 'n reklamekompetisie wat redelikerwys 'n negatiewe invloed op of gevolg vir die publiek of deel of groep daarvan mag inhou; en
- (i) oortredings en strawwe vir die oortreding van die regulasies.".

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**Kort titel en inwerkingtreding**

2. Hierdie Wet heet die Wysigingswet op Loterye, 2001, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

