

For Attention: Mr A Hermans

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SAIPA'S COMMENT ON THE LOTTERIES AMENDMENT BILL, 2013

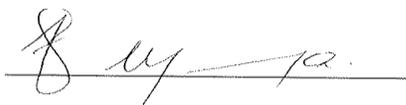
The South African Institute of Professional Accountants (SAIPA) would like to thank the Portfolio Committee on Trade and Industry for the opportunity to provide comments on the Lotteries Amendment Bill [B 21-2013]. We trust that our submission will receive your favourable consideration.

SAIPA is the leading accountancy institute representing qualified professional accountants in practice, industry, commerce, government, academia and the public sector. The Institute's focus is on the advancement of Professional Accountants in South Africa to assist in meeting the changing needs of the accountancy profession in all facets of business and finance. Through innovative services and solutions, SAIPA responds effectively to emerging trends and positively impacts on our economy.

Should you require any further information or wish to discuss our comments in more detail, the writer can be contacted on:

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Kind regards,



Faith Ngwenya

Technical Executive



Section	Issue	Comments / Recommendations
1 (h)	Insertion of "Organ of State" (page 3)	There is no explanation why organs of state should be added as licencees. Ensuring the compliance of an organ of state may prove to be more difficult than that of a private organisation.
2A.(3)	"The Commission may, upon request by the Minister, board or on its own initiative in consultation with the board, conduct research on <u>worthy good causes</u> that may be <u>funded without lodging an application</u> in terms of this Act." (page 3)	This clause leaves room for misuse of funds as "worthy good causes" are not defined, and the Commission is not required to apply for funds and thereby justify their use. Include some guidelines regarding "worthy good causes" that may qualify, and introduce accountability for funds spent on these.
5(b)	"(2) <u>At least four members</u> of the board referred to in subsection (1) shall be persons who are <u>not in the service of any sphere of government</u> ." (page 6)	None of the members should be employed in any other sphere of government.
5(c)	members of the board: Term of office of 5 years that can be extended by another 5 years for (page 7)	A possible total of 10 years on the board may be too long, leading to excessive power.
3A.(1)(b)	"The Minister may not appoint a person to the board who ... [...] ... is a <u>political office-bearer</u> " (page 7)	SAIPA welcomes the restriction that political office-bearers may not serve on the board.
3A.(2)	"Nothing in this Act prevents the Minister from subjecting a prospective member or a member of the board to a <u>probity test</u> to determine suitability or continued suitability of a candidate for appointment as a member of the board or continued membership of the board." (page 7)	The inclusion of this clause is welcome. However, in its current form it is too vague and open to interpretation and abuse. It is recommended to specify in which instances a probity test is allowed and how it will be conducted.
26C.(2)	Analogous clause for members of the distributing agency (page 15)	
13A.(4)	"The licence issued to an organ of state may <u>allow such organ of state to appoint any other person to conduct certain lotteries of the National Lottery on behalf of such organ of state</u> , subject to the written approval of the Minister." (page 10)	This provision may create a platform for corruption.
16 (1)(c)	"the Minister may, after consultation with the board— (i) notify such licensee of such contravention; (ii) instruct such licensee to remedy the contravention within a period stipulated in such a notice; or (iii) apply to a High Court for an order prohibiting the contravention or, as the case may be, requiring the licensee and any other person who appears to the court to have been party to the contravention, to take such steps as the court may direct." (page 12)	SAIPA welcomes the addition of less severe measures in the case of a (possible) contravention of a condition specified in the licence granted, before resorting to the High Court, especially if a contravention can be remedied.
26C.(1)(a)	"The Minister may not appoint a person as a member of the distribution agency if such a person— (a) is a <u>political office-bearer</u> " (page 14)	SAIPA welcomes the restriction that political office-bearers may not be members of the distributing agency.

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26C.(2)	<p>“Nothing in this Act prevents the Minister from subjecting a prospective member or a <u>member of the board</u> to a probity test to determine suitability or continued suitability of a <u>candidate for appointment as a member of the board</u> or continued <u>membership of the board</u>, as the case may be.” (page 15)</p>	<p>This clause is under the heading “<i>Disqualifications for distributing agency membership</i>”.</p> <p>The term “<i>board</i>” should therefore be replaced by the term “<i>distributing agency</i>”.</p>
30 (c)	<p>“... financial statements which are audited or independently reviewed, whatever the case might be” (page 18)</p>	<p>SAIPA welcomes this amendment, which is in line with the new Companies Act.</p>
30 (f)	<p>“(b) In determining matters to be taken into account in determining the persons to whom, purpose to whom, the purpose for which, and the conditions subject to which the distributing agency is to allocate any amounts, the board in consultation with the Minister, must take into account general development in the Republic and government priorities at the relevant time.” (page 18)</p>	<p>This clause may create an advantage for organs of state, thereby creating an unequal platform for applicants of grants (organs of state (‘internal’ applicants) versus ‘external’ applicants).</p>