



**the dti**

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Department:  
Trade and Industry  
**REPUBLIC OF SOUTH AFRICA**

# **REGULATORY IMPACT ASSESSMENT OF THE NATIONAL LOTTERIES ACT**

## **TABLE OF CONTENTS**

1. INTRODUCTION.....	3
2. PURPOSE AND INTENDED EFFECT .....	4
3. POLICY OBJECTIVES .....	5
4. METHODOLOGY .....	5
5. DETAILED DISCUSSIONS.....	6
5.1 LICENSING FUNCTION .....	6
5.1.2 Overlapping functions and roles for issuing licenses .....	6
5.1.3 Exclusion of political office bearers .....	6
5.2 REGULATORY FUNCTION.....	8
5.2.1 Unclear delegation of roles between the NLB and “the board” .....	8
5.2.2 Enforcement powers of the board.....	9
5.2.3 Problem gambling and youth gambling.....	9
5.3 DISTRIBUTION FUNCTION .....	10
5.3.1 Distribution structure: the role and accountability of the DAs, NLB and NLDTF .	10
5.3.2 Amendment of the beneficiary categories.....	15
5.3.3 Provide a standing fund for Ministerial use in the case of natural disasters.....	16
5.3.4 Exclusionary/overly-stringent application requirements.....	17
6. COST AND BENEFIT ANALYSIS.....	18
7. ENFORCEMENT AND SANCTIONS.....	18
8. MONITORING, EVALUATION AND REVIEW.....	18
9. CONSULTATION.....	19
10. CONCLUSION AND RECOMMENDATIONS.....	20
11. DECLARATION .....	20

## **1. INTRODUCTION**

With the emergence of the first democratic administration in 1994, and the concurrent imminent evolution of our economy, Government set out to review many of the existing policies to assess their relevance to the new South African era. The gambling industry was one of the sectors reviewed. This led to the gambling industry being extended from horseracing to include casinos, bingo and the lottery.

The 1995 Wiehahn Report, which informed the original lotteries legislation, marked an important shift in regulatory policy in the gambling industry. The report advocated for a policy shift so as to regulate all forms of gambling in South Africa, rather than the former position which was for a total prohibition. The new line of thinking was premised on several fundamental policy principles, including transparency, fairness, equity and integrity. Furthermore, the report promoted the introduction of developmental objectives as part of the gambling industry, so as to contribute to economic empowerment and upliftment of historically disadvantaged communities. This became an imperative of the South African National Lottery (SANL) legislation.

The SANL was launched in 1999 in terms of the Lotteries Act No. 57 of 1997 (the Lotteries Act, the Act). The purpose of the SANL is to provide an alternative fund-raising mechanism for “good causes” where state expenditure is insufficient. To this end, the SANL system is designed to channel funds into predetermined areas of need and development, funding of charities; promotion of arts, culture and national heritage; and development of sports and recreation. In the four years since the appointment of the current national operator, Gidani, roughly R5 billion has been set aside for these purposes.

For various reasons outlined in this document the SANL has not been operating at maximum efficiency and effectiveness. The most common complaint is that the system is plagued by lengthy time delays. Funds have failed to timeously reach the beneficiaries whom the system was intended to serve. In response to widespread public dissent and internal frustrations within the SANL institutions, as well as a general sense that the monies might be distributed to better causes, the Department of Trade and Industry (dti)

conducted a policy review of the SANL regulatory framework in 2007. This extensive review identified several issues within the governance, regulatory and institutional spheres that impede the ability of lottery stakeholders to fulfill their collective mandate effectively. Amongst a number of challenges, the review highlighted legislative ambiguities, unclear delegation of roles, mismatch of regulatory power and accountability and strained relations between the regulatory bodies.

In 2011, the dti contracted an independent consultancy Genesis Analytics to conduct a regulatory impact assessment on the proposed changes to policy. Subsequently a report was formulated which follows on from these policy proposals, and constitutes a form of Regulatory Impact Assessment (RIA) to appraise and refine the dti's proposed amendments to the Act.

## **2. PURPOSE AND INTENDED EFFECT**

Since the enactment of the Act in 1997 there has not been any assessment of the legislation and structures in place to determine relevance of the legislation to the development of technology, growth of the National Lottery, effective distribution of funds and the underlying challenges. Despite the level of progress made in the distribution of funds for 'good-cause' purposes thus far, the funds have not been optimally disbursed and allocated. The challenges are of administrative nature and legislative loopholes that require amendments to the Act as well as Ministerial intervention through regulations.

Administrative challenges were identified and addressed through the Sub Committee established by the Minister. The Sub Committee comprise of **the dti**, the National Lotteries Board Members and representatives from the different Distribution Agencies. Issues such as capacity constraints, loss of documents, communication and grant agreements were resolved through the Sub Committee and solutions thereof are currently being implemented by the Board.

It is important to note that delays in the appointment of Distributing Agencies and the suspension of the National Lottery in 2006, also resulted in the minimal distribution, less tangible impact, bad media publicity and limited contribution to the socio economic upliftment of South African citizens.

### **3. POLICY OBJECTIVES**

The overall objective of the review is to holistically:

- assess the relevance of the current regulatory regime and to deal with challenges that relate to the structures, roles and functions of the National Lotteries Board (NLB) and Distribution Agencies (DA's), etc;
- assess the overall socio-economic impact of the National Lottery in the past nine years;
- review challenges in the Act, that hampers optimal distribution of funds for the National Lotteries Board and Distribution Agencies and to address strained relations between the Board and Distributing Agencies;
- address problem gambling, by incorporating mechanisms in the legislation to eradicate or minimize its impact;
- assess difficulties experienced in the licensing processes in 2006; and
- Review of the Act to address legislative clauses that are open to different interpretations and result in dis-empowering the National Lotteries Board from enforcing the Act.

### **4. METHODOLOGY**

The inputs in the document are informed by the policy review of the SANL regulatory framework which was conducted by the dti in 2007 and the discussion document that followed. To further ensure the credibility of the process a number of interviews were conducted with key stakeholders. Desktop research was also used to make input into the process.

## 5. DETAILED DISCUSSIONS

### 5.1 LICENSING FUNCTION

#### 5.1.2 Overlapping functions and roles for issuing licenses

**THE STATUS QUO:** There is an overlap of roles and responsibilities with respect to issuing and amending the operator’s license in the Act. Section 13 grants the Minister Powers to award a license, while Section 14(2) subjects these powers to the consent of the NLB. Section 15(1) also introduces a contradiction by purporting that the Minister *or* the board may vary the conditions of licensing. This conflict is iterated in Sections 16, 17, 18, 19.

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"><li>the wording “or the board” be omitted in Sections 14, 15, 17 and 18, effectively granting sole power to the Minister to award and amend the license after consultations with the NLB.</li><li>Section 19 should be amended so that the Minister “<i>and the board</i>” may order a suspension of the license under certain conditions.</li></ul>	<ul style="list-style-type: none"><li>The proposed amendment in Section 19 is not sufficient to solve the problem.</li><li>Use of the word “and” in section 19 extends this responsibility to both, rather than limiting it to the Minister alone, or the NLB alone.</li></ul>	<ul style="list-style-type: none"><li>The clause should be amended to read “the Minister, <i>after consultation with the board</i>” in Section 19.</li></ul>

**Likely Impact:** This would afford the power to the Minister alone, whilst still maintaining lines of mandatory consultation with the NLB. The amendment would create clarity and certainty of responsibilities and powers, resulting in efficiency gains on the licensing side of the SANL, at negligible cost.

#### 5.1.3 Exclusion of political office bearers

**THE STATUS QUO:** Section 13(2)(b)(iv) of the Act stipulates that no political party or political office-bearer should have any direct or indirect financial interests in the license applicant or shareholder thereof. The definition is contestable and this was proven by the legal battle between Uthingo and the Minister - Uthingo Management (Pty) Ltd v Minister of Trade and Industry and Others (37942/2006).

POLICY PROPOSAL	ANALYSIS OF THE PROPOSAL	RECOMMENDATION
<ul style="list-style-type: none"> <li>• Section 13 is amended to stipulate that “the Minister shall be satisfied that no political party in the Republic or political office-bearer or office bearer of a political party, movement or alliance has any direct financial interest in the applicant or shareholder of the applicant”.</li> <li>• The definition of “political office bearer” in Section 1 will be modified to mean “<i>a member of Parliament or of a provincial legislature, a diplomatic representative of the Republic of South Africa who is not a member of the public service or of a house or council of traditional leaders, a member of municipal council and any official or office bearer of a political party, alliance or movement</i>” (Section 1(l)).</li> <li>• The term “office</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed amendment is relevant insofar as it recognises the need for a full and clear definition of “political office bearer”.</li> <li>• Further, by expanding the definition of “office bearer”, the amendment serves to clarify the term (“office bearer”) and to a greater extent eliminates doubt around who should be excluded from participating.</li> <li>• It does not, however, remove the question of who is an official of a political party.</li> </ul>	<ul style="list-style-type: none"> <li>• It would be prudent to also define an official in a political party. Also, if the intention is to not exclude “ordinary” members of political parties then the definition should expressly note this.</li> <li>• The amendment should also make provision for full disclosure by all prospective applicants whether juristic or natural, of a direct or indirect financial interest in the award of the license (including remote and minority shareholdings) and that the applicant is not in contravention of any clause of the Act, with a strong criminal sanction imposed for non-disclosure.</li> <li>• The NLB’s duty will be to conduct probity checks in addition. This is particularly important in light of the 2006 case, where the court opined that the NLB had not</li> </ul>

<p>bearer” is further defined to mean “<i>an official of a political party, alliance or movement, regardless whether or not such person receives any remuneration or benefit from such political party, alliance or movement</i>”</p>		<p>adequately investigated shareholders in some of the bidding consortia.</p>
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**Likely Impact:** The amendment would generally improve transparency and probity of the contract awarding process. Other benefits include avoiding costly and high-profile legal hurdles similar to the 2006 case, bolstering confidence in the SANL and reducing the risk of encountering conflicts of interest within the SANL through political dynamics. As this amounts to little more than regulatory clarification of existing definitions, the costs will be negligible.

## 5.2 REGULATORY FUNCTION

### 5.2.1 Unclear delegation of roles between the NLB and “the board”

**THE STATUS QUO:** References to “the board” is used interchangeably for both the NLB and its governing body, most notably in Sections 3 and 4. The Act establishes the NLB as a juristic entity in Section 2. However, in many parts of the Act the term “the board” is used interchangeably to refer to both the governing body and/or the regulatory institution. At no point are the bodies clearly distinguished. As a result, the Act fails to clarify the role of the governing body (as distinct from the NLB).

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>• There was no proposed solution.</li> </ul>	<ul style="list-style-type: none"> <li>• The roles of the NLB and the governing board need to be clearly distinguished from each other, to avoid confusion and ambiguity in roles and</li> </ul>	<ul style="list-style-type: none"> <li>• To refer only to the NLB as “the NLB” and to specify the governing body in those terms (“the governing body”).</li> </ul>

	responsibilities.	
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**Likely Impact:** This solution offers clarity and more efficient delegation by simply inserting/editing text and definitions where relevant in the Act, and by setting out expressly the roles of the governing body. The costs of effecting this would be negligible.

**5.2.2 Enforcement powers of the board**

**THE STATUS QUO:** Sections 10(b), 56 and 57 grant powers to the NLB to legally challenge any operator of an unlawful promotional lottery competition; however, the Act is not clear in its awarding of *locus standi in judicio* to the NLB, which would empower the NLB to challenge illegal lotteries/competitions through the Courts without having to establish its *locus standi*.

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>Section 54, which deals with unlawful competitions, is deleted; Section 56 is amended to read “Unless authorised by or under this Act, no person shall conduct... any competition in which success does not depend to a substantial degree on skill”.</li> </ul>	<ul style="list-style-type: none"> <li>The amendment does not sufficiently give the Board powers of locus standi in judicio to effectively address challenges arising from unlawful competitions.</li> <li>Unless this is clearly and explicitly stated in the amendment, the problem will likely not be adequately solved.</li> </ul>	<ul style="list-style-type: none"> <li>Request expert legal counsel on this issue.</li> </ul>

**Likely Impact:** The proposed alternative (expressly conferring powers of *locus standi* through the legislation) should empower the NLB to better regulate and police unlawful lotteries and competitions.

**5.2.3 Problem gambling and youth gambling**

**THE STATUS QUO:** Problem gambling refers to an overuse of, or addiction to, gambling activities, while the problem of youth gambling refers to minors’ involvement in gambling activities. The debate around problem and youth gambling is a particularly contested

one, since stakeholders are divided on whether the SANL is actually significantly responsible for the problem, or whether it is more prevalent with other gambling activities outside of the SANL like casinos, horse-racing and sports betting.

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>The addition of Section 56(A) which will require the NLB to support and contribute to the National Responsible Gambling Programme (NRGP).</li> </ul>	<ul style="list-style-type: none"> <li>The proposed insertion does not stipulate the level of the contribution required from the SANL but rather states that “The board <i>may</i> allocate 1% of the money that comes annually into the fund to the NRGP.</li> </ul>	<ul style="list-style-type: none"> <li>An option would be to set the SANL’s contribution to the NRGP at 0.1% of the annual funds coming into the NLDTF. This would be in line with the contribution of all other gambling stakeholders.</li> </ul>

**Likely Impact:** The contribution to the NRGP would amount to 0.1% of annual payment by the operator into the NLDTF. Using the most recent audited financials reflecting an intake of R1,6 billion in the 2010/2011 financial year this would approximate a contribution of R1, 6 million a year.

### 5.3 DISTRIBUTION FUNCTION

#### 5.3.1 Distribution structure: the role and accountability of the DAs, NLB and NLDTF

**THE STATUS QUO:** Improving the distribution function centres around restructuring, governance and administrative structures of the NLB, the NLDTF and the DAs.

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>Improve the accountability of DAs by listing them as Schedule 3 National Public Entities in terms of Section 83 of the Public Finance Management Act (PFMA)</li> </ul>	<ul style="list-style-type: none"> <li>The proposed solution is relevant for improving the accountability of the DAs it will not improve the overall efficiency of the distributions system, unless accompanied</li> </ul>	<ul style="list-style-type: none"> <li>Proposed three models with a summary of pros and cons.</li> </ul>

<ul style="list-style-type: none"> <li>NLB and the DAs are held <i>equally accountable</i> for the use and management of the trust fund, and that they “be jointly and severally liable for the utilisation of the fund</li> <li>Inserting a clause “compelling the DAs and the NLB to co-operate and work together.</li> </ul>	<p>by administrative restructuring and resourcing.</p>	
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### 5.3.1.1 Options for consideration

#### Option 1: Merge the DAs’ role into the NLB’s

This option proposes the merging of regulator and distributor roles under the existing infrastructure of the NLB. In this structure, power and responsibility for both roles are centralised in a single institution, the NLB, removing the DAs from the Act as separate entities. Members of the DA’s would be appointed on a full time basis (i.e. they will be appointed by the Minister and not the NLB).

ADVANTAGES OF THE MODEL	DISADVANTAGES OF THE MODEL	IMPLEMENTATION COSTS
<ul style="list-style-type: none"> <li>Accountability for distribution decisions will be improved;</li> <li>A single institution to account for funding decisions and for efficiency of distribution.</li> <li>Remove possible conflicts of interests</li> </ul>	<ul style="list-style-type: none"> <li>It puts strong centralised powers in a single institution.</li> <li>It is unlikely that all of the DA members would be willing to accept the new arrangement. Some expertise in the sector-specific areas may be lost in this case.</li> </ul>	<ul style="list-style-type: none"> <li>Costs increases in this model are minimal.</li> <li>The current working budget of the NLB is in the region of R127,5 million a year. The new arrangements would make use of existing NLB staff and DA members there</li> </ul>

<p>in the decision-making process.</p> <ul style="list-style-type: none"> <li>• The model is relatively cheap to introduce, it requires only an amendment to the Act to provide for a collapsing of the DAs as regulatory bodies into the NLB, the creation of the oversight committee</li> </ul>		<p>should be no large increase in costs from this amount.</p>
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**Likely Impact:** The NLB will continue to carry out the regulatory functions already afforded to it by the Act and will also take over the distribution function.

Responsibility for grant-approval process will now vest in the NLB which also take sole responsibility for the administrative and allocative process, unlike the former set-up, whereby the NLB was held accountable even though it had no say in the manner funds were distributed.

Administration of applications will also improve since this would be done within one institution, thus improving efficiency standards.

The NLB would be empowered to set standards and also issue rules of governance for the distribution agencies.

Other benefits to be associated with the review would include:

- Eradication of capacity constraints
- Reduction of application backlogs
- Professionalisation of the distribution function, etc.

*This option is relatively non-expensive since it only requires amendments to the Act to provide for the collapsing of the DA's into becoming part of the NLB*

**Option 2: Separate the regulatory and distribution roles into the NLB and a National Distributing Agency respectively**

This option is premised on the need for distinct roles and responsibilities for both regulator and distributor within the SANL, thus proposing a separation of the NLB, as pure regulator, form a new body – the National Distributing Agency or NDA – which would be tasked with the distribution function but no regulatory functions. This model is

designed to clearly delineate lines of accountability and responsibility within the system, but also to maximise efficiency across both bodies and activities.

ADVANTAGES OF THE MODEL	DISADVANTAGES OF THE MODEL	IMPLEMENTATION COSTS
<ul style="list-style-type: none"> <li>• Accountability for distribution decisions will be improved.</li> <li>• Clearer roles designated to each body, the lines of accountability become apparent.</li> <li>• The model allows for clarity of delegation and streamlines the appropriate skill-sets in each body.</li> </ul>	<ul style="list-style-type: none"> <li>• This model is moderately more expensive than the status quo and Option 1.</li> <li>• The NLB would have to relinquish its responsibility over the fund and withdraw its involvement in the distribution side of the SANL.</li> </ul>	<ul style="list-style-type: none"> <li>• The total expected cost of this model would be R138,7 million per year which is R11.2 million a year greater than the status quo.</li> </ul>

**Likely Impact:** The NLB will remain as regulator, continue to oversee the operations of the national operator, enforce the Act and also challenge illegal Lotteries

This option would require the creation of a new single agency, which would be responsible for managing the NLDF as trustee. The new agency would need to have a board and a staff compliment of executives.

Benefits of this model are that each DA within the entity would need to have its own infrastructure with its own administrative capacity. The separation of key responsibilities (regulation and distribution) is critical to this model. This might also reduce political and or interpersonal strains if the two bodies are combined

*This model requires additional costs over the status quo and would also entail that the NLB would have to relinquish its power over the fund.*

**Option 3: Separate the regulatory and distribution functions into the NLB and three (or five or six) separate DAs**

This option segregates the roles of regulation and distribution. The NLB continues to take responsibility for the regulatory function. However, the DAs are extracted from the NLB framework and each is constituted as a standalone agency separate from the NLB and separate from each other, each managing their own “mini NLDF”. Each DA has its own administrative capacity and each would be listed as a National Public Entity in terms

of Section 83 of the PFMA. Each DA would be held accountable and report to parliament and the Minister.

ADVANTAGES OF THE MODEL	DISADVANTAGES OF THE MODEL	IMPLEMENTATION COSTS
<ul style="list-style-type: none"> <li>• Promotes efficiency and transparency, and again serves to remove the political or interpersonal strain expected from merging the two roles under one structure (Option 1).</li> <li>• Distinct DA units may help to direct decision-making and funding most effectively into the areas of identified need.</li> </ul>	<ul style="list-style-type: none"> <li>• This model emerges as the most expensive of the three structures by a long way.</li> </ul>	<ul style="list-style-type: none"> <li>• Estimate that the costs associated with one new, stand-alone DA would amount to roughly R45,97 million per annum. For three DAs the total would be R131,97 million</li> <li>• For the DA, which together with the NLB costs, would mean total costs of R165,39 million.</li> <li>• In the case of six DAs, overall combined costs would be R303,31 million.</li> <li>• Cost increase over the status quo: R37,88 million a year for three DAs; R175,79 million a year for six DAs.</li> </ul>

**Likely Impact:** Each DA would be held accountable and report to parliament and the Minister.

The distribution function would be removed from the regulatory framework and each DA would become a stand-alone agency separate from the NLB and separate from each other. Each DA would have its own administrative capacity and each would be listed as a National Public Entity (Sec 83 of PFMA).

Theoretically, this promotes efficiency and transparency and also might be said to remove political and interpersonal strains from merging the two roles under one structure.

*Of note is the high cost with which this option is associated. It emerges as the most expensive when compared to the other options and the costs of distribution are effectively multiplied.*

### 5.3.2 Amendment of the beneficiary categories

**THE STATUS QUO:** The Reconstruction & Development Programme (RDP) category has been dormant over the years and is no longer operational. The category has had no financing allocated to it over the years.

The proposal is to remove the RDP category from the Act, so as to be left with only four categories i.e. Charities, Sport and Recreation, Arts Culture & Heritage and Miscellaneous categories. A proposal was also put forward to add health and education as new categories to replace the RDP.

However after much research it became apparent that legislating for health and education to become a fifth category might actually work against the initial notion of ensuring that the Lottery would raise money for needy causes wherein government good not achieve this. This is particularly based on the argument that the health and education are already catered for and each had its own annual budget allocations.

It is however proposed that the two sectors, like any other sector not catered for under the four categories, be allowed to submit proposals to the Miscellaneous category to request funding should the need arise.

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>• Section 27 is amended to exclude the RDP category.</li> <li>• Health and education are added as categories under the Act; presumably this would require the creation of new health and education (and possibly crime</li> </ul>	<ul style="list-style-type: none"> <li>• Removing RDP is sensible as the category is redundant.</li> <li>• Funds allocated to the new additional DAs would necessarily take away the equivalent amount from the</li> </ul>	<ul style="list-style-type: none"> <li>• The regulatory space to do this already exists in the Act, specifically Section 32(2)(3) and Section (32)(2)(4)(i).</li> <li>• These clauses clearly indicate that the Minister, after</li> </ul>

<p>prevention) DAs.</p>	<p>funds available for the existing agencies thereby reducing the spending power in sports, arts and charities.</p> <ul style="list-style-type: none"> <li>• Introducing new DAs (Health &amp; Education) presents a risk of “double dipping”, i.e. from both their respective annual budget and the lottery. Other than that, projects that fall under more than one category may apply for funding from multiple DAs (e.g. a charity working in health &amp; education).</li> </ul>	<p>consultation, has the power to direct DA funding towards specific purposes and to influence the geographic spread of spending.</p> <ul style="list-style-type: none"> <li>• A stronger focus on health, education and crime prevention could be accomplished through the application of these clauses by the Minister, without the need to establish expensive new DAs.</li> </ul>
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### 5.3.3 Provide a standing fund for Ministerial use in the case of natural disasters

**THE STATUS QUO:** Section 32 makes provisions for distribution in specified provinces but there is no further legislation discussing emergency funding.

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>• Propose an amendment to Section 32: specifically, to remove the Minister’s ability to allocate grants “in a specified province”, and provide for mandatory consultations with the relevant DA before the Minister is able to take a final decision on prohibiting</li> </ul>	<ul style="list-style-type: none"> <li>• This proposed amendment does not address the issue at hand but rather narrows the ability of the Minister to make use of discretionary funding.</li> <li>• Insufficient provisions are made for funding in emergency cases, which is the purpose of the amendment.</li> </ul>	<ul style="list-style-type: none"> <li>• A clear definition of “emergency” and/or “emergency funding” is required in the amendment Act to create strict parameters for special-case funding and to avoid the exploitation of this clause.</li> </ul>

payment of a grant.		
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**Likely impact/s:** This clause would enable the SANL to fund emergency relief with immediate and sizable effect, rather than having to wait for the public application process.

#### 5.3.4 Exclusionary/overly-stringent application requirements

**THE STATUS QUO:** Applicants for funding are required to submit a number of legal and financial documents on application amongst other things a copy of the most recent two years annual financial statement, signed and dated by a registered accounting officer and a signed auditor’s report and an accounting officer’s report. Compliance with some of these requirements creates difficulties for more under-resourced organisations in poorer areas that have no access to expensive auditing services.

POLICY PROPOSAL	ANALYSIS OF THE POLICY PROPOSAL	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>Removing the most onerous requirements from the application process, notably the requirement that audited financial statements are required from first time applicants.</li> </ul>	<ul style="list-style-type: none"> <li>The application process needs to match the capacity and ability of the people and organisations operating in that realm.</li> </ul>	<ul style="list-style-type: none"> <li>A two-tiered application system whereby applications for sums over a certain threshold for example R200,000 are subject to stricter requirements, including the submission of audited financial statements while applications for sums below the threshold would require a lower level of compliance.</li> </ul>

**Likely impact/s:** Relaxing the regulations around application requirements may prove beneficial in enhancing access to lottery funds for the neediest candidates, and especially for those purposes, organisations, communities and areas which the SANL was arguably designed to address. However, the benefits of expanded access need to be weighed with the potential for corruption in the system because of less stringent

funding criteria, and would depend on the monitoring and compliance capacity of the SANL model going forward.

## **6. COST AND BENEFIT ANALYSIS**

A number of amendments are proposed throughout the Act which will not require additional funds or at least if there is an increase to the status quo it is not significant. However, the proposed reform for the distribution function of the SANL will have cost implications.

The proposed amendment contend with the beneficiary categories (potentially adding DAs for health and education sectors, and allowing the Minister to provide for accessing SANL funds for relief of natural disasters) and to the “relaxing” of application requirements to enhance access for needier funding candidates.

Most significantly, this section looks at a complete reconfiguration of the governance and administrative structures of the three main entities involved in the industry – the National Lottery Board (NLB), the National Lottery Distribution Trust Fund (NLDTF) and the Distribution Agencies (DAs).

A costing exercise has been undertaken for each proposed model. The three options have been outlined in the presiding section clearly outlining the advantages, disadvantages and cost implications of implementing each model.

## **7. ENFORCEMENT AND SANCTIONS**

The department is the custodian of both the Lotteries Act and its regulations; therefore it is responsible for the enforcement of this policy and its subsequent revised regulatory framework.

## **8. MONITORING, EVALUATION AND REVIEW**

The monitoring and evaluation of the legislation and structures in place will have to be undertaken to determine its relevance taking into account the development of

technology, growth of the National Lottery, effective distribution of funds and the underlying challenges. The department will be responsible for the medium and long term monitoring and evaluation of the legislative framework to measure the key performance indicators.

## **9. CONSULTATION**

The department recognises stakeholder inputs as a critical element of policy formulation and a number of stakeholders as outlined in the list below have made inputs into the process.

### **List of Stakeholders Consulted**

#### **Government Departments**

1. Sports and Recreation
2. Basic Education

#### **Regulators**

1. NLB
2. Gambling Board

#### **Agencies**

1. Arts, Culture and National Heritage DA
2. Sports and Recreation DA
3. Charities DA

#### **Independent Consultants (Authors of policy review)**

1. Dr Stephen Louw
2. Abigail Ronald-Louw

#### **Others**

1. Gidani

## 10. CONCLUSION AND RECOMMENDATIONS

The RIA has investigated the issues and concerns pertaining to the Lotteries Act, presenting available evidence of identified problems, and an assessment of the relevancy, sufficiency and estimated costs and benefits of each proposal.

The RIA further proposes a complete regulatory reform for the distribution function of the SANL. In this case the RIA presents three alternatives/options for the restructuring of the SANL, designed to improve both accountability and efficiency within the system. These options are presented with their anticipated qualitative costs and benefits, alongside their estimated incremental cost increases over the status quo model. Moreover Option 1 of the three alternative options has been upheld as the ideal model to enhance the efficiency and effectiveness of the distribution function as already discussed in the report.

It is therefore recommended that **the dti**, should continue with the process of amending the existing Lotteries Act to improve the overall functionality of the industry, and to enhance the efficiency of distribution of funds.

## 11. DECLARATION OF THE LOTTERIES REVIEW PROCESS, RIA REPORT

I have read the Regulatory Impact Assessment Report on the Lotteries Review Process and am satisfied that based on the information and analysis available, the benefits are greater than the costs.

**Signed:** .....

**Date:** .....

**Name:** .....

**Title:** .....

**Department of Trade and Industry**

***Contact Point***

***DDG: Consumer & Corporate Regulations Division (CCRD)***

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