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**GOVERNMENT NOTICE**

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**DEPARTMENT OF TRADE AND INDUSTRY****No. R. 182****22 February 2001****LOTTERIES ACT, 1997****REGULATIONS RELATING TO DISTRIBUTING AGENCIES**

The Minister has, under section 60 of the Lotteries Act, 1997 (Act No. 57 of 1997), with the concurrence of the National Lotteries Board, made the regulations in the Schedule.

**SCHEDULE****1. Staff of distributing agencies**

The work incidental to the performance of the functions of an agency shall be performed by such officers and employees of the board as the board may designate for that purpose.

**2. Remuneration and allowances of distributing agencies**

Members of the distributing agencies shall be paid such remuneration and allowances as may be determined by the Minister.

**3. Expenses of distributing agencies**

All administration costs of an agency approved by the board, including their remuneration and allowances, shall be for the account of the board.

#### **4. Disqualification of members of an agency**

A person shall not be appointed or remain a member of an agency -

- a) unless such a person is a fit and proper person for such membership;
- b) if the Minister, on the recommendation of the agency, terminates such persons appointment for reasons which are just and fair;
- c) if such person is or becomes an unrehabilitated insolvent or commits an act of insolvency;
- d) if such person has at any time been or is removed from an office of trust on account of misconduct; or
- e) if he or she 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 in terms of the Corruption Act, 1992, or any offence involving dishonesty.

#### **5. Meetings of agencies**

- a) The Minister shall designate one of the members of a distributing agency as its chairperson.
- b) The chairperson or, in the absence of the chairperson, the deputy chairperson appointed by the members at the first meeting, shall in consultation with the members of the agency determine when meetings are to be held.
- c) The quorum for a meeting of the agency shall be the majority of the members of the agency.
- d) The agency shall determine the procedure at its meetings.
- e) A decision of the agency shall be taken by a majority of the votes of the members present, 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.
- f) Should a member of an agency have a direct interest in any application for funding which would lead to personal financial gain or gain for his or her organization, the member has to recuse him or herself from voting when the allocation is made.

- g) The Minister and the chief executive officer of the board or their appointed representatives shall have the right to attend any meeting of an agency, and shall each have the right to speak at any such meeting, but shall not have the right to vote.
- h) The chairperson shall give the Minister a reasonable period of notice of any meeting of the agency.
- i) Any absence of a member from three consecutive meetings of an agency, without prior approval of the chairperson, shall automatically disqualify such member from continuing to be a member of such agency. In such an event the chairperson of the agency shall immediately inform the Minister.

#### **6. Reporting duty of agency**

- (1) An agency shall submit a report in writing to the board in the form and at the frequency determined by the chairperson of the board.
- (2) The report contemplated in subregulation (1) shall contain details in respect of –
  - (a) the number of grant applications received by the agency;
  - (b) the number of grant applications approved by the agency, the juristic person in respect of whom a grant has been approved and the amount of every approved grant;
  - (c) the number of grant applications approved by the agency in respect of which a grant was previously paid to the successful applicant;
  - (d) in general, the reasons for not approving unsuccessful applications;
  - (e) procedures employed in the consideration of applications;
  - (f) applications in respect of which a member of the agency has recused himself or herself as contemplated in regulation 5(f);
  - (g) any other matter relating to principles of corporate governance which the board may reasonably expect to be informed of; and
  - (h) any other matter which the chairperson of the board may from time to time in writing request the agency to include in its report.



- (3) An agency may in the report contemplated in subregulation (1) include any matter not mandatory in terms of subregulation (2) which it wishes to bring to the attention of the board.

## **7. Reporting by juristic person to whom grant has been paid**

- (1) A juristic person to whom a grant has been paid from the fund shall from time to time submit to the board -
- (a) reports in respect of the application of the grant as provided for in the relevant grant agreement; and
  - (b) for purposes of section 32(1)(c) of the Act, audited accounts of all amounts paid to it from the fund, in the form and at the frequency determined from time to time by the board in writing.
- (2) The board may for purposes of subregulation (1) make different determinations in respect of different recipients where circumstances reasonably allow or demand differentiation.
- (3) A juristic person to whom a grant has been paid from the fund shall submit to the board any information relating to the grant or the juristic person which the board may from time to time in writing require to be furnished to it.

## **8. Security of information**

- (1) Subject to the Constitution, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) and the Protected Disclosures Act, 2000 (Act No. 26 of 2000), no person may in any way -
- (a) disclose any information in connection with any grant application or a grant itself;
  - (b) disclose the contents of a report contemplated in regulation 6(1); or
  - (c) publish any information obtained in contravention of paragraph (a) or (b);
- unless -
- (i) ordered to do so by a court of law;

- (ii) making a bona fide confidential disclosure or publication to the Minister, the Public Protector, Parliament or a committee designated by Parliament, a member of the South African Police Service or the national prosecuting authority;
  - (iii) the juristic person who made a grant application and the board consent thereto in writing prior to that disclosure or publication; or
  - (iv) provided for in these regulations.
- (2) An agency, a person appointed to an agency or any person rendering services to an agency in whatever capacity may not in any way disclose any information in respect of or comment upon a grant application or a grant itself unless authorised thereto in writing by the Minister or the chairperson of the board.
- (3) Any person who contravenes subregulation (1) or (2) shall be guilty of an offence and liable to a fine or to imprisonment or to both a fine and imprisonment.

## **9. Payment of grant**

- (1) An agency shall forthwith after approving a grant application and finalising any administrative matters in association therewith –
- (a) in writing notify the board thereof;
  - (b) together with the notification contemplated in paragraph (a) submit to the board the grant agreement signed by the juristic person in respect of whom a grant has been approved; and
  - (c) report to the board or furnish the board with any information on any other matter which the board may from time to time in writing request the agency to submit in this regard.
- (2) The board shall subject to subregulation (3) forthwith after receipt of the notification and agreement contemplated in subregulation (1) pay into a bank account of the juristic person –
- (a) the amount approved by the agency; or
  - (b) the first instalment of the amount approved by the agency, and thereafter, at intervals determined by the agency, the other instalments of the amount so approved,
- as the case may be.

- (3) If payment by the board of a grant approved by an agency –
- (a) is conditional, the amount of the grant shall be paid by the board into the bank account of the juristic person only after the condition has been met or complied with; or
  - (b) is to take place in instalments and the juristic person is for whatever reason in breach of any law or the grant agreement,
- the board may, without in any way detracting from any other rights or remedies it or anyone else may have in law relating to the grant –
- (i) suspend payment of any further instalments until the juristic person has remedied the breach and, if applicable, has paid any penalty which relates to that breach; or
  - (ii) terminate payment of any further instalments to the juristic person.
- (4) The board shall in the event of its exercising its rights in terms of subsection (3) forthwith in writing notify the Minister, the agency and the juristic person of the fact.
- (5) An agency may for purposes of subregulation (2)(b) in its notification contemplated in subregulation (1)(a) in writing direct the board to pay the grant amount to a juristic person in instalments, and the agency shall in the notification indicate –
- (a) when or upon which occurrences taking place the instalments have to be paid by the board; and
  - (b) the amounts that have to be paid by the board.

## 10. Prohibited grants

Without detracting from the provisions of section 32(3) and (4) or section 33 of the Act -

- (1) the Minister may from time to time in writing direct an agency not to approve a grant application by a juristic person –
- (a) belonging to a particular class or category; or
  - (b) demonstrating a certain behaviour or quality
- if he or she can on reasonable grounds justify that prohibition;
- (2) An agency may not approve a grant application by a juristic person –

- (a) which is under legal administration;
- (b) which has committed a deed of insolvency;
- (c) which is a previous recipient of a grant and has in respect of that grant committed a material breach of the grant agreement;
- (d) which operates in an association recognised in law with another juristic person which in terms of paragraphs (a), (b) or (c) is disqualified from obtaining a grant; or
- (e) of which the directors, members, management or agents are substantially the same as those associated with another juristic person which in terms of paragraphs (a), (b), (c) or (d) is disqualified from obtaining a grant.

#### 11. Grant agreement

The juristic person to whom a grant is to be paid from the fund as approved by an agency shall prior to the payment of the grant by the board as contemplated in regulation 9 enter into a grant agreement, providing *inter alia* for the grant to be repaid forthwith on breach of any condition of the agreement by the juristic person.

#### 12. Allocation of grants

An agency shall for purposes of section 32(1)(b) of the Act in considering grant applications ensure that not less than five percent of the total amount at the disposal of the agency for grants, shall in any financial year of the board be allocated for distribution in respect of every province of the Republic.

**A. ERWIN**

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