

**SECTION27 SUBMISSION TO THE DEPARTMENT OF TRADE AND INDUSTRY ON THE DRAFT
LOTTERIES AMENDMENT BILL, 2013**

4 JUNE 2013

BACKGROUND

1. SECTION27 is a public interest law centre and registered law clinic that uses and develops the law to advance human rights. SECTION27 conducts advocacy, research and litigation to change socio-economic conditions that undermine access to healthcare services, basic education and other fundamental rights. We act in the public interest to implement the *National Strategic Plan on HIV/AIDS, Tuberculosis and STIs 2012 – 2016* (NSP); improve access to healthcare services in the public and private sectors; improve access to food and basic education; and also to promote human rights regionally and internationally.
2. We welcome the Department of Trade and Industry's (DTI) publication of the Draft Lotteries Amendment Bill, 2013. SECTION27 has already made two detailed submissions to the National Lotteries Distribution Trust Fund (NLDTF) and the DTI in response to calls for stakeholder input on the draft policy and the regulations dealing with the procedure for distribution of funds. We commend the work of the DTI in engaging with stakeholders to produce a strong Draft Bill that addresses many of the concerns raised by ourselves and other stakeholders. We therefore wish to submit only a brief response drawing attention some of our key priorities.

FUNDING FOR HUMAN RIGHTS AND SOCIAL JUSTICE ORGANISATIONS

3. In our previous submissions we stressed our concern that the current funding framework does not adequately recognise and support the work of human rights and social justice organisations:

“... to realize socio-economic rights, one needs more than the immediate relief of people in distress, but also requires social justice movements to assist by various means to make the structural change to improve people’s lives sustainably. This includes legal action, engagement in policy and legislation making processes, research and evidence gathering, direct action and advocacy. Providing relief to alleviate the immediate consequences of destitution but not in support of addressing the underlying determinants of economic insecurity is a process without end.

...

To this end, the courts have become an important forum for addressing these underlying determinants, and social impact litigation is a useful means for the poor to assert their human rights.”¹

4. The Draft Lotteries Policy acknowledged the “need to broaden the scope of categories” of funding. Although there is room within the new Bill to achieve this, through the charities or miscellaneous sectors, we are concerned that organisations that provide these types of services may still be squeezed out of funding opportunities because human rights and social justice work is not sufficiently recognised by the NLDTF as being essential to the realisation of national priorities.
5. Furthermore, we previously expressed our concern that, “[t]he Act recognizes that the model for lottery funding should be responsive to national priorities, but there is no clarity as to what constitutes national priorities ...”.² We believe that a more detailed framework for the identification of national or government priorities is required.³
6. The National Lottery Board’s 2013 Stakeholder Indaba resolved that the NLB, “[e]ndorse and align NLDTF funding with the National Development Plan with focus on poverty alleviation and job creation.” We agree with the Indaba’s resolution and believe the *National Development Plan 2030* (NDP) is a suitable framework for the identification of national priorities for the purposes of distributing funds.
7. We therefore recommend that:
 - 7.1 express provision be made for funding of human rights and social justice work, either through a separate category of funding in the Bill itself or in regulations detailing the scope of the charities and / or miscellaneous sectors, and

¹ SECTION27 Submission to the National Lottery Distribution Trust Fund, 22 May 2012.

² Ibid.

³ Draft Bill, proposed section 32(3)(b).

7.2 that such recognition would also serve to harmonise the Bill and NLDTF funding with national priorities and major policies that should be expressly identified, particularly through the framework provided by the NDP.

CLARIFICATION OF THE MISCELLANEOUS FUNDING CATEGORY

8. We welcome the retention of the miscellaneous category of funding although repeat our concern that there is still insufficient detail regarding its funding criteria and that this remains problematic for applicants seeking funding. As we stated previously:

“While we call for the expansion of the scope of the charities sector there will inevitably be organisations which still fall outside the scope of the other sectors and yet may merit funding. Therefore the miscellaneous category should remain as a funding avenue for such organisations, albeit with the more clearly defined criteria the DTI has acknowledged are needed and with rigorous controls and oversight of funding distribution.”⁴

FUNCTIONS OF THE BOARD

9. We note the proposed amendment to section 10(1) of the Act and welcome the proposal allowing the Board to be proactive in identifying “deserving good causes and recipients”. However we are concerned about the need for subsection 10(1)(m) (power to approve funding to recipients “without application”), especially as the proposed subsection 10(1)(n) (“power to solicit applications”) appears sufficient for meeting this objective but also provides for a more accountable process.
10. We therefore recommend the removal of the proposed subsection 10(1)(m) because section 10(1)(n) is sufficient to meet the objective behind both clauses yet still ensures that procedural safeguards are applied to all potential funding recipients. The process envisaged through the proposed subsection (n), by requiring potential recipients to submit an application, promotes accountability and allows for the appropriate organisational checks and formalities to be met.

⁴ SECTION27 Submission to the Department of Trade and Industry on the Draft Lotteries Policy, 30 November 2012.

MULTI-YEAR FUNDING GRANTS

11. We welcome that the Bill allows for the awarding of multi-year funding grants.⁵ As we have previously stated such grants are a means for organisations to plan and initiate long-term projects and are in-line with international funding models.

CONCLUSION

12. In conclusion, we welcome the Bill in its draft form, however we recommend that the protection and promotion of human rights and social justice be established as priority areas for funding by the National Lottery going forward.
13. We thank the DTI for the opportunity to make this submission and look forward to the outcome. For further information please contact Umunyana Rugege at rugege@section27.org.za or 011 356 4100.

ENDS

⁵ Draft Bill, proposed section 60(x).