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Department:  
Trade, Industry and Competition  
REPUBLIC OF SOUTH AFRICA

## THE NATIONAL ASSEMBLY

### QUESTION FOR WRITTEN REPLY

#### QUESTION NO. 830

DATE PUBLISHED: 5 MARCH 2021

#### Mr M.J Cuthbert (DA) to ask the Minister of Trade, Industry and Competition:

- (1) Whether, with reference to the legal expenses of the National Lottery Commission (NLC) regarding litigation regarding service providers since 2016, he will furnish Mr M J Cuthbert with a list of the (a) various parties litigated against and (b) legal fees for litigation involving current and/or former NLC staff; if not, what is the position in this regard; if so, what are the relevant details;
- (2) what (a) number of persons are employed in the legal division of the NLC and (b) are their duties? [NW990E]

#### REPLY

I have been furnished with a reply to the question submitted, by Ms Thabang Mampane, Commissioner of the National Lotteries Commission. I am advised by my officials that there are apparent discrepancies between the reply furnished herein and information supplied to the department by the NLC and will seek to have these explained and if it requires a revised reply, this will be submitted to parliament.

Ms Mampane's reply is as follows:

- (1) The National Lotteries Commission is required to fulfil its mandate and ensure that the Commission performs its functions efficiently and effectively in compliance with this Act and any other applicable law. The budget spend over the past three financial years to ensure that the NLC provides guidance and support the Board applying the principles of openness and transparency to advise the Minister on the efficacy of

legislation pertaining to lotteries and ancillary matters, exercises its power to institute legal proceedings in order to properly discharge its functions and responsibilities and approach any court for any order the board deems appropriate for effective regulation and enforcement of the Lotteries Act is detailed below:

(a)

NO.	PARTIES	DISCRIPTION	OUTCOME	COSTS (R)
1.	Yothela Media (Pty) Ltd and Tornamanzi NPC / National Lotteries Commission	<p>This was an Application for a judicial review of the decision of the distributing agency to decline an application for a grant based on defective annual financial statements brought forth by the first and second respondent who sought the relief that;</p> <ul style="list-style-type: none"><li>- the decision of the Respondent taken or about April 2018 in terms of which the Applicant's application for funds under project number 105636, be reviewed and set aside.</li><li>- the Respondent be ordered to pay compensation to the first and second applicants in terms of section 8 (1) (c) (ii) (bb) of <i>Promotion of Administration Justice Act No 3 of 2000 (PAJA)</i> in the amount of R25 000 000.00 within 30 days of granting of the order</li></ul>	Active / ongoing	R 77 948.75
2.	NLC / Tshusanang Adventures NPO	<p>The project was withdrawn in terms of a Board Resolution of 11 May 2014.</p> <p>Plaintiff lodged Action proceedings wherein it was demanding that the NLC pay an amount of R 9 675 657.00.</p>	Plaintiff withdrew the matter	R 412 074.38
3.	Afrika Freedom Climbers NPC / NLC	Application for Judicial Review – Gauteng High Court	Application was dismissed against the Plaintiff	R 168 954.68
4.	Bongani Community Development Centre / NLC	This was an Application for Judicial Review in terms of <i>Promotion of Administration Justice Act No 3 of 2000 (PAJA)</i> . The Applicant had applied at the NLC for funding and was declined.	Plaintiff withdrew the matter.	R 229 381.08

NO.	PARTIES	DISCRIPTION	OUTCOME	COSTS (R)
		The Applicant sought that the court, set aside the decision of the NLC.		
5.	NLC / Uhuru Industrial Suppliers	<p>The NLC had contracted the Uhuru Industrial Suppliers to supply goods and service. The Supplier partly delivered on the contract and failed to execute the rest of the contract.</p> <p>The NLC sued for the monies paid to the supplier.</p>	Matter settled out of court	R 135 475.60
6.	Emthonjeni Rural Development / NLC	<p>Application for Judicial Review in terms of PAIA.</p> <p>The Applicant sought that the court allows the condonation for late filing in terms of section 7(1) of the <i>Promotion of Administration Justice Act No 3 of 2000</i> (PAJA) and for the NLC's decision to be reviewed and set aside.</p>	Matter settled out of court.	R 23 132.25
7.	NLC/Lotto Star	<p>This is a matter initiated by the Commission enforcing provisions of the Lotteries Act No 57 of 1997(as amended) by seeking a Declaratory Order.</p> <p>The Respondent in the matter is a bookmaker and part of its business operations includes taking bets on the outcome of lottery results which is an offence in terms of the Lotteries Act and the provisions of the Constitution (Schedule 4 – Act 108 of 1996). Their activities have a negative implication on the business interest of the operator as well as (Ithuba)</p>	The NLC was directed by the Court to follow processes relating to Intergovernmental mediation as per the Intergovernmental Relations Framework Act. The Operator continues with proceedings independently	R 1 289 852.93
8.	NLC / KZN Bookmaker's Society	The NLC was cited as a Respondent in the matter and entered into a notice to abide with the judgment.	The NLC abode by the judgement	R 1 457 339.
9.	Gidani / NLC	Gidani, the former holder of the National Lottery Licence was challenging the Ministers decision awarding the current National Lottery License Operator, Ithuba Holdings (Pty) Ltd.	Successfully challenged	R 993 218.05
10.	Mzukisi Makatse / NLC	The Applicant, a former employee of the NLC lodged an Application in the Eastern Cape (East London) High Court, for general damages for the breach of contract, past and future loss of earnings arising from the termination of his employment contract.	Awaiting judgment	5 715 047.92

NO.	PARTIES	DISCRIPTION	OUTCOME	COSTS (R)
11.	Alpha Omega Youth Outreach / NLC	<p>The Application was lodged in terms of s7(1) of PAJA which requires an application for a review to be lodged not later than 180 days after the date on which internal remedies have been exhausted.</p> <p>A review application seeking relief in terms of PAJA should have been instituted no later than 17 April 2018. The Application was instituted on 10 December 2018 and served on the Respondent on 20 December 2018 such application is overtly late.</p> <p>The Application sought that the court grant the Applicants condonation for late filing, set aside the decision by the NLC and substitute it with a new decision.</p>	Judgment was handed down against the NLC and the matter was remitted back to the NLC	R 489 900.87
12.	NLC / Swallows Foundation & Others	High Court Application – Port Elizabeth High Court	Applicant withdrew matter	R 124 878.95
13.	United Civil Society in Action / GroundUp and NLC	This is an application regarding the interpretation of Regulation 8 of the Regulations Relating to Distributing Agencies published in Government Gazette No. 22092 of 22 February 2001. At the heart of this application is the request for the court to assist the parties with the interpretation and application of Regulation 8.	The matter was withdrawn by the Applicant on 20 July 2020.	
14.	S / M Ramatsekisa	Mr Ramatsekisa, an employee of the NLC had an accident in Eastern Cape and needed representation as he had the accident whilst executing his duties as an employee of the NLC.	Matter was withdrawn	R 80 918.80
15.	HCI / Ithuba & Others	Urgent Application where the NLC where the NLC was joined as an interested party in the dispute between HCI and Ithuba Holdings.	Matter was dismissed – No urgency	R 327 646.96
16.	Mylotto24 / Western Cape Gambling Board	<p>The NLC joined the Western Cape Gambling Board as the matter was of mutual interest, the scheme that was proposed by MyLotto24 had a potential of having a negative impact on the National Lottery.</p> <p>The matter was later withdrawn by the Applicant (Mylotto24)</p>	Matter was withdrawn	R 170 443.86
17.	Lottoland / Ithuba Holdings	NLC was an interested party, Ithuba felt it infringed on their domain / territory	On-going	R 139 743.95

NO.	PARTIES	DISCRIPTION	OUTCOME	COSTS (R)
18.	NLC / Davhana Society for the Care of the Aged	The NLC lodged an Unjustified enrichment claim against the beneficiary who was erroneously paid a grant that was allocated to another beneficiary with a similar name to it.	Ongoing – Application for Default Judgement	R 19 884.58
19.	Zakheni Ma Africa// Minister of Trade Industry and Competition and 1 other	<p>An Urgent Application was lodged at the Pretoria High Court, which was set down to be heard on 28 July 2020. The applicant sought the following relief from the Court:</p> <ul style="list-style-type: none"> <li>➤ That the Minister of Trade Industry and Competition (dtic) to cease publishing personal information of Applicants, subject to the provisions of Reg 8 to the Lotteries Act,</li> <li>➤ The NLC not to carry out the instruction from the Minister to publish the names of the beneficiaries, subject to the provisions of Reg 8.</li> <li>➤ That the NLC be ordered to refrain from disclosing beneficiary information, subject to the provisions of Reg 8.</li> </ul>	The matter was withdrawn by the Applicant on 27 July 2020.	R380 000.00
20.	African Liberty Movement (ALM) / NLC & Another	<p>On 30 October 2020, ALM filed an urgent application in the Gauteng Division of the High Court of South Africa, Pretoria. ALM cited the NLC and the Portfolio Committee on Trade and Industry (“the Portfolio Committee”) as the first and second respondents respectively. In its notice of motion, ALM set down the matter for hearing on 05 November 2020. The applicant sought the following relief from the Court:</p> <ul style="list-style-type: none"> <li>➤ That the application be heard on an urgent basis.</li> <li>➤ That the NLC be interdicted from publishing the names of grant beneficiaries in its 2019/20 Annual Report.</li> <li>➤ That the Portfolio Committee be interdicted from ordering the NLC to publish the list of grant beneficiaries on any platforms.</li> <li>➤ No party may publish the names of beneficiaries in compliance with the instruction of the Committee;</li> </ul>	Matter was heard on 12 November 2020 and was dismissed on the basis of no urgency.	R370 000.00

NO.	PARTIES	DISCRIPTION	OUTCOME	COSTS (R)
		➤ Costs in the event of opposition from the respondents.		
21.	NEHAWU obo Tshililo Cordelia Ndongane / NLC	Labour Court - Review Application	Ongoing - Waiting for directive from the Labour Court on a possible set down date.	R 716 075
22.	Iveda Smith / NLC	The Applicant in the matter was a former Distributing Agency member who had been disqualified in terms of section 26C of the Lotteries Act. The Applicant lodged a Review in the Labour Court Labour Court to have the decision of the Commission to be reviewed and set aside.	The Judgment was handed down on the 25 <sup>th</sup> of June 2020 in favour of the Employer with cost order against the Employee.	R 955 237
23.	S Naidoo / NLC	The Applicant in the matter is a former DA member who repudiated his employment contract. The Applicant lodged a Review Application in the Labour Court in terms of section 158(1)(g) of the Labour Relations Act to set aside the Arbitration award by the CCMA that confirmed the decision of the NLC.	Awaiting judgment	R 384 047.50
24.	NUPSAW obo Kelebogile Mokgathla KZN / NLC	Labour Appeal Court – Application relating to the relocation of staff member due to operational requirements.	Finalised in favour of the employer, employee ordered to pay costs	R 402 201.12
25.	National Lotteries Commission // The Minister of Trade, Industry and Competition	The application relates to the investigation commissioned by the Minister of Trade, Industry and Competition and final report thereof as reported to Parliament and law enforcement agencies.	On-going	R 720 000.00
26.	Media Monitoring Africa / NLC & Another	On 30 October 2020, ALM filed an urgent application in the Gauteng Division of the High Court of South Africa, Pretoria. ALM cited the NLC and the Portfolio Committee on Trade and Industry (“the Portfolio Committee”) as the first and second respondents respectively. In its	On-going	R235 000.00

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		<p>notice of motion, ALM set down the matter for hearing on 05 November 2020. The applicant sought the following relief from the Court:</p> <ul style="list-style-type: none"> <li>➤ That the application be heard on an urgent basis.</li> <li>➤ That the NLC be interdicted from publishing the names of grant beneficiaries in its 2019/20 Annual Report.</li> <li>➤ That the Portfolio Committee be interdicted from ordering the NLC to publish the list of grant beneficiaries on any platforms.</li> <li>➤ No party may publish the names of beneficiaries in compliance with the instruction of the Committee;</li> </ul> <p>Costs in the event of opposition from the respondents.</p>		



(b) Legal fees for litigation involving current and / or former NLC staff detailed under no 10, 21,22,23 and 24 above.

(2)

(a) The Legal and Investigations Services Division comprises of a staff complement of 8 employees including the Executive Manager: Legal, as follows:

1 x Legal Manager;

1 x Legal Specialist;

1 x Legal Forensic Specialist;

2 x Forensic Specialists;

1 x Forensic Officer;

1 x Administrative Assistant.

(b) See enclosed job descriptions.

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