

PRESENTATION TO THE PORTFOLIO COMMITTEE ON TRADE, INDUSTRY AND COMPETITION

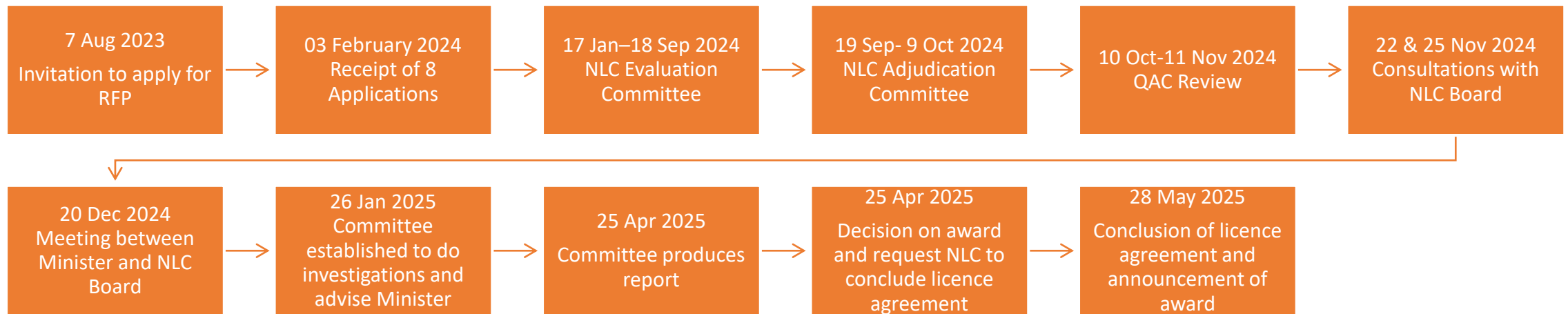
AWARD OF THE NATIONAL LOTTERY LICENCE AND TEMPORARY LOTTERY LICENCE

24 JUNE 2025

STRUCTURE OF THE PRESENTATION

- **The Licensing Process**
- **The delay in awarding the licence**
- **Allegations of Conflict of Interest in regard to Evaluation Committee members**
- **Alleged contraventions of section 13 (2) (b) (iv) – Involvement of Political Parties or Political Office Bearers in Sizekhaya (RF) Pty Ltd**
- **Award to Sizekhaya**
- **The Temporary Licence**
- **Lekalinga (RF) (Pty) Ltd - Review Application against the award of the Licence.**

4th Lottery Licence - Process



Lotteries Act Criteria

Section	Question
s 13 (2)(b)(i)	Does the applicant have sufficient appropriate knowledge or experience to conduct the National Lottery?
s 13 (2)(b)(i)	If not, does the applicant have unconstrained and continuous access to the appropriate knowledge or experience ?
s 13 (2)(b)(i)	Will the applicant be able to conduct the National Lottery strictly in accordance with this Act, the licence of the National Lottery and any agreement pertaining to the licence ?
s 13 (2)(b)(ii)	Does the applicant have the necessary financial and other resources to conduct the National Lottery?
s 13 (2)(b)(iii)	Will the applicant, for the duration of the licence, show a clear and continuous commitment to the social responsibility programme contemplated in section 10(g) of the Lotteries Act?
s 13 (2)(b)(iii)	Will the applicant, for the duration of the licence, show a clear and continuous commitment to the advancement, upliftment and economic empowerment of persons or groups or categories of disadvantaged by unfair discrimination ?

Lotteries Act Criteria

Section	Question
s 13 (2)(b)(iv)	Is there a political party in the Republic or political office-bearer with any direct financial interest in the applicant or a shareholder of the applicant?
s 13 (3)(a)	Are the person or persons who appear to be likely to manage the business or any part of the business of the National Lottery under the licence, fit and proper to do so?
s 13 (3)(b)	Are the persons or persons for whose benefit that business is likely to be conducted, fit and proper people to benefit from it?
s 13 (3)(c)(i)	Will the person or persons who are likely to manage the business or any part of that business do so with all due propriety and strictly in accordance with the Constitution, the Lotteries Act, all other applicable law, the licence for the National Lottery and any agreement pertaining to the licence?
s 13 (3)(c)(ii)	Will the person or persons who are likely to manage the business or any part of that business do so, so that the interests of every participant in the National Lottery and sports pools are adequately protected ?
s 13 (3)(c)(iii)	Will the person or persons who are likely to manage the business or any part of that business do so, so that the net proceeds of the National Lottery and sports pools are as large as possible?

RFP Criteria

TECHNICAL

Fit and Proper Requirements

Localisation and Supplier Development

Technology and Infrastructure

Technical System Security

Game Design

National Sports Pools

Operational Risk Management

Player Protection

Transition

State Lottery Capacitation

FINANCIAL

Business plan

B-BBEE

Marketing and Communications

Contribution to the NLDTF

Financial Analysis and Model

General information

Evaluation and Adjudication Committees

EC

- Composed of independent persons with financial, IT and Gaming, and Legal experience
- It evaluates all the criteria in the pre-qualification, technical and financial and B-BBEE categories
- Evaluation includes considering viability, sustainability, technical capacity, financial resources, national or state lottery experience and the capability to maximise the net proceeds for distribution to good causes

AC

- AC is composed of the NLC's Board
- The AC adjudicates the applications
- Presents report to Minister with recommendations

Why the delay?

The Minister could not make a decision after receiving the EC, AC and QAC reports because of certain concerns:

- The manner in which the evaluation and adjudication had taken place
- The lack of advice about disqualifying applicants that did not make the technical evaluation criteria
- Whether there had been sufficient consideration of the following issues:
 - Probity (fit and proper)
 - B-BBEE
 - Localisation and supplier development
- Whether some of the bidder's proposed games were lottery games or gambling games
- Whether a WLA-SCS certificate was a requirement
- Whether section 13 (2)(b)(iv) ("direct political interest") had been properly interpreted and applied

These issues were investigated by the committee set up by the Minister

Alleged Conflict of Interests

Accusations were made in late 2024 that two EC members were conflicted vis-à-vis Sizekhaya and Wina Njalo

The NLC investigated the matter and sought legal advice on this matter

The NLC concluded that there were no conflicts of interest

This was reviewed by the QAC, which agreed with the NLC's conclusion.

This is one of the grounds of review in Lekalinga's review application. The Minister and the NLC will respond in detail when they deliver their answering affidavits

Alleged Political Interests

- Section 13 (2)(b)(iv) of the Lotteries Act stipulates:
The Minister must be satisfied that “no **political party** in the Republic or **political office-bearer** has any **direct financial interest in the applicant or a shareholder of the applicant.**”
- **Definition** of “Political Office-Bearer” means:
Members of Parliament, members of provincial legislatures, diplomatic representatives of the Republic not serving in the public service, members of any house or council of traditional leaders, members of the Volkstaat council, members of municipal councils, and any officials from a political party alliance or movement.
- There have been allegations suggesting that Mr Sandile Zungu and Mr Moses Tembe have close ties to the ANC and MK.
- Following investigations and legal advice, it has been determined that:
 - Mr Zungu and Mr Tembe do not qualify as political office-bearers under the Lotteries Act.
 - There is no evidence that the ANC or MK possess a “direct financial interest” in Sizekhaya or any of its shareholders.
- Consequently, there is no violation of section 13 (2)(b)(iv).

Appointment of Sizekhaya

- Full reasons for awarding the licence to Sizekhaya will be provided in the Lekalinga review application when the record is filed in July 2025.
- However, I wish to point out the following:
 - It was a close race between Sizekhaya, Ithuba, Ringeta, Wina Njalo and, to some extent, Bosele
 - However, on a conspectus of all factors, Sizekhaya's was first in the photo finish
 - Sizekhaya does have capacity and infrastructure and did present a 5 month transition plan.
 - The 9 month transition was agreed to because there is more time given the 12 month temporary licence period



THE TEMPORARY LICENCE

- The Minister announced the delay in awarding the Licence and the reasons for the delay on 21 December 2024
- The Board was advised and requested by the Minister at the meeting of 20 December 2024 to investigate the options that are available to ensure the continuation of the national lottery in the interim, given the impact of the delay in announcing the Fourth Licensee.
- On 10 February 2025, the Board presented the Minister with a report setting out the available options given that transition could not take place in time and these were:
 - The Third Licence expires. No Lottery operations are undertaken until the Fourth Licensee is able to take over which will most likely be a delay of 6 months. Lottery would lose its market share to Gambling.
 - The status quo is maintained and all efforts are taken to ensure that transition takes place by 31 May 2025. The transition steps were analysed and it was concluded that this option is not viable.
 - Organ of State option was presented. This option is not viable as it would require a lengthy period for either an existing public entity or a new one to be created with a mandate to operate Lotteries. The approval processes under the PFMA and by Cabinet as well as possible legislative processes, would simply not be achievable in the timeline remaining.
 - The Temporary Licence in terms of section 13B of the Act. This seemed to be the most viable option to be presented to the Minister and was recommended.
 - The Minister authorised that a Temporary Licence Request for Proposal document should be prepared and that the 8 (eight) applicants who had already submitted applications for the Fourth Licence should be approached to submit applications to operate the Lottery on a temporary basis.

THE TEMPORARY LICENCE CONT.

- The Temporary Licence RFP process was put in place:
 - Legal input was obtained to prepare a draft Temporary Licence RFP
 - Technical input on the criteria was obtained
 - Financial input on the financial model for a Temporary Licence was obtained. The financial advisors assured the NLC that a Temporary Licence is viable for all 8 Fourth Licence Applicants
 - An RFP document was drafted, and presented to the Minister and approved by him.
- Only one application was received from Ithuba Lottery
- The Board assessed the application and made recommendations to appoint Ithuba Lottery for a Temporary Licence
- Minister authorised the negotiations for the Licence Agreement which was successfully concluded with Ithuba Lottery

THE TEMPORARY LICENCE CONT.

- Wina Njalo, one of the Fourth Licence Applicants brought an urgent application in which they complained of:
 - The Minister's failure to take a decision on the Fourth Licence applications.
 - The Temporary Licence RFP which they alleged was tailored in favour of Ithuba Lottery
 - The Bid Validity Extension of 1 year
- The Application was opposed by both the Minister and the NLC. Both the Minister and the NLC additionally requested the Court to suspend any declaration of invalidity of the Temporary Licence RFP and to allow the Temporary Licence operations to be conducted for a minimum period of 12 months
- The Court granted the review but suspended its orders for 5 months and not 12 months
- Ithuba Lottery advised the Board that it is financially not viable to conduct a Temporary Licence for 5 months as it would run a loss of approximately R51 million
- The NLC approached the Court for an extension of the 5 months suspension period to 12 months.
- The Court refused to grant the extension but affirmed the Minister's powers to appoint a Licensee on a temporary basis in terms of section 13 (b)
- Ithuba Holdings, a different company from Ithuba Lottery with a different consortium of shareholders, which is the incumbent Third Licensee was approached with an enquiry as to whether they would be able to roll out a Temporary Licence operations.
- Upon confirmation by Ithuba Holdings that they can, the NLC recommended to the Minister that a Temporary Licence be awarded to Ithuba Holdings.

THE TEMPORARY LICENCE CONT.

- The Minister's reasons for issuing the Temporary Licence to Ithuba Holdings were, amongst others, the following:
 - Section 13B (d) of the Act applies in that the Third Licence operations will cease on 31 May 2025 and therefore the Minister has the power to issue a Temporary Licence.
 - The NLC is unable to implement a Temporary Licence awarded to Ithuba Lottery because it cannot operate for 5 months.
 - The successful Fourth Licence operator will not be able to commence operations on 1 June 2025 and requires to transition from Third to Fourth Licence for a period of at least 9 months.
 - The NLC's Court attempt to extend the period of suspension from 5 to 12 months was unsuccessful.
 - Mooki J in his judgment affirmed that it would be a surprise if the Minister is unable to appoint an operator on a temporary basis and this was one of the reasons why he refused to extend the 5 months to 12 months.
 - There was no time for the Minister and the NLC to run a process to consider any other alternatives before the end of the Third Licence
 - It was not practically possible for the Minister and the NLC to run a public competitive process for the appointment of a temporary operator to take over on 1 June 2025

THE TEMPORARY LICENCE CONT.

- All of the above conditions are similar to those that are prescribed in National Treasury Regulations which would be a basis for entities to procure by way of an emergency deviation
- Ithuba Holdings has the necessary know-how, infrastructure, retailer network, technology partner, as well as financial resources to operate temporarily
- There are compelling public interest on why the National Lottery operations should not be suspended and these have been confirmed in the judgment of Potterill J.
- Although Wina Njalo made enquiries as to the basis upon which the Minister awarded the Temporary Licence to Ithuba Holdings, it has not indicated that it will be challenging the Minister's decision.
- There is currently no threat to interrupt the Temporary Licence by way of a court challenge.
- There has been transition from the Third to temporary lottery operations with no interruption.

LEKALINGA'S REVIEW APPLICATION TO CHALLENGE THE MINISTER'S DECISION

- On 6 June 2025, one of the Fourth Licence Applicants, Lekalinga launched a review application against the Minister's decision to award the Licence to Sizekhaya.
- The grounds of review are generalised and based on media reports.
- The grounds of review are summarised as follows:
 - Based on media reports, there may be a Political Party or Political Office Bearer involvement in Sizekhaya in contravention of section 13 (2) (b) (iv) of the Act
 - Based on media reports, there may be a conflict of interest on the part of certain members of the Evaluation Committee
 - The Minister had recorded that he is unable to award the Licence citing "unresolved concerns" which probably points to procedural irregularities in the Evaluation and Adjudication of the applications. Once the record has been received, these will become apparent.
 - The Minister awarded the Licence to an Applicant who may not have met the criteria of transition in 5 months given that there is an agreed longer transition period of 9 months in the Licence Agreement.

LEKALINGA'S REVIEW APPLICATION TO CHALLENGE THE MINISTER'S DECISION

- Lekalinga seeks the Minister to file a record of its decision, as well as his reasons after which it will supplement its case and its grounds for review will become more clearer.
- The NLC and the Minister's team are in the process of collating the record of the Minister's decision which includes the actual 8 applications which are in excess of 74 000 pages.
- The Minister will file this record of his decision as well as reasons in the context of the review application.
- There should ideally be no other public record of the Minister's reasons for his decisions and the process that he has followed given this Court challenge.
- The Minister's process and reasons will be a matter of Court record and will be shared with the Committee once they have been filed at Court.

