

***THE PROVINCE OF
GAUTENG***



***DIE PROVINSIE VAN
GAUTENG***

Provincial Gazette Provinsiale Koerant

EXTRAORDINARY • BUITENGEWOON

Selling price • Verkoopprys: **R2.50**
Other countries • Buitelands: **R3.25**

Vol. 26

PRETORIA
23 DECEMBER 2020
23 DESEMBER 2020

No. 267

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

**N.B. The Government Printing Works will
not be held responsible for the quality of
"Hard Copies" or "Electronic Files"
submitted for publication purposes**

ISSN 1682-4525



9 771682 452005

00267



IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

CONTENTS

Gazette *Page*
No. *No.*

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

1058	Gauteng Legislature: The Gauteng Provincial Legislature intends to introduce the Gauteng Provincial Laws General Amendment Bill, 2020.....	267	3
------	--	-----	---

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 1058 OF 2020**THE GAUTENG PROVINCIAL LEGISLATURE INTENDS TO INTRODUCE
THE GAUTENG PROVINCIAL LAWS GENERAL AMENDMENT BILL, 2020**

The above-mentioned Bill is hereby published in English in the Gauteng Provincial Extraordinary Gazette No.....dated 2020 for public comments and general information.

The Bill seeks to rationalise the appointment or reappointment of members of boards and the hiring of chief executive officers of provincial public entities, and in so doing, to amend—

- the Gauteng Gambling Act, 1995;
- the Consumer Affairs (Unfair Business Practices) Act, 1996
- the Gauteng Tourism Act, 2001;
- the Gauteng Growth and Development Agency (Proprietary) Limited Act, 2003;
- the Gauteng Enterprise Propeller Act, 2005;
- the Gautrain Management Agency Act, 2006; and
- the Gauteng Liquor Act, 2014;

and to provide for matters connected therewith or incidental thereto.

People, who wish to comment on the Bill, may send their written comments to:

Office of the Secretary
Senior Committee Co-ordinator (Ms. Neo Montisi) or
Senior Committee Co-ordinator (Ms. Benny Makgatho)
Gauteng Provincial Legislature
Private Bag X52
Johannesburg
2000

Mobile: (079) 5229209
(071) 1671730
Fax: (011) 498 5719

Comments must reach the above office on or before 26 February 2021.

Copies of the *Gazette* may be obtained from Government Printers, Publications Section, Vermeulen and Bosman Streets, Pretoria at R2.50 per copy

GAUTENG PROVINCIAL LEGISLATURE

GAUTENG PROVINCIAL LAWS GENERAL AMENDMENT BILL, 2020

(As introduced in the Gauteng Provincial Legislature as a Government Bill in terms of Rule 192(1) of the Standing Rules of the Gauteng Provincial Legislature, Version 5 –

Revision 8)

(The English text is the official text of the Bill)

[B—2020]

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To rationalise the appointment or reappointment of members of boards and the hiring of chief executive officers of provincial public entities, and in so doing, to amend—

- the Gauteng Gambling Act, 1995;
- the Consumer Affairs (Unfair Business Practices) Act, 1996
- the Gauteng Tourism Act, 2001;
- the Gauteng Growth and Development Agency (Proprietary) Limited Act, 2003;
- the Gauteng Enterprise Propeller Act, 2005;
- the Gautrain Management Agency Act, 2006; and
- the Gauteng Liquor Act, 2014;

and to provide for matters connected therewith or incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Province of Gauteng, as follows:—

Amendment of section 5 of Act 4 of 1995

1. Section 5 of the Gauteng Gambling Act, 1995 (Act No. 4 of 1995) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the substitution in subsection (1) of the words preceding paragraph (a) of the following words:

"The board shall consist of between eight and 12 members who shall be fit and proper persons, appointed by the [responsible Member] Executive Council, and of whom—";

(b) by the deletion in subsection (2) of paragraph (c);

(c) by the substitution of subsection (3) of the following subsection:

"(3) The **[responsible Member]** Executive Council shall appoint a member of the board as the chairperson, and another member as the deputy chairperson, of the board. "; and

(d) by the deletion of subsection (6).

Amendment of section 6 of Act 4 of 1995

2. Section 6 of the principal Act is hereby amended by the substitution for paragraph (k) of the following paragraph:

"(k) is a member of the family of a person contemplated in paragraph (b), (c), (d), (e) or (f) if, in the opinion of the **[responsible Member in concurrence with the Standing Committee on Finance and Economic Affairs]** Executive Council, such family relationship may give rise to real or perceived conflict of interest; or".

Amendment of section 8 of Act 4 of 1995

3. Section 8 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The responsible Member may, after giving the board member concerned an opportunity to be heard **[and after consultation with the Standing Committee of the Provincial Legislature responsible for economic affairs, terminate], suspend** the membership of any member of the board if good reasons exist for doing so.".

Substitution of section 10 of Act 4 of 1995

4. The following section is hereby substituted for section 10 of the principal Act:

"A member of the board shall be paid such remuneration and allowances out of the funds of the board as the responsible Member may **[determine after consultation with the Standing Committee of the Provincial Legislature responsible for financial matters], in concurrence with the Member of the Executive Council responsible for finance, determine**.".

Amendment of section 12 of Act 4 of 1995

5. Section 12 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
- "(a) a chief executive officer appointed by the board subject to the approval of his or her appointment by the **[responsible Member]** Executive Council"; and
- (b) by the substitution of subsection (3) of the following subsection:
- "(3) The staff of the board who are not in full-time service of the State shall receive such remuneration, allowances, and other employment benefits out of the funds of the board, and shall be appointed on such terms and conditions and for such periods, as the board **[, with the concurrence of the responsible Member,]** may, in consultation with the responsible Member and in concurrence with the Member of the Executive Council responsible for finance, determine."

Amendment of section 12A of Act 4 of 1995

6. Section 12A of the principal Act is hereby amended by the substitution for subsection (8) of the following subsection:

"(8) The responsible Member may at any time, after giving the **[Chief Executive Officer]** chief executive officer an opportunity to be heard, **[terminate]** suspend the employment of the chief executive officer if **[,]** good reasons exist for doing so."

Amendment of section 14 of Act 4 of 1995

7. Section 14 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(2) A member of a committee contemplated in subsection (2) or (3) who is not a member of the board or in the full-time service of the State shall receive such remuneration and allowances from the funds of the board as the board **[, after consultation with the responsible Member,]** may, in consultation with the responsible Member and in concurrence with the Member of the Executive Council responsible for finance, determine."

Amendment of section 18B of Act 4 of 1995

8. Section 18B of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

"(7) The **[responsible Member]** Executive Council may at any time terminate the term of office of any member of the **[Board]** board or the entire **[Board]** board if, in the **[responsible Member's]** opinion of the Executive Council, there are good reasons for doing so."

Amendment of section 18C of Act 4 of 1995

9. Section 18C of the principal Act is hereby amended by the subsection in subsection (1) for the words preceding paragraph (a) of the following words:

"(7) The responsible Member may, **[after]** in consultation with the Executive Council, by notice in the *Provincial Gazette*, appoint an administrator to perform the functions and exercise the powers of the board, either in whole or in part, excluding the granting and revocation of licences, if the responsible Member is of the opinion that—".

Amendment of section 84 of Act 4 of 1995

10. Section 84 of the principal Act is hereby amended by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words:

"[with the concurrence of the Standing Committee of the Provincial Legislature responsible for financial matters,] make regulations prescribing—".

Amendment of section 1 of Act 7 of 1996

11. Section 1 of the Consumer Affairs Act, 1996 (Act No. 7 of 1996) (hereinafter referred to as the "principal Act"), is hereby amended by the deletion of the definition of "committee".

Amendment of section 14 of Act 7 of 1996

12. Section 14 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Members of the court shall be appointed by the responsible Member in concurrence with the **[committee]** Executive Council."; and

(b) by the substitution for subsection (8) of the following subsection:

"(8) A member and alternate member of the court shall be appointed for such period and paid such remuneration and allowances as the responsible Member

in concurrence with the Member of the Executive Council responsible for finance may determine, and different remuneration and allowances may be determined in respect of different members and alternate members."

Amendment of section 29 of Act 7 of 1996

13. Section 29 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The responsible Member shall, **[with the concurrence of a committee of the Provincial Legislature with responsibility for consumer affairs and]** after consultation with the chairperson of the court, make regulations relating to—".

Amendment of section 5 of Act 10 of 2001

14. Section 5 of the Gauteng Tourism Act, 2001 (Act No. 10 of 2001) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph"

"(a) a Board appointed by the **[MEC] Executive Council** in terms of this Act; and"; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) The Board appoints the Chief Executive Officer, subject to approval of his or her appointment by the **[MEC] Executive Council**."

Amendment of section 5A of Act 10 of 2001

15. Section 5A of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The **[MEC] Executive Council** must constitute and appoint a Board of not less than seven (7) and not more than ten (10) members including:";

(b) by the substitution for subsection (2) of the following subsection:

"(2) Prior to **[appointing] the appointment of** the members of the Board, the MEC must publish a notice in the *Provincial Gazette* and advertisements in the media inviting nominations.";

(c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"The [MEC] Executive Council must ensure that the members of the Board—"; and

(d) by the substitution for subsection (4) of the following subsection:

"(4) The [MEC] Executive Council must appoint one member of the Board as chairperson and any other member as deputy chairperson, who will act as chairperson of the Board when the chairperson is absent or is unable to perform his or her duties."

Amendment of section 5C of Act 10 of 2001

16. Section 13 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The [MEC] Executive Council may at any time terminate the term of office of any member of the Board or the entire Board if, in the [MEC's] opinion of the Executive Council, there are good reasons for doing so."

Amendment of section 5D of Act 10 of 2001

17. Section 5D of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The conditions of appointment of members of the Board, who are not in the employ of an organ of state, are determined by the MEC in concurrence with the Member of the Executive Council responsible for finance."

Amendment of section 6 of Act 10 of 2001

18. Section 6 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Board [,] must appoint a suitably qualified person as the Chief Executive Officer, subject to approval of his or her appointment by the [MEC] Executive Council."; and

(b) by the substitution for subsection (6) of the following subsection:

"(6) The [MEC] Executive Council may at any time, after consultation with the Board, terminate the employment of the [CEO] Chief Executive Officer if in [his or her] opinion of the Executive Council there are sufficient reasons for doing so after giving the Chief Executive Officer an opportunity to be heard."

Amendment of section 11 of Act 10 of 2001

19. Section 11 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

"(b) be appointed on such terms and conditions of service and for such periods, as the Board may, **[with the concurrence of the MEC]** in consultation with the MEC and in concurrence with the Member of the Executive Council responsible for finance, determine."

Amendment of section 8 of Act 5 of 2003

20. Section 8 of the Gauteng Growth and Development Agency (Proprietary) Limited Act, 2003 (Act No. 5 of 2003), is hereby amended by the substitution for subsections (2) and (3) of the following subsections, respectively:

"(2) The **[MEC]** Executive Council must appoint the Board of Directors consisting of a minimum of 9 (nine) and maximum of 12 (twelve) members.

(3) The **[MEC]** Executive Council must appoint the Chairperson of the Board and the Chief Executive Officer of the Company."

Amendment of section 7 of Act 5 of 2005

21. Section 7 of the Gauteng Enterprise Propeller Act, 2005 (Act No. 5 of 2005) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) (a) The **[MEC]** Executive Council must constitute the Board; and

(b) **[Appoint]** appoint no less than four and no more than twelve members of the Board.

"(2) Before **[appointing]** the appointment of the members of the Board, the MEC must invite, through the media and by notice in the *Provincial Gazette*, nominations of candidates for appointment.";

(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"The **[MEC]** Executive Council must ensure that the Board—";

(c) by the substitution for subsection (4) of the following subsection:

"(4) The [MEC] Executive Council may determine any other criteria or procedure for appointing members.";

- (d) by the substitution in subsection (7) of the words preceding paragraph (a) of the following words:

"The [MEC] Executive Council must designate—"; and

- (e) by the deletion of subsection (8).

Amendment of section 9 of Act 5 of 2005

22. Section 9 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The [MEC,] Executive Council may terminate the appointment of a board member—"; and

- (b) by the substitution for subsection (2) of the following subsection:

"(2) If the performance of the Board has been unsatisfactory or ineffective, the [MEC] Executive Council may, after giving the Board an opportunity to be heard, dissolve the Board."

Amendment of section 10 of Act 5 of 2005

23. Section 10 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:

"(2) If a member's appointment is terminated or a member resigns, the [MEC] Executive Council may appoint a person to fill the vacancy for the unexpired portion of the period for which the member was appointed, or for such a period as the [MEC] Executive Council may determine subject to the provisions of subsection (3)."; and

- (b) by the substitution for subsection (4) of the following subsection:

"(4) The MEC must, in concurrence with the Member of the Executive Council responsible for finance, determine the remuneration and allowances of members of the Board."

Amendment of section 20 of Act 5 of 2005

24. Section 20 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The [MEC] Executive Council, after consulting the Board, must appoint a Chief Executive Officer."

Amendment of section 22 of Act 5 of 2005

25. Section 22 of the principal Act is hereby amended by the substitution of subsection (3) of the following subsection:

"(3) The [MEC] Executive Council, after giving the Chief Executive Officer an opportunity to be heard and after consulting the Board, may terminate the appointment of the Chief Executive Officer if, in the opinion of the [MEC] Executive Council, sufficient reasons exist to do so."

Amendment of section 24 of Act 5 of 2005

26. Section 24 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The Board, in consultation with the MEC and in concurrence with the Member of the Executive Council responsible for finance, must determine the remuneration, allowances, benefits, and other terms and conditions of appointment of members of staff."

Amendment of section 33 of Act 5 of 2005

27. Section 33 of the principal Act is hereby amended by the substitution in subsection for paragraph (a) of the following paragraph:

"(a) **[the criteria or procedures for appointing members of the Board and]** any matter related to the functioning of the Board;"

Amendment of section 10 of Act 5 of 2006

28. Section 10 of the Gautrain Management Agency Act, 2006 (Act No. 5 of 2006) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words;

"The [MEC] Executive Council—";

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The [MEC] Executive Council must designate—"; and

(c) by the substitution for subsection (3) of the following subsection:

"(3) Before **[appointing]** the appointment of the members, the MEC must invite, through the media and by notice in the *Provincial Gazette*, nominations for appointment."

Amendment of section 12 of Act 5 of 2006

29. Section 12 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The **[MEC]** Executive Council may terminate the appointment of a member—"; and

- (b) by the substitution for subsection (2) of the following subsection:

"(2) If the performance of the Board has been unsatisfactory or ineffective, the **[MEC]** Executive Council may, after giving the Board an opportunity to be heard, dissolve the Board."

Amendment of section 13 of Act 5 of 2006

30. Section 13 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) If a member's appointment is terminated or a member resigns, the **[MEC]** Executive Council may appoint a person to fill the vacancy for the unexpired portion of the period for which the member was appointed or for such a period as the **[MEC]** Executive Council may determine subject to the provisions of subsection (3)."

Amendment of section 23 of Act 5 of 2006

31. Section 23 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

"(1) The **[MEC]** Executive Council, after consulting the Board, must appoint a Chief Executive Officer."; and

- (b) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

"(b) on such terms and conditions as the MEC, after consulting the Board and in concurrence with the MEC for Provincial Treasury, may determine."

Amendment of section 25 of Act 5 of 2006

32. Section 25 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The **[MEC] Executive Council**, after giving the Chief Executive Officer an opportunity to be heard and after consulting the Board, may terminate the appointment of the Chief Executive Officer if, in the opinion of the **[MEC] Executive Council**, sufficient reasons exist to do so."

Amendment of section 29 of Act 5 of 2006

33. Section 29 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The Board, in consultation with the MEC and in concurrence with the MEC for Provincial Treasury, must determine the remuneration, allowances, benefits, and other terms and conditions of appointment of members of staff."

Amendment of section 2 of Act 3 of 2014

34. Section 2 of the Gauteng Liquor Act, 2014 (Act No. 3 of 2014) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The **[MEC] Executive Council** must constitute the Board, comprising **[of]** not less than eight and not more than 15 members, appointed as follows—";

(b) by the substitution for subsections (3) and (4) of the following subsections, respectively:

"(3) Before **[appointing] the appointment of** the members of the Board, the MEC must invite, through the media and by notice in the Provincial **[Gazette] Gazette**, nominations of candidates for appointment.

(4) A member of the Board shall be appointed by the **[responsible MEC after consultation with the Portfolio Committee of the Provincial legislature responsible for economic affairs whose deliberations shall be open to the public] Executive Council**."

(c) by the deletion of subsection (6);

(d) by the substitution for subsection (7) of the following subsection:

"(7) The [MEC] Executive Council must ensure that the Board represents a broad section of the population of the Province, with special attention to race, gender, socio-economic background and disability."; and

- (e) by the substitution in subsection (10) for the words preceding paragraph (a) of the following words:

"The [MEC] Executive Council must designate—".

Amendment of section 3 of Act 3 of 2014

35. Section 3 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The [MEC] Executive Council must constitute an Appeal Board comprising [of] not less than seven and not more than 10 members, appointed as follows—";

- (b) by the substitution for subsection (3) of the following subsection:

"(3) Before [appointing] the appointment of the members of the Appeal Board, the MEC must invite, through the media and by notice in the Provincial [Gazette] Gazette, nominations of candidates for appointment.";

- (c) by the deletion of subsection (5); and

- (d) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:

"The [MEC] Executive Council must designate—".

Amendment of section 7 of Act 3 of 2014

36. Section 7 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The MEC must, in concurrence with the MEC for Finance, determine the remuneration and allowances of members of the Board or Appeal Board [after consultation with the MEC for Finance in the Province].".

Amendment of section 8 of Act 3 of 2014

37. Section 8 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The [MEC] Executive Council may terminate the appointment of a member—"; and

- (b) by the substitution for subsections (2), (3), (4) and (5) of the following subsections, respectively:

"(2) If the performance of the Board or Appeal Board is unsatisfactory or ineffective, the [MEC] Executive Council may, after giving the Board or Appeal Board an opportunity to be heard, remove all of the members of the Board or Appeal Board.

(3) If a member's appointment is terminated or a member resigns, the [MEC] Executive Council may appoint a person to fill the vacancy for the unexpired portion of the period for which the member was appointed or for such a period as the [MEC] Executive Council may determine.

(4) The [MEC] Executive Council must in filling the vacancy among others consider the shortlist of nominated candidates referred to in section 2(4) or 3(4).

(5) The [MEC] Executive Council may after following the process contemplated in subsection (2) appoint an interim Board or an interim Appeal Board to take over the functions of the Board or Appeal Board in terms of this Act but the provisions of subsection (3) are not applicable."

Amendment of section 74 of Act 3 of 2014

38. Section 74 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of paragraph (a); and
- (b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:
- "(f) the requirements for newspapers and Provincial [Gazette] Gazette advertisements in respect of applications;"

Short title and commencement

39. This Act is called the Gauteng Provincial Laws General Amendment Act, 2020.

MEMORANDUM OF OBJECTS ON THE GAUTENG PROVINCIAL LAWS GENERAL AMENDMENT BILL, 2020

1. BACKGROUND

The Executive Council took a resolution on 14 March 2018 to rationalise the appointment and reappointment of members of board and chief executive officers of the public entities (i.e. provincial government business enterprises, boards, commissions, companies, corporations, funds or other entities (other than provincial government business enterprises)) of the Gauteng Provincial Government and, in that regard, amendments to certain provincial legislation was initiated and prepared to give effect to the resolution.

The said resolution of the Executive Council, in particular, required that, in accordance with the principle of collective and individual responsibility and accountability of the Executive Council enshrined in section 133 of the Constitution, the Executive Council approves all appointments of members of boards and chief executive officers of provincial public entities following recommendations from the Member of the Executive Council who is responsible for the public entity.

Unfortunately, due to the general elections held on 8 May 2019, the Bill was held in abeyance to allow for a smooth handover between the old and new Administrations. The Bill was approved by the Sixth Administration on 15 July 2020 for introduction into the Provincial Legislature for possible adoption into a provincial Act.

2. INTRODUCTION

The Bill seeks to amend certain provisions of various pieces of provincial legislation, namely—

- the Gauteng Gambling Act, 1995 (Act No. 4 of 1995);
- the Consumer Affairs (Unfair Business Practices) Act, 1996 (Act No. 7 of 1996);
- the Gauteng Tourism Act, 2001 (Act No. 10 of 2001);
- the Gauteng Growth and Development Agency (Proprietary) Limited Act, 2003 (Act No. 5 of 2003);
- the Gauteng Enterprise Propeller Act, 2005 (Act No. 5 of 2005);
- the Gautrain Management Agency Act, 2006 (Act No. 5 of 2006); and
- the Gauteng Liquor Act, 2014 (Act No. 3 of 2014),

as an interim measure, while a process for the review and streamlining of provincial public entities is still under way.

The interventions are in congruence with the *National Guidelines for the Appointment of Persons to Boards and Chief Executive officers of State-Owned and State-Controlled Institutions (“Guidelines”)*, March 2019, which were approved by Cabinet to tighten procedures for the appointment of boards or hiring of chief executive officers of public entities, including state-owned entities, to avoid a repeat of state capture, as appointments of members of board or hiring of chief executive officers were found not to have followed or complied with a transparent process due to lack of a central unit or authority to institutionalise appointment processes.

The Guidelines are applicable to public entities in both national and provincial spheres of government.

3. CONTENT OF THE BILL

- Clauses 1 to 10 seek to respectively amend sections 5, 6, 8, 10, 12, 12A, 14, 18B, 18C and 84 of the Gauteng Gambling Act, 1995 (Act No. 4 of 1995);
- Clauses 11 to 13 seek to respectively amend sections 1, 14 and 29 of the Consumer Affairs (Unfair Business Practices) Act, 1996 (Act No. 7 of 1996);
- Clauses 14 to 19 seek to respectively amend sections 5, 5A, 5C, 5D, 6 and 11 of the Gauteng Tourism Act, 1996 (Act No. 5 of 2001);
- Clause 20 seeks to amend section 8 of the Gauteng Growth and Development Agency (Proprietary) Limited Act, 2003 (Act No. 5 of 2003);
- Clauses 21 to 27 seek to respectively amend sections 7, 9, 10, 20, 22, 24 and 33 of the Gauteng Enterprise Propeller Act, 2005 (Act No. 5 of 2005);
- Clauses 28 to 33 seek to respectively amend sections 10, 12, 13, 23, 25 and 29 of the Gautrain Management Agency Act, 2006 (Act No. 5 of 2006);
- Clauses 34 to 38 seeks to respectively amend sections 2, 3, 7, 8 and 74 of the Gauteng Liquor Act, 2014 (Act No. 3 of 2014); and
- Clause 39 provides for the short title and commencement of the Bill.

The said clauses, in outline, provides for the rationalisation of the appointment and reappointment of members of boards and chief executive officers of the provincial public entities in the following respect:

- provisions substituting “Executive Council” for “responsible Member”, “MEC” or “responsible Member in concurrence with the Standing Committee on Finance and Economic Affairs” in respect of the appointment of members or termination of membership of governing bodies. This

includes the appointment or termination of the chairperson and the deputy chairperson;

- provisions omitting the words “after consultation with the Standing Committee of the Provincial Legislature responsible for economic affairs” in respect of suspension or of membership of any member of a governing body;
- provisions substituting the words “in consultation with the Member of the Executive Council responsible for finance” for the words “after consultation with the Standing Committee of the Provincial Legislature” in relation to the determination of the remuneration and allowances payable to members of governing bodies;
- provisions relating to the determination of the terms and conditions of employment, including remuneration, allowances and other employment benefits, of the staff of public entities by governing bodies in consultation with the responsible Member acting in concurrence with the Member of the Executive Council responsible for finance than merely “with the concurrence of the responsible Member”;
- provisions substitution the word “in consultation with” for “after consultation with” thus making it compulsory for the responsible Member or MEC to obtain the approval of the Executive Council, instead of merely consulting the Executive Council, when appointing an administrator to perform the functions or exercise the powers of the governing body;
- provisions removing the requirement for the concurrence of the Standing Committee of the Provincial Legislature responsible for financial matters whenever the responsible Member or MEC is to make regulations in terms of an enabling or principal Act; and

- provisions relating to the appointment of a person to the position of the chief executive officer by the “board” subject to the approval of the “Executive Council” instead of the “responsible Member” or “MEC”.

4. FINANCIAL IMPLICATIONS

The Bill has no direct financial implications relative to the affected provincial public entities.

5. PUBLIC PARTICIPATION

The Bill was published in the Premier’s Notice No. 3 of 2018 which was promulgated in Provincial *Gazette* No. 307 dated 24 October 2018 requesting members of the public, interested parties or affected stakeholders to submit written comment or make written representation within 30 days of publication of the Bill, i.e. before or on 5 December 2018. Furthermore, the Bill was referred to the affected provincial public entities through their parent provincial departments requesting the former to submit written comments or make written representation, if they so desire.

No written comment or representation was received from the members of the public, interested parties or affected stakeholders, including affected provincial public entities by or after the expiry of the period prescribed for written comment or representation.

Printed by the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001,
for the **Gauteng Provincial Administration**, Johannesburg.

Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065