

PROVINCE OF THE NORTHERN CAPE

PROFENSI YA KAPA-BOKONE



DIE PROVINSIE NOORD-KAAP

IPHONDO LOMNTLA-KAPA

EXTRAORDINARY • BUITENGEWONE

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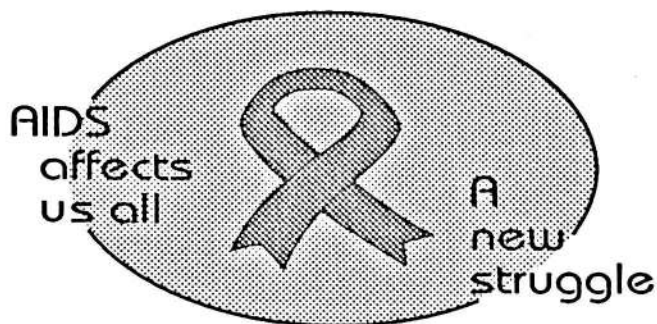
Vol. 8

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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 26 OF 2001

PUBLICATION OF THE NORTHERN CAPE GAMBLING AND RACING AMENDMENT BILL, 2001 [B3-2001]

It is notified for information that the
above-mentioned Bill is hereby published by
the Northern Cape Provincial Legislature.



M. G. MASHOPE

Provincial Secretary: Northern Cape Legislature.

KENNISGEWING 26 VAN 2001

PUBLIKASIE VAN DIE NOORD-KAAPSE WYSIGINGSWETSONTWERP OP DOBBELARY EN WEDRENNE 2001 [W3-2001]

Dit word vir algemene kennisname bekendgemaak
dat bostaande Wetsontwerp hierby gepubliseer word
deur die Noord-Kaapse Provinsiale Wetgewer.

M. G. MASHOPE

Provinsiale Sekretaris: Noord-Kaap Wetgewer.

MEMORANDUM

THE NORTHERN CAPE GAMBLING AMENDMENT BILL 3 OF 2001

INTRODUCTION

Section 55

This section in the principal Act makes provision for the issuance of licences to people who are not compelled to follow certain legal requirements on account of the licence type they got. The intention of the legislature has been to create a provision that would enable short term licensing of people in the different categories of licences listed under section 25 of the principal Act.

What started with good intentions become an albatross for the Gambling Board as those who were given licences expressly meant to be for six months took advantage of the court system to frustrated the Board and Government by bringing numerous applications before court to extend the life of their licences.

They were able to establish a "right" even though at law they are supposed to be without standing or account of their licences having lapsed. This chapter has been expensive to the province while it was a boon for the small operators. Section 45 of the Amendment Bill amends Section 55 of the principal Act by deletion thereof. All people who want to apply for licences will now be compelled to choose among the licence types listed under Section 25 of the principal Act.

Section 70(b) (5) of the Amendment Bill has a provision that governs the situation of the small operators should this Bill become law. It is common cause though that none of the small operators has a valid gambling licence, however it was felt that all licences issued under section 55 must be addressed.

The 45 km exclusivity radius

The Northern Cape Executive Council decided that it was necessary to offer all applicants for casino licences a 45-km radius of exclusive trade against other casinos and Limited Payout Machines (LPMs). The applicants have applied with this explicit promise taken as a promise on which to base their projected return on investment.

It has become clear that if the province continues to enact the promise we made, then we must expect resistance from the Limited Payout Machine investors and the current small operators. It is clear that the province can ill afford another delay to the building of permanent casinos due to constitutional challenges to the 45-km exclusivity radius. Nobody can foretell how long it will take for the courts to

finish that process if they are approached. In discussions with Sun International and Desert Palace they understood the rationale behind the non-inclusion of the 45 km exclusivity provision.

The legislature has, through the Amendment Act of 2000, shown its' commitment to the 45km exclusivity radius in favor of casinos. One need look at Sections 49 (10) and 50 (5) to see that even LPMs were excluded from the 45km radius. It was going to be unprecedented for our law to not only provide for exclusivity as to other casino's but to go an extra mile of encompassing LPMS.

The NC Board and the National Gambling Board advised government to drop this exclusivity radius from the law as it was going to entangle our Board, government and the casino's in protracted constitutional challenges.

Since this provision was not part of the principal Act, it was not necessary to repeal it in the Amendment Bill before the Legislature. The Amendment Act is amending the principal Act and repealing the Northern Cape Gambling and Racing Act 2000 (Act 6 of 2000)

Manufacturer, Maintenance or Supplier licences.

All applicants for this licence raised an objection that it is impractical for them to be expected to open outlets here in our province. Most of them are foreign-based companies who have opened agencies in Gauteng Province in the main.

The requirement that they set offices in our province was therefore dropped and Section 38 of the current Amendment Bill must continue with this spirit. An omission to delete the words "in the Province" is noted and it is recommended that the said words be deleted in the Act.

The sections used here are the ones in the proposed Amendment Bill (See copy attached).

DEFINITIONS AND MATTERS CONNECTED THEREWITH

Amendment of section 1 by insertion before definition of "Member of the Executive Council" of the following definition:

"Local Authority" means any municipality referred to in Article 155(6) of the Constitution and Municipal Structures Act, (117 of 1998)

After the definition of "Casino game" the following insertion:

"Independent site operator licence" means a site operator who is not linked to a route operator and limited layout machines on a single site and is responsible

for maintaining the machines, effecting the collection of money and paying the provincial taxes and levies due to the provincial licensing authorities"

1. Amendment of section 81(5) of the Principal Act (No.5 of 1996)

The section will read as follow:

"Any person who contravenes the provisions of this section shall be guilty of an offence liable on conviction to fine not exceeding [**one thousand rand**] two million rand or imprisonment of not more than ten years"

2. Amendment of s49 of Act No.5 of 1996

The section will now read thus:

"A manufacturer, maintenance and supplier license is required by any person who [**in the Province**] manufactures, assembles, maintains, imports or[**slots**] gaming machines or any gambling devise or any component thereof, [**but not playing cards or dice**] in the Province"

3. Deletion of section 98

Section 70A amends section 98 by deletion of subsection 7

This section governs the 30-day notice period. We however will afford all interested parties the 30 day notice in order to wind down their business.

4. Amendment of s46 of the Principal act

Addition of the following subsection after subsection (2) of section 46:

"(3) A site operator licence shall not be granted by the Board-

(a) except to a person who meets the prescribed requirement:

(a) for the operation and keeping of more than the prescribed number of limited payout machines for any one site licence;

(b) unless the Board is satisfied that the premises in respect of which t licence is to be granted will not be and are not primarily utilised for gambling; and

(b) except to a person who qualifies to be the holder of a licence in terms of this Act.

(4) A site operator licence shall, subject to the provisions of the Act, Authorise the operation and keeping in or on the licensed premises or such part of such premises as is specified in the licence, of any prescribed limited payout machine specified in the licene: Provided that-

(a) the maximum charge for playing on any such limited payout machines shall not exceed the prescribed amount;

- (b) the prize in respect of any one game played by means on any such limited machine shall not in the aggregate exceed the prescribed amount;
- (c) there shall be displayed on any such limited payout machine the value of the maximum prize prescribed under paragraph (b) which can be won by playing a game once by means of such limited payout machine;
- (d) and any such limited payout machine shall be placed in an area of the licensed premises to which no person under the age of 18 years shall have access to."

(5) No person may apply for a site operator licence other than in response to a notice published in the Provincial Gazette and the media by the Board. After consultation with the responsible Member, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements.

5. Amendment of section 12 of Act No. 5 of 1996

This section governs the delegation of power by the Designated officer. The amendment is to the effect that once power has been delegated it will no longer be necessary for the Board to approve.

6. Amendment of section 24 of the Principal Act

Insert the following words at the end of the section: "and any other condition of licence as set by the board"

7. Amendment of section 26 of Act No. 5 of 1996

(b) Insert "(Act 61 of 1973)" after Companies Act.

8. 54C (1) No bookmaker shall carry on business as such unless he or she is [a member of an association of bookmakers] approved and registered by the Board.

(2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence

Delete subsections (2), (3) and (4) and subsection (5) becomes subsection (2).

9. Registration of bookmaker's managers and clerk(s)

54(D)

Delete subsection (4) and substitute with:

(4) A bookmaker shall inform the Board in respect of the resignation of either the bookmaker's manager or clerk(s)

(5) Any person who contravenes a provision of subsection (1), (3), or (4) shall be guilty of an offence.

10. *Delete whole of "standup fee to be approved by the Board"*

11. 65A Section 81 of the principal Act is hereby amended by substituting for subsection (2) (a) of the following subsection:

"(2)(a) No person shall without the approval of the Board have any direct or indirect financial interest of [ten] five percent or more in any gambling business or establishment within the Province"

This provisions will be consistent with section 46 (c) of Amendment Bill (page 31)

12. 65B Section 81 of the principal Act is hereby amended by substituting for subsection (5) of the following subsection:

"(5) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine exceeding **[one hundred thousand rand]** two million rand or imprisonment for a period of not more than ten years or both such fine and such imprisonment; provided that in the event of a second or subsequent convictions, the Court impose a penalty not exceeding twice the amount of such fine or the period of such imprisonment."

NORTHERN CAPE GAMBLING AND RACING BOARD
13 MARCH 2001

NORTHERN CAPE PROVINCE

**NORTHERN CAPE GAMBLING AND RACING AMENDMENT
BILL, 2001**

(As introduced by)

(MEC FOR ECONOMIC AFFAIRS AND TOURISM)

[B3-2001]

NOORD-KAAP PROVINSIE

**NOORD-KAAPSE WYSIGINGSWETSONTWERP OP
DOBBELARY EN WEDRENNE, 2001**

(Soos ingedien)

(LUR VIR EKONOMIESE SAKE EN TOERISME)

[W3-2001]

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 amend the Northern Cape Gambling and Racing Act, 1996 (Act no. 5 of 1996); to repeal the Northern Cape Gambling and Racing Act 2000 (Act no 6 of 2000); to remove certain requirements relating to manufacturer and distributor licences; to withdraw the power of the Board to issue special licences; to restrict, regulate and control gambling and betting in the province, in order to bring uniformity and consistency in the regulation of the gambling industry; to align the Northern Cape provincial gambling and racing laws to National Gambling Matters Amendment Act, 1999 (Act no 36 of 1999); and to provide for matters incidental thereto.

Be it enacted by the Northern Cape Provincial Legislature as follows:

Amendment of section 1 of Act 5 of 1996

1. Section 1 of the Northern Cape Gambling and Racing Act, 1996 (hereinafter referred to as the principal Act) is hereby amended -

(a) By deleting the following definitions:

“[Auditor-General means the person appointed as Auditor-General in terms of section 191(2) of the Constitution];”

“[Distributor licence means any licence issued in terms of section 50];”

“[Key employee certificate means any licence issued in terms of section 67];”

“[Operator Licence means a licence referred to in section 25 (a),(b), (d) and (i)];”

“[Slot machine” means any mechanical, electrical, video, electronic or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment by a player of any consideration whatsoever that is required, is available to be played or operated and the playing or operation of which, whether by reason of the skill of the player or operator or the application of the element of chance or both, may deliver to the person playing or operating the machine cash or tokens to be exchanged for cash or merchandise or anything of value whatsoever other than unredeemable free games, or to entitle such person to receive such cash, tokens, merchandise or

thing of value, whether the pay-off is made automatically from the machine or in any other manner whatsoever.]”

(b) By the substitution for the definitions of “Board”, “Casino operator licence”, “Constitution”, “Gambling”, “Licence”, “Licensed race course”, “Limited gambling machine”, “Limited gambling machine operator”, “Limited gambling machine premises”, “Manufacture licence”, “Political office bearer”, “Prescribed”, “Province”, and “Provincial legislature” of the following definitions respectively:

“Board” means the Northern Cape Gambling [and Racing] Board established under section 2;

“Casino [operator] licence” means any licence issued in terms of section 44;

“Constitution” means the Constitution of the Republic of South Africa, [1993 (Act no. 200 of 1993)] 1996 (Act no. 108 of 1996);

“Gambling or gamble” means the playing of any gambling game and includes [bingo, betting] the acceptance of stakes on a totalisator and by a bookmaker but does not include social gambling;

“Independent site operator licence” means a site operator who is not linked to a route operator and is licenced to own and operate limited payout machines on a single site and is responsible for maintaining the machines, effecting the collection of money and paying provincial taxes and levies due to the provincial licencing authorities;

“Licence” means a licence [issued in terms of] referred to in section 25;

“Licensed race course” means a racecourse licenced [in terms of] referred to in section 51;

“Limited [gambling] payout machine” means [a slot machine, limited as prescribed] a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed;

“[Limited gambling machine] Route operator licence” means a licence issued in terms of section 45;

“[Limited gambling machine premises] Site operator licence” means a licence issued in terms of section 49;

“Manufacture, maintenance or supplier licence” means a licence issued in terms of section 53;

“Political Office Bearer” means [a person as defined in section 190A of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), and members of the provincial houses of traditional leaders, the Council of

Traditional Leaders, the Volkstaat Council and local governments and an office bearer of any political party] –

- (a) an Executive Deputy President;
- (b) a Minister or Deputy Minister;
- (c) a member of the National Assembly or the National Council of Provinces;
- (d) the Premier or a member of the Executive Council of a province;
- (e) a member of a provincial legislature;
- (f) a diplomatic representative of the Republic who is not a member of the public service;
- (g) a member of a provincial House of Traditional Leaders;
- (h) a member of the Council of Traditional Leaders;
- (i) a member of the Volkstaat Council;
- (j) a member of a local government body; and
- (k) an office-bearer of any political party;"

"Prescribed" means prescribed by regulation in terms of this [law] Act.

"Province" means the Province of the Northern Cape as referred to in section [103] 124 of the Constitution;

"Provincial Legislature" means the Provincial Legislature of the Province as contemplated in section [104] 125 of the Constitution;

(c) By the insertion after the definition of **"Board"** of the following definition:

"Casino game" means any game, irrespective of whether or not the result thereof is determined by chance or a measure of skill, played with playing cards, dice, gambling machine or any other device used to determine win or loss in the outcome of a wager for money or other valuable consideration, and includes, without derogating from the generality of the foregoing, blackjack, chermín de fer, baccarat, bingo, keno, twenty-one, poker and roulette, or any other game whose rules closely resemble that of the foregoing;

(d) By insertion before the definition of **"Member of the Executive Council"** of the following definition:

"Local Authority" means any municipality referred to in article 155 (6) of the Constitution and the Municipal Structures Act, 1998 (117 of 1998)

Amendment of section 2 of Act 5 of 1996

2. Section 2 of the principal Act is hereby amended by:

(a) substitution for the title of the section of the following title:

"NORTHERN CAPE GAMBLING [AND RACING] BOARD"

(b) by substitution of subsection (1) of section 2 of the following subsection:

"(1) A Board is hereby established, to be known as the Northern Cape Gambling [and Racing] Board which shall be a juristic person."

Amendment of section 4 of Act 5 of 1996

3. Section 4 of the principal Act is hereby amended as follows by

(a) the substitution for subsection (1)(b)(vii) of the following subsection:

"(vii) [has at any time been convicted, whether in the Republic or elsewhere –

(aa) of theft, fraud, forgery or uttering a forged document, perjury of any offence under the Corruption Act, 1992 (Act No 94 of 1992),

(bb) or any offence involving dishonesty; or of an offence under this Act or any other similar law.]"

"if the person has in the Republic or elsewhere been convicted of any offence, unless –

(aa) the Board is of the opinion that the offence was of such a nature that it does not imply that such a person is unsuitable to hold a licence; or

(bb) the conviction and sentence have been set aside by a competent court; or"

(b) the insertion after subsection (vii)(bb) of the following subsection:

"(cc) such a person has received a grant of amnesty or free pardon, for an offence which would otherwise have disqualified that person from holding a licence"

Amendment of section 10 of Act 5 of 1996

4. Deleting subsection (17) and hereby amend section 10 of the principal Act by inserting subsection (21)

"(21) To exercise such further powers and to perform such further duties as the Responsible Member may determine."

Amendment of section 11 of Act 5 of 1996

5. Section 11 of the principal Act is hereby amended by:

(a) substitution for the title of subsection 11 of the following title:

"Committees of the Board"

- (b) deleting subsections (1), (2), (3) and (4) of section 11 and substituting them of the following subsections respectively:

- "(1) (a) The board may appoint at least two of its members and the Designated Officer as an executive committee of the board which, subject to the provisions of paragraphs (c) and (d) and section 12 and the directions of the board, shall have the power to perform all the functions of the board during the periods between meetings of the board.
- (b) The Designated Officer shall not have the right to vote as a member of the executive committee.
- (c) Except in so far as the board may direct otherwise, the executive committee shall not have the power to set aside or amend any decision of the board.
- (d) Any act performed or decision taken by the executive committee shall be of force and effect except in so far as it is set aside or amended by the board at its next ensuing meeting.
- (2) (a) The board may from time to time appoint such number of disciplinary committees as it deems fit, each consisting of such number of persons as the board may in general or in any particular case or category of cases determine, from among the ranks of persons whom the board deems suitable for appointment.
- (b) A disciplinary committee shall perform the functions contemplated in section 39.
- (c) The board may, subject to the provisions of this subsection, alter the constitution of any disciplinary committee before the committee has commenced with an investigation contemplated in section 39.
- (d) The provisions of sections 11(6) and (8) read with section 16(2) shall *mutatis mutandis* apply in relation to a disciplinary committee.
- (3) (a) The board may appoint one or more committees to enquire into any matter referred to it by the board and to report on that matter to the board.
- (b) Such a committee shall consist of so many members of the board or so many other persons, or so many members and other persons, as the board may deem necessary, and the board may from time to time dissolve or reconstitute such a committee."
- (c) inserting the following subsections after subsection (3) of section 11:
- "(4) If a committee consists of more than one member, the board shall designate a member of the committee as chairperson thereof.
- (5) 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 board as the board, after consultation with the responsible Member, may determine."

Insertion of section 11A in Act 5 of 1996

6. The following section is hereby inserted in the principal Act after section 11:

"Expert and other assistance"

11A (1) The board may appoint or call to its assistance such experts or other persons as it may deem necessary with a view to assisting it in the exercise and performance of its powers, functions and duties and for the performance of any work arising therefrom.

(2) The terms, conditions, remuneration and allowances applicable to any expert or person appointed or called upon under subsection (1), and the work to be performed or service to be rendered by him or her shall be determined by the board with the concurrence of the responsible Member, and be contained in a written agreement entered into for that purpose between the board and the expert or person concerned.

(3) Upon having performed the work or completed the service pursuant to an agreement contemplated in subsection (2), the expert or other person concerned shall submit a report in regard thereto to the board for its consideration.

(4) The board, on receipt of a report contemplated in subsection (3), may refer the matter back to the expert or person concerned for such further attention as may be determined by the board, or to perform such further functions as the board may deem necessary or desirable."

Amendment of section 12 of Act 5 of 1996

7. Section 12 of the principal Act is hereby amended by:

- (a) deleting subsections (1), (2), (3), (4) and (5) of section 12 and substituting them of the following subsections respectively:

"(1) The board may, with the approval of the responsible Member and subject to the provisions of this section, delegate its powers, functions and duties to any member of the board or of the staff of the board or any committee of such members, on such conditions as the board may determine.

(2) The power to make a decision relating to the granting, transfer or revocation of a casino licence, bingo licence, additional gaming machine licence, route operator licence or manufacturer, maintenance or supplier licence, or the material amendment thereof as contemplated in section 40, shall not be delegated.

(3) The power of the board to impose a fine in terms of this Act or to revoke a licence as contemplated in section 39 shall not be delegated except to a committee of at least three members of the board who shall not include a member of the disciplinary committee concerned contemplated in section 39.

(4) The Designated Officer may, with the approval of the board, delegate his or her powers, functions and duties, including any power, function or duty delegated to him or her under subsection (1), to any other member of the staff of the board or person in the service of the board.

(5) A delegation under this section shall not prevent the exercise or performance of the power, function or duty concerned by the board or Designated Officer, as the case may be."

- (b) addition of the following subsections after subsection 5 of section 12:

"(6) A delegation under this section may at any time be revoked or withdrawn.

(7) Anything done in the exercise or performance of a delegated power, function or duty shall be deemed to have been done by the board or Designated Officer, as the case may be."

Amendment of section 13 of Act 5 of 1996

8. Section 13 of the principal Act is hereby amended by:

- (a) substituting the title for section 13 of the following title:

"Transparency and confidentiality"

- (b) deleting subsections (1) and (2) of section 13 and substituting them of the following subsections:

"(1) The board shall, subject to subsection (2), function in a transparent and open manner.

(2) No member of the board or of the staff of the board, person or expert contemplated in section 11A and no inspector shall, except on the order of a court of law or in terms of the Access to Information Act, 2000 disclose -

(a) any document or information, or the identity of any person, which the board has determined not to be open to public inspection or to be divulged as contemplated in section 31A(2);

(b) particulars of the proceedings at any hearing from which the public or any member or category thereof have been excluded as contemplated in section 31A(2), except to the extent authorised by the board; or

(c) any document or information which has been furnished to the board by any regulatory or law enforcement authority on condition of confidentiality.

(3) Any person who contravenes a provision of subsection (2) shall be guilty of an offence."

Amendment of section 15 of Act 5 of 1996

9. Section 15 of the principal Act is hereby amended by –

(a) deletion of subsection (2) and substituting for subsection (2) of section 15 of the following subsection:

“(2) (a) A member of the Board shall not vote, attend or in any other manner participate on the proceedings at any meeting or hearing of the Board if, in relation to any matter before the Board –

(i) he or she is his or her immediate family member contemplated in section 4(1)(b)(ii), partner or business associate is a direct member or partner of, or has a controlling interest or any financial or other interest in, the business of the applicant or any person who made representations in relation to the application of a licence; or

(ii) he or she has any interest which precludes him or her from performing his or her functions as a member of the Board in a fair, unbiased and proper manner.

(b) If at any stage during the course of any proceedings before the Board it appears that a member of the Board has or may have any interest contemplated in paragraph (a) –

(i) that member shall forthwith and fully disclose the nature of his or her interest and leave the meeting or hearing so as to enable the remaining members of the Board to discuss the matter and determine whether that member is precluded from participating in the proceedings at such meeting or hearing by reason of a conflict of interests; and

(ii) such disclosure and the decision taken by the remaining members of the Board regarding such determination, shall be recorded in the minutes of the proceedings in question.

(c) If any member of the Board fails to disclose any interest contemplated in paragraph (a) or if, having such interest, he or she attends or in any manner whatsoever participates in the proceedings at the meeting or hearing concerned, the relevant proceedings shall be null and void: Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, suspension, revocation or withdrawal of a licence or registration, or the transfer of a licensed business to new premises, shall, thereby be invalidated.

(b) addition of the following subsection after subsection (6) of section 15:

“(7) The Designated Officer shall attend and may participate in all meetings of the Board but shall not have the right to vote.”

Amendment of section 20 of Act 5 of 1996

10. Section 20 of the principal Act is hereby amended by addition of the following subsection after subsection (2) of section 20:

“(3) The provisions of section 20 (2) shall mutatis mutandis apply in respect of such a person so co-opted.”

Insertion of section 20A in Act 5 of 1996.

11. The following section is hereby inserted in the principal Act after section 20:

“Consultation by the Board

20A (1) The Board may consult any person, organisation or institution with regard to any matter deemed necessary by the Board to enable the Board to perform its functions.

(2) The remuneration and allowances determined by the Board in terms of section 9(1), if any, and the terms and conditions of such persons, shall be contained in a written agreement entered into for that purpose between the Board and that person so consulted.”

Amendment of section 21 of Act 5 of 1996

12. Section 21 of the principal Act is hereby amended by:

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

“(i) an application for a licence under this [law] Act, and”

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

“(ii) the revocation or suspension of a licence issued under this [law] Act;

- (c) substitution for subsection (1)(b)(ii) of the following subsection:

“(ii) any person having a financial interest in a licence issued under this [law] Act, or in any gambling, racing or related activity or business, and”

- (d) substituting for the last paragraph after subsection (1)(b)(iii) of the following paragraph:

“If it is of the opinion that this is necessary for the protection of public health, safety, morals or good order or for the achievement of the objectives of this [law] Act.”

- (e) substituting for subsection (2) of the following subsection:

“(2) The Board [shall] may in the prescribed manner, conduct a hearing

in respect of an application for a licence referred to in section 25(a), (b) and (d), or where any licence is to be revoked or, subject to section (39)(2), when a licence is to be suspended."

- (f) substituting for subsection (3) of the following subsection:

"(3) The procedure to be followed in the conduct of any hearing, investigation or enquiry in terms of subsections (1)(a) and **[any investigation or enquiry in terms of subsection]** (1)(b) shall **[be]** in so far as it is not prescribed, be determined by the person presiding at such a hearing, investigation or enquiry."

Amendment of section 22 of Act 5 of 1996

13. Section 22 of the principal Act is hereby amended by:

- (a) substituting for subsection (1) of section 22 of the following subsection:

"(1) The Board may, for the purpose of achieving the objectives of this **[law]** Act, cause to be carried out an enquiry -
(a) into a contravention or alleged contravention of, or failure or alleged failure to comply with, any of the provisions of this **[law]** Act, or a condition of a licence;
(b) in order to determine if any provision of this **[law]** Act applies to any person."

- (b) deleting subsections (2), (3), (4) and (5) of section 22.

Amendment of section 24 of Act 5 of 1996

14. Section 24 of the principal Act is hereby amended by substituting for section 24 of the following section:

"The rights and duties pertaining to any licence shall be as set out in this **[law and the regulations]** Act."

Amendment of section 25 of Act 5 of 1996

15. Section 25 of the principal Act is hereby amended by -

- (a) substituting for the paragraph preceding subsection (a) of the following paragraph:

"The licences under this **[law]** Act shall be -"

- (b) substituting for subsections (1)(a),(b),(c),(d),(e),(f),(g),(h),(i),(j) and (k) of the following subsections respectively:

"(a) casino **[operator]** licence[s];
(b) **[limited gambling machine]** route operator licence[s];

- (c) **[limited gambling machine premises] site licence[s];**
- (d) bingo licence[s];
- (e) junket agent licence[s];
- (f) manufacturer maintenance or supplier licence[s]
- (g) **[distributors licences]**
- (h) race course licence[s];
- (i) totalisator operator licence[s];
- (j) totalisator premises licence[s];
- (k) bookmaker licence[s];"

- (c) addition of the following subsections after subsection (1)(k) of section 25:

"(l) race meeting licence"

(m) independent site operator licence

- (d) addition of the following subsections after subsection (1) of section 25:

"(2) Any licence referred to in subsection (1) shall be in writing.

(3) A licence grants to the holder thereof such rights and privileges and subjects him or her to such obligations and liabilities as may by virtue of this Act be regulated thereby or ensue from the holding thereof.

(4) Subject to the provisions of the National Gambling Act of 1996 (Act 33 of 1996) and the regulations thereunder-

(a) the maximum number of gambling machines outside of a casino which may be allowed in the Province; and

(b) the maximum number of casino licences that may be granted by the Board,

shall at any given time be prescribed and shall not be exceeded."

Amendment of section 26 of Act 5 of 1996

16. Section 26 of the principal Act is hereby amended by:

- (a) deleting subsection (a)(iv) of section 26 and substituting thereof of the following subsection:

"(iv) shall have appropriate knowledge or experience or be able to acquire the necessary knowledge or experience, to conduct the activities for which the application is being made."

- (b) substituting for subsection (b)(i) of section 26 of the following subsection:

"(i) be registered [under the relevant laws of the Republic and have a registered office or place of business within the Province] in terms of the Companies Act, 1973; and"

Amendment of section 27 of Act 5 of 1996

17. Section 27 of the principal Act is hereby amended by addition of the following subsections after subsection (h) of section 27:

“(i) if the person has in the Republic or elsewhere been convicted of any offence, unless -

(i) the Board is of the opinion that the offence was of such a nature that it does not imply that such a person is unsuitable to hold a licence; or

(ii) the conviction and sentence have been set aside by a competent court; or

(iii) such a person has received a grant of amnesty or free pardon, for an offence which would otherwise have disqualified that person from holding a licence;

(j) any person whose licence in terms of this Act or any similar Act has been revoked; and any

(k) any person who has been removed from any office of trust on account of misconduct.”

Amendment of section 28 of Act 5 of 1996

18. Section 28 of the principal Act is hereby amended by:

(a) insertion of the number “(1)” next to the number “28” thereof

(b) addition of the following subsection after subsection (1)(d) of section 28:

“(2) Any disqualified person contemplated in subsection (1) shall not accept more for his or her interest in the applicant than he or she paid for it, or such greater amount as approved by the Board.”

Amendment of section 29 of Act 5 of 1996

19. Section 29 of the principal Act is hereby amended by:

(a) substitution for the paragraph preceding section 29 of the following paragraph:

“Any person qualified in terms of this [law] Act may apply for a licence under this [law] Act; provided that -”

(b) substituting for subsection (a)(ii) of section 29 of the following subsection:

“(ii) whose licence has been revoked under this [law] Act,”

(c) substitution for subsection (b)(ii) of the following subsection:

"(ii) whose licence has been revoked more than once under this [law] Act,"

Amendment of section 30 of Act 5 of 1996

20. Section 30 of the principal Act is hereby amended by:

(a) substituting for subsection (1)(a) of section 30 of the following subsection:

"(a) be lodged with the [designated officer] Board in the prescribed manner and form;"

(b) substituting for subsection (1)(b) of section 30 of the following subsection:

"(b) be accompanied by [the prescribed documents and information and by the application fee or annual licence fee, which shall not be refundable, and];

(i) the approval or representations of the local authority within whose area the premises in respect of which the application is made, are or will be situated;

(ii) certified copies of the prescribed notice published in the Provincial Gazette and a newspaper circulating in the area in which the premises where the gambling is to take place, are situated; and

(iii) the application fee or annual licence fee which shall not be refundable, and

(iv) such other documents and information determined by the Board."

(c) substituting for subsection (2) of section 30 of the following subsection:

"(2) Upon receipt of any valid application for the grant or renewal of a licence other than a key employee certificate of registration or a gambling employee certificate of registration, the [designated officer] the Board shall in the prescribed form - "

(d) addition of the following subsections after subsection (3) of section 30:

"(4) The application for a licence shall be considered by the Board in accordance with the provisions of sections 31 and 33.

(5) The Board may, upon receipt of an application in relation to a licence, ask the South African Police Service for a report stating -

(a) particulars of any convictions recorded against the applicant or any person who will be involved in the business in respect of whom the Board deems it necessary to obtain the police report;

(b) such matters as may be prescribed; and

(c) such other matters which ought, in the opinion of the South African Police Service, to be taken into consideration in respect of the application concerned."

Amendment of section 31 of Act 5 of 1996

21. Section 31 of the principal Act is hereby amended by –

(a) substituting for subsection (1) of section 31 of the following subsection:

"(1) Any body which or person who wishes to object to any application made for a licence under this [law] Act, may, [do so by giving notice thereof to the Board and setting out the grounds of the objection in the prescribed manner] not later than 30 days after publication in the Provincial Gazette of the relevant notice in accordance with section 31 (b) (ii), lodge with the Board in writing an objection in the prescribed form.

(b) deleting subsection (2) of section 31 and substituting for subsection (2) of the following subsection:

"(2) The Board shall forthwith notify the applicant and supply the applicant with a copy or details, as the case may be, of any objections lodged with the Board in terms of subsection (1); and invite the applicant to reply to such objections, if he or she so chooses, within a period of 14 days of the date of such notification."

(c) addition of the following subsection after subsection (2) of section 31:

"(3) A person lodging any objection may show cause why the Board may determine that his or her identity should not be divulged."

Insertion of section 31A in Act 5 of 1996

22. The following section is hereby inserted in the principal Act after section 31:

"Applications and representations to be open to public inspection

31A (1) Any application, objection and response lodged in terms of sections 30 and 31 shall be open to public inspection by interested persons during the normal office hours of the Board for the prescribed period from date of lodgement of the application as reflected in the notice referred to in section 31 and

(2) the Board shall, at the request of any interested person, and on payment of such fees as may be prescribed, furnish him or her with a copy of, or extract from, any such application, representations, response or information; provided that

(a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees or the business plans of an applicant, shall not

“(ii) whose licence has been revoked more than once under this [law] Act.”

Amendment of section 30 of Act 5 of 1996

20. Section 30 of the principal Act is hereby amended by:

(a) substituting for subsection (1)(a) of section 30 of the following subsection:

“(a) be lodged with the [designated officer] Board in the prescribed manner and form;”

(b) substituting for subsection (1)(b) of section 30 of the following subsection:

“(b) be accompanied by [the prescribed documents and information and by the application fee or annual licence fee, which shall not be refundable, and];

(i) the approval or representations of the local authority within whose area the premises in respect of which the application is made, are or will be situated;

(ii) certified copies of the prescribed notice published in the Provincial Gazette and a newspaper circulating in the area in which the premises where the gambling is to take place, are situated; and

(iii) the application fee or annual licence fee which shall not be refundable, and

(iv) such other documents and information determined by the Board.”

(c) substituting for subsection (2) of section 30 of the following subsection:

“(2) Upon receipt of any valid application for the grant or renewal of a licence other than a key employee certificate of registration or a gambling employee certificate of registration, the [designated officer] the Board shall in the prescribed form - ”

(d) addition of the following subsections after subsection (3) of section 30:

“(4) The application for a licence shall be considered by the Board in accordance with the provisions of sections 31 and 33.

(5) The Board may, upon receipt of an application in relation to a licence, ask the South African Police Service for a report stating -

(a) particulars of any convictions recorded against the applicant or any person who will be involved in the business in respect of whom the Board deems it necessary to obtain the police report;

(b) such matters as may be prescribed; and

(c) such other matters which ought, in the opinion of the South African Police Service, to be taken into consideration in respect of the application concerned."

Amendment of section 31 of Act 5 of 1996

21. Section 31 of the principal Act is hereby amended by –

(a) substituting for subsection (1) of section 31 of the following subsection:

"(1) Any body which or person who wishes to object to any application made for a licence under this [law] Act, may, [do so by giving notice thereof to the Board and setting out the grounds of the objection in the prescribed manner] not later than 30 days after publication in the Provincial Gazette of the relevant notice in accordance with section 31 (b) (ii), lodge with the Board in writing an objection in the prescribed form.

(b) deleting subsection (2) of section 31 and substituting for subsection (2) of the following subsection:

"(2) The Board shall forthwith notify the applicant and supply the applicant with a copy or details, as the case may be, of any objections lodged with the Board in terms of subsection (1); and invite the applicant to reply to such objections, if he or she so chooses, within a period of 14 days of the date of such notification."

(c) addition of the following subsection after subsection (2) of section 31:

"(3) A person lodging any objection may show cause why the Board may determine that his or her identity should not be divulged."

Insertion of section 31A in Act 5 of 1996

22. The following section is hereby inserted in the principal Act after section 31:

"Applications and representations to be open to public inspection

31A (1) Any application, objection and response lodged in terms of sections 30 and 31 shall be open to public inspection by interested persons during the normal office hours of the Board for the prescribed period from date of lodgement of the application as reflected in the notice referred to in section 31 and

(2) the Board shall, at the request of any interested person, and on payment of such fees as may be prescribed, furnish him or her with a copy of, or extract from, any such application, representations, response or information; provided that

(a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees or the business plans of an applicant, shall not

be open to public inspection, providing such document or information can be separated from the remainder of the application and is marked confidential; and

(b) the identity of any person who lodged an objection to an application shall not be divulged to any other person."

Amendment of section 32 of Act 5 of 1996

23. Section 32 of the principal Act is hereby amended by –

(a) substituting for subsection (1) of section 32 of the following subsection:

"(1) Any person who submits an application under this [law] Act, and any licence holder who or which is the subject of an investigation or enquiry under this [law] Act shall be liable for and pay to the Board in the prescribed manner all costs incurred by or on behalf of the Board in conducting any investigations or enquiries provided for in this [law] Act: provided that the Board may before conducting such investigations require from an applicant any security for the payment of such expenses."

(b) substituting for subsection (2) of section 32 of the following subsection:

"(2) By submitting an application for a licence the applicant[s] consents -
(a) that the Board [or any member or designated officer] or any member thereof may"

Amendment of section 33 of Act 5 of 1996

24. Section 33 of the principal Act is hereby amended by –

(a) addition of the following subsection after subsection (3)(a)(v) of section 33:

"(vi) the granting of such licence will not or may not create or aggravate a prohibited practice or other contravention envisaged in the Competition Act 1998 (Act no. 89 of 1998), or will not or may not frustrate the purpose of the said Act."

(b) Deleting subsection (4)(c) of section 33 and substituting for subsection (4)(c) of section 33 of the following subsection:

"(c) deal with an application in accordance with subsection (5)"

(c) addition of the following subsection after subsection (4) of section 33:

"(5) The Board may, in its discretion, postpone the consideration or any further consideration of an application at any stage, subject to any terms or conditions it may deem fit."

Amendment of section 35 of Act 5 of 1996

25. Section 35 of the principal Act is hereby amended by –

(a) addition of the following subsections after subsection (1)(l):

“(m) relating to access control

“(n) in the case of a casino licence, relating to the installation and maintenance of surveillance systems”

(b) addition of the following subsections after subsection (2) of section 35:

“(3) Where the Board proposes to suspend, withdraw or amend any condition under subsection (2), the Board shall serve a written notice on the licensee stating –

(a) that the Board proposes to suspend, withdraw or amend, as the case may be, any condition under subsection (1);

(b) that the licensee may, within 30 days after the date of the written notice –

(i) make written representations about the matter to the Board; or

(ii) notify the Board in writing of the intention of the licensee to make oral representations; and

(c) the effect of subsection (4).

(4) If, within the period mentioned in subsection (3) (b), the Board receives neither written representations nor written notification of the intention of the licensee to make oral representations, such suspension, withdrawal or amendment of a condition, as the case may be, shall take effect at the end of that period.

(5) Any condition imposed under subsection (1), or suspended, withdrawn or amended under subsection (2) in respect of a licence –

(a) shall be effected after consultation with the responsible Member; and

(b) may not be effected retrospectively.

(6) The licence shall be an implied guarantee by the holder of that licence to a bet or that the proceeds of a winning bet shall be paid to the person placing the bet and any disputes in this regard shall be referred to the board for mediation.”

Amendment of section 36 of Act 5 of 1996

26. Section 36 of the principal Act is hereby amended by:

(a) substituting for subsection (3) of section 36 of the following subsection:

“(3) For the purposes of this section “electronic monitoring system” means an electronic or computer or communications system or device that is so designed that it may be used or adapted to send or receive data concerned with

gambling including but not limited to date to or from gambling machines in relation to the security, accounting or operation of gambling machines."

- (b) addition of the following subsection after subsection (3) of section 36:

"(4) The standardisation, testing, analysis, calibration and certification of gambling machines, any electronically monitoring system or any other devices or systems used for the purposes of a gambling game or any other gambling activity, shall be in accordance with the guidelines or recommendations of the South African Bureau of Standards mentioned in section 2(1) of the Standards Act, 1993 (Act no. 29 of 1993) as envisaged in the National Gambling Act of 1996 (Act no. 33 of 1996)."

Amendment of section 37 of Act 5 of 1996

27. Section 37 of the principal Act is hereby amended by substitution for subsection (1) of section 37 of the following subsection:

"(1) The Board may, require any applicant, not withstanding the provisions of any other sections of this Act, [for a licence referred to in section 25 (a), (b), (d), (i) or (k),] before commencing or, in the case of a holder of such a licence, before continuing to carry on the business authorised under that licence, to give security for the payment of all taxes, fees and gambling obligations due, or which may become due, under this law in such amount and form as determined by the Executive Council."

Amendment of section 38 of Act 5 of 1996

28. Section 38 of the principal Act is hereby amended by –

- (a) substituting for subsection (1) of section 38 of the following subsection:

"(1) A licence other than a temporary licence shall, subject to the provisions of this [law] Act and the conditions under which it was granted, be issued for a period to be determined by the Board but not for a period exceeding twelve months and [shall] may, subject to the approval of an application for renewal contemplated by section 30; be renewed [annually] for a period determined by the Board but not for a period exceeding twelve months on production of the licence for the preceding [year] period and on payment of the applicable licence and investigation fees."

- (b) substituting for subsection (2) of section 38 of the following subsection:

"(2) An application for the renewal of a licence in terms of subsection (1) shall be submitted to the Board not later than [90 days] a period equal to one quarter of the period for which the licence was granted prior to the date on which the licence [becomes renewable] expires."

Amendment of section 39 of Act 5 of 1996

29. Section 39 of the principal Act is hereby amended by –
- (a) substituting for subsection (1)(d) of section 39 of the following subsection:
- “(d) the licence holder has, without prior written consent of the Board, failed to carry on gambling business under the licence for a period of at least three consecutive months;”
- (b) addition of the following subsection after subsection (8) of section 39:
- “(9) A casino licence shall only be suspended or revoked by the Board after consultation with the Responsible Member.”

Amendment of section 40 of Act 5 of 1996

30. Section 40 of the principal Act is hereby amended by –
- (a) substituting for subsection (3) of section 40 of the following subsection:
- “(3) An application for a transfer or removal of the licence in terms of subsection (2) shall be considered by the Board [which may thereafter –
- (a) **refuse the application; or**
- (b) **grant the application, conditionally or unconditionally]**
- in accordance with the provisions of section 33.”
- (b) addition of the following subsection after subsection (5) of section 40:
- “(6) In the case of a casino licence or route operator licence, the Board shall only grant an application in terms of subsection (3) after consultation with the Responsible Member.”

Insertion of section 41A in Act 5 of 1996

31. The following section is hereby inserted after section 40 of the principal Act:

“Death or disability of licensee

- 41A** (1) In the event of the death or judicially established disability of a licensee, his or her husband or wife, the next-of-kin, personal representative or guardian of such deceased or disabled person shall notify the Board immediately of such death or disability.
- (2) When the deceased or disabled person is the sole licensee the Board may, in its discretion, authorise the husband or wife of the deceased or disabled person, his or her next-of-kin, personal representative or guardian to continue the operation of the business concerned pending action on an application by such person for a licence.
- (3) In circumstances where the interest held in a licensed business by a deceased or disabled person passes, by operation of law or otherwise, to his or

her estate or to any person other than a co-licensee, such person, the personal representative or guardian of the deceased or disabled person shall, within thirty days after the date of death or disability, make application to the Board for a licence in terms of this Act, failing which the licence shall expire.

(4) An applicant and an application referred to in subsection (3) shall comply with all the provisions of this Act; provided that the Board may determine to extend the existing licence in favour of such applicant, pending the consideration by the Board of such application, for a period not exceeding six months, subject to such further conditions as the Board may determine."

Insertion of section 42A in Act 5 of 1996

32. The following section is hereby inserted after section 42 of the principal Act:

"Duty to display licences

42A (1) A licence holder, shall at all times prominently display his or her licence on the licensed premises.

(2) A licence holder who fails to comply with the provisions of subsection (1) shall be guilty of an offence."

Amendment of section 43 of Act 5 of 1996

33. Section 43 of the principal Act is hereby amended by –

(a) deleting subsection (1)(a) of section 43 and substituting for subsection (1)(a) of the following subsection:

"(a) There shall be charged and payable in respect of any licence granted or renewed under this Act the prescribed licence fees, which shall be in addition to any other amounts or levies payable under this Act."

(b) deleting subsection (1)(b) of section 43.

(c) substituting for subsection (1)(c) of the following subsection:

"(b) The licence [and investigation] fees referred to in [paragraph] subsection (a) shall be paid into the Provincial Revenue Fund."

Insertion of section 43A of Act 5 of 1996

34. The following section is hereby inserted after section 43 of the principal Act:

"Investigation fees

43A (1) An investigation fee shall be paid to the Board by every applicant for a licence.

(2) The investigation fee referred to in sub-section (1) may be refundable."

Amendment of section 44 of Act 5 of 1996

35. Section 44 of the principal Act is hereby amended by –

(a) substituting for the title of the section of the following title:

"Casino [operator] licence"

(b) substituting for subsection (1) of section 44 of the following subsection:

"(1) A casino [operator] licence shall only be issued to a company, registered in terms of the Companies Act, 1973."

(c) substituting for subsection (2) of section 44 of the following subsection:

"(2) A casino [operator] licence is required by every company which permits or conducts gambling business in or on any premises in the Province which are not limited [gambling] payout machine premises or premises where only bingo is played."

(d) substituting for subsection (4) of section 44 of the following subsection:

"(4) A casino [operator] licence shall attach to the premises specified in the licence."

(e) substituting for subsection (5) of section 44 of the following subsection:

"(5) A casino [operator] licence shall authorise, subject to any conditions which the Board may impose, the playing in or on the premises or such parts of such premises as are specified in the licence of any gambling game (but not betting) specified in the licence."

(f) addition of the following subsections after subsection (5) of section 44:

"(6) No person may apply for a casino licence other than in response to a notice published in the Provincial Gazette and the media by the Board, after consultation with the responsible Member, inviting applications and which notice may -

(a) state the areas in which the casino is to be situated;

(b) state development and other requirements;

(c) set the amount of the payment contemplated in section 71 or invite applicants to tender for such payments;

(d) state the evaluation criteria to be applied.

- (7) The Board may only grant a casino licence after consultation with the responsible Member, and if the Board is satisfied that the applicant
- (a) has appropriate knowledge or experience, or is able to acquire such knowledge or experience, to operate a casino;
 - (b) has consulted the local authority, any regional or traditional authority, or any other competent authority, if any, of the area where the casino will be or is situated;
 - (c) shall have and maintain sole and exclusive legal possession of the premises for which the licence is to be granted; and
 - (d) has met all applicable requirements set by the Board; and
 - (e) qualifies to be the holder of a licence in terms of this Act."

Amendment of section 45 of Act 5 of 1996

36. Section 45 of the principal Act is hereby amended by –

- (a) substituting for the title of the section of the following title:

"[Limited gambling machine] Route operator licence"

- (b) substituting for subsection (1) of section 45 of the following subsection:

"(1) A [limited gambling machine] route operator licence shall only be issued to a company registered in terms of the Companies Act, 1973."

- (c) substituting for subsection (2) of section 45 of the following subsection:

"(2) A [limited gambling machine] Route operator licence is required by every company which permits or engages in the business of placing limited [gambling] payout machines in or on one or more premises in the Province."

- (d) substituting for subsection (3) of section 45 of the following subsection:

"(3) A [limited gambling machine] route operator licence shall [authorise, subject to any conditions which the Board may impose, the operation of limited gambling machines specified in the licence in or on premises or such parts of such premises as are specified in the licence.] attach to the premises specified in the licence."

- (e) addition of the following subsections after subsection (3) of section 45:

"(4) No person may apply for a route operator licence other than in response to a notice published in the Provincial Gazette and the media by the Board, after consultation with the responsible Member, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements.

(5) A route operator licence shall not be granted by the Board -

- (a) unless the Board is satisfied that the applicant has an appropriate knowledge and experience, or is able to acquire such knowledge and experience, to operate limited payout machines;
- (b) unless the Board is satisfied that the applicant meets the prescribed requirements;
- (c) for the operation of more than the prescribed number of limited payout machines;
- (d) unless the company qualifies to be the holder of a licence in terms of this Act.

(6) A route operator licence shall authorise, subject to this Act and any other conditions which the Board may impose, the operation of any prescribed limited payout machines specified in the licence, on the licensed premises of the holder of a site licence, and for such purposes the holder of such a route operator licence may enter into an agreement with the holder of such site licence for the placement of limited payout machines on the premises concerned.

(7) The holder of a route operator licence shall link all the limited payout machines in respect of which the licence has been granted, to an electronic monitoring system as contemplated in section 36.

(8) A route operator licence shall only be granted by the Board after consultation with the Responsible Member.

Amendment of section 46 of Act 5 of 1996

37. Section 46 of the principal Act is hereby amended by –

- (a) substituting for the title of the section of the following title:

“[Limited gambling machine premises] Site operator licence”

- (b) substituting for subsection (1) of section 46 of the following subsection:

“(1) A [limited gambling machine premises] site operator licence is required for any premises in the Province in or on which limited [gambling] payout machines are placed by the holder of a [limited gambling machine] route operator licence.”

- (c) substituting for subsection (2) of section 46 of the following subsection:

“(2) A [limited gambling machine premises] site operator licence shall authorise, subject to any conditions which the Board may impose, the keeping and exposing for play in or on the licenced premises or such part of such premises as is specified in the licence of any limited [gambling] payout machines specified in the licence.”

- (d) addition of the following subsections after subsection (2) of section 46:

- "(3) A site operator licence shall not be granted by the Board -
(a) except to a person who meets the prescribed requirements;
(b) for the operation and keeping of more than the prescribed number of
limited payout machines for any one site licence;
(c) unless the Board is satisfied that the premises in respect of which the
licence is to be granted will not be and are not primarily utilised for
gambling; and
(d) except to a person who qualifies to be the holder of a licence in terms
of this Act.
- (4) A site operator licence shall, subject to the provisions of this Act,
authorise the operation and keeping in or on the licensed premises or such part
of such premises as is specified in the licence, of any prescribed limited
payout machine specified in the licence: Provided that -
(a) the maximum charge for playing on any such limited payout
machine shall not exceed the prescribed amount;
(b) the prize in respect of any one game played by means of any
such limited machine shall not in the aggregate exceed the prescribed
amount;
(c) there shall be displayed on any such limited payout machine the
value of the maximum prize prescribed under paragraph (b) which can
be won by playing a game once by means of such limited payout
machine;
(d) and any such limited payout machine shall be placed in an area
of the licensed premises to which no person under the age of 18 years
shall have access to."
- (5) No person may apply for a site operator licence other than in response
to a notice published in the Provincial Gazette and the media by the Board,
after consultation with the responsible Member, inviting applications and
which notice may state the evaluation criteria to be applied and any other
requirements.

Insertion of section 46A

37A The following section is hereby inserted after section 46 of the Principal Act:

Independent site operator licence

- 46A. (1) An independent site operator licence shall only be granted by the
Board-
(a) to an Applicant who meets the prescribed requirements as set out in
the National Regulations;
(b) if the Board, after consultation with the Responsible Member, is
satisfied that the premises in respect of which the licence is to be
granted, meet the approval of the Board.
- (3) An independent site operator licence shall authorise the operation and keeping
in or on the premises limited payout machines in terms of the provisions of

this Act, the National Regulations and any other conditions, which the Board may impose.

(4) No person may apply for an independent site operator licence other than in response to a notice published in the Provincial Gazette and the media by the Board, after consultation with the responsible Member, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements.

Amendment of section 49 of Act 5 of 1996

38. Section 49 of the principal Act is hereby amended by –

(a) substituting for the title of the section of the following title:

“Manufacturer, Maintenance and Supplier licence”

(b) substituting for subsection (1) of section 49 of the following subsection:

“(1) A manufacturer, maintenance and supplier licence is required by every person who, [**in the province**] manufactures, assembles, maintains, imports or alters [slot] gambling machines or any other gambling device or any component thereof, [but not playing cards or dice] in the Province.”

(c) substituting for subsection (2) of section 49 of the following subsection:

“(2) The provisions of subsection (1) shall not apply to the holder of a key employee certificate of registration or a gambling employee certificate of registration.”

(d) substituting for subsection (3) of section 49 of the following subsection:

“(3) A [manufacturing] manufacturer, maintenance and supplier licence shall authorise the manufacturing, assembling, maintenance, repair or alteration of the types and models of gambling devices [set out in the licence].”

(e) substituting for subsection (4) of section 49 of the following subsection:

“(4) The holder of a casino [operator] licence, a [limited gambling machine] route operator licence, [limited gambling machine premises] site licence or a bingo licence may, notwithstanding the provisions of subsection (1).”

(f) substituting for subsection (6) of section 49 of the following subsection:

“(6) A manufacturer, maintenance and supplier licence shall not be granted by the Board, unless the Board is satisfied that the applicant has

- (a) appropriate knowledge and experience, or is able to acquire such knowledge and experience, to conduct business under the licence;
- (b) has no direct or indirect financial interest in the business of any person in respect of which a casino [operator] licence or a bingo licence, a [limited gambling machine] route operator licence, a [limited gambling machine premises] site operator licence and an independent site operator licence have been granted."
- (g) deleting of subsections (7) and (8) of section 49 respectively.

Amendment of section 50 of Act 5 of 1996

39. Section 50 of the principal Act is hereby amended by deletion thereof.

Amendment of section 51 of Act 5 of 1996

40. Section 51 of the principal Act is hereby amended by deletion thereof.

Insertion of sections 51A, 51B, 51C, 51D, 51E, 51F, 51G, 51H, 51I,

41. The following sections are hereby inserted after section 51 of the principal Act:

"Race meeting licence

- 51A (1) A race meeting licence is required by every person who permits or conducts racing on any land in the Province.
- (2) A race meeting licence shall attach to the land specified in the licence.
- (3) A race meeting licence shall authorise, subject to any conditions which the Board may impose, the holding of race meetings on the land specified in the licence.

Unauthorised race-meeting prohibited

- 51B (1) For the purposes of this Chapter, a race-meeting means any gathering of persons attending a horse-race, whether or not such race is run, if the date and place of such race has been made known by public advertisement or private invitation.
- (2) No person shall hold a race-meeting unless it has been authorised in terms of the provisions of this Chapter.
- (3) Any person who contravenes or fails to comply with the provisions of subsection (2) shall be guilty of an offence.
- (4) In any prosecution for an offence referred to in subsection (3)

- (a) any person who in any way organised or arranged or who assisted in organising or arranging a race-meeting shall be deemed to have held such meeting; and
- (b) any gathering of persons attending a race-meeting shall be deemed to have taken place as the result of a public advertisement or private invitation.

Issue of licence to racing club authorising the holding of race-meetings on a race-course

- 51C (1) (a) The Board, with the concurrence of the Responsible Member may, on written application and upon furnishing such information as it may deem expedient, issue to a racing club a licence to hold so many race-meetings per annum as is specified in the licence on land which is in the lawful possession or occupation of the racing-club and which is likewise specified.
- (b) For the purposes of paragraph (a) racing-club means an association of persons, whether incorporated or unincorporated, constituted principally for the holding of horse races.
- (2) No race-meeting licence shall be issued to a racing-club before -
- (a) the memorandum and articles of association or the constitution of that club; and
 - (b) the rules and regulations according to which a race meeting will be held by that club, have been approved by the board.
- (3) In the memorandum and articles of association or the constitution contemplated in paragraph (a) of subsection (2) provision shall be made that on the disposal of the assets of the racing-club concerned or upon the liquidation thereof, the balance of the proceeds from the disposal of such assets or the balance of the amount realised upon such liquidation shall, after payment of all liabilities not be distributed amongst the members of that club, but shall be paid into an account under the control of an association of persons whether incorporated or unincorporated, constituted primarily for the holding of horse races.
- (4) (a) A racing-club wishing to amend its memorandum and articles of association or its constitution, shall forward by certified post to the board a written notice in which the contemplated amendment is set out.
- (b) No amendment to the memorandum and articles of association or constitution of a racing-club shall have any force or effect before it has been approved by the board.
- (5) A race-meeting licence shall, subject to the provisions of this Act, be valid for an indefinite period.
- (6) For the purpose of this Chapter the land specified in a race-meeting licence shall, during the period of validity of such licence, be a licensed race-course.

- (7) A licensed race-course may be used for any other lawful purpose.
- (8) (a) The board may on such conditions as it may determine, authorise a licensed racing-club in writing -
- (i) to televise, by any lawful means, a race-meeting held by that club; and
- (ii) to receive the television broadcast of any race-meeting which is televised lawfully and to display it to persons lawfully on the licensed race-course of the racing-club concerned.
- (b) For purposes of this Act, it shall be deemed that the racing-club which receives and displays a race-meeting in terms of paragraph (a), is itself holding a race-meeting on that day.

Conditions of Race-Meeting Licence

- 51D (1) A race-meeting licence shall be subject to the conditions that the holder thereof shall comply with the provisions of the Constitution, rules and regulations of the Jockey Club of Southern Africa: provided that if the board, with the concurrence of the Responsible Member, does not approve of any such provision, it may -
- by written notice to all racing-clubs, substitute for any such provisions a new provision, which shall be binding on all racing-clubs.
- (2) A race-meeting licence shall be subject to the condition -
- that a racing-club which has decided to postpone a race meeting due to unforeseen circumstances, shall forthwith notify the board thereof, and that such postponed race-meeting shall be held or continued on any other day determined by the racing-club concerned in consultation with the Board and the Jockey Club.
- (3) The Board, with the concurrence of the Responsible Member, may, in addition to the conditions referred to in subsections (1) and (2), at any time impose any further condition it may deem expedient and it may amend or withdraw any such further condition.

Suspension or cancellation of race-meeting licence

- 51E (1) The Board, with the concurrence of the Responsible Member, may at any time suspend a race-meeting licence for such period as it may determine; or
- (2) may at any time cancel a race-meeting licence if the holder thereof -
- (a) has been convicted of an offence which, in the opinion of the board, justifies cancellation.
- (b) has contravened or failed to comply with any rule or regulation contemplated in section 51C(2)(b) ; or
- (c) has contravened or failed to comply with any condition of such licence.

Circumstances in which race-meeting licence shall lapse

51F The Board, with the concurrence of the Responsible Member, may notwithstanding the provisions of section 51C(1), declare that a race-meeting licence shall lapse on a date to be determined by it.

Duty to produce race-meeting licence

51G A person who holds a race-meeting and fails on demand by an inspector or a member of the South African Police Services to produce forthwith a race-meeting licence authorising the holding of such meeting shall be guilty of an offence.

Admission to licensed race-course

51H (1) A racing club or a person authorised thereto by such club may, in terms of the provisions of a rule or regulation referred to in section 51C(2)(b) or in terms of conditions of the race-meeting licence of such club, exclude any person from or refuse to admit any person to the licensed race-course of such club or may exclude from or refuse to admit to the race-course any person whose presence thereon will, in the opinion of such club or person, be detrimental to the maintenance of good order.

(2) An authorised person, authorised thereto by a racing club or an inspector may remove or cause to be removed any person who is unlawfully on the licensed race-course of such club or any person whose conduct is, in the opinion of such club, person so authorised or inspector, detrimental to the maintenance of good order.

(3) any person who hinders or obstructs an authorised person or inspector in the carrying out of the powers conferred by subsection (2) shall be guilty of an offence.

Special licence to hold race-meeting

51I (1) Notwithstanding anything to the contrary contained in this Chapter, but subject to subsections (2) and (3), the board may, on written application and upon furnishing such information as that board may deem expedient, issue to any person a special licence to hold, subject to such conditions as the board may determine, a race-meeting on the day and on the land specified in the licence.

(2) The provisions of this Chapter, other than the provisions of sections 51C, 51D, 51F and 51H shall apply *mutatis mutandis* to any race-meeting held in terms of the provisions of subsection (1).

(3) Any person who contravenes or fails to comply with a condition of a licence referred to in subsection (1) shall be guilty of an offence punishable to the maximum of the jurisdiction of the board as prescribed in this Act."

Amendment of section 52 of Act 5 of 1996

42. Section 52 of the principal Act is hereby amended by –

(a) substituting for subsection (1) of section 52 of the following subsection:

“(1) A totalisator operator licence is required by every person who operates or permits the operation of a totalisator or conducts a betting pool.”

(b) substituting for subsection (3) of section 52 of the following subsection:

“(3) A totalisator operator licence shall authorise, subject to any conditions which the Board may impose, the operation of a totalisator in respect of any event or contingency and the acceptance of stakes in respect of such totalisator in or on the premises or such part of such premises as is **[specified in the licence]** licensed in terms of section 53.”

Amendment of section 53 of Act 5 of 1996

43. Section 53 of the principal Act is hereby amended by substitution for subsection (2) of section 53 of the following subsection:

“(2) A totalisator premises licence shall authorise, subject to any conditions which the Board may impose, the acceptance of stakes in respect of a totalisator in or on the premises specified in the licence in terms of section 52.”

Insertion of sections 54A, 54B, 54C, 54D and 54E

44. The following subsections are hereby inserted after section 54 of the principal Act:

“Number of bookmakers at stand or cubicle

54A (1) No more than one licensed bookmaker may carry on business at the stand or cubicle concerned.

(2) The provisions of subsection (1) shall not prevent the carrying on of business by more than one bookmaker -

(a) each at a separate stand or cubicle at a Tattersalls, betting exchange or other similar premises, or at a race-course or other premises where sporting events are held; or

(b) in partnership subject to authorisation by the Board.

Restriction of betting through agent, and unlawful inducement to bet

54B (1) No person shall -

(a) act as an agent for the holder of a bookmaker's licence for the purpose of betting on a sporting event, whether or not for gain; or

(b) whether or not for gain act as an intermediary between any holder of a bookmaker's licence and any other person for the purpose of betting on a sporting event.

(2) No licensed bookmaker shall, directly or indirectly, give or undertake to give to any other person money or other valuable consideration, other than the amount of a wager won by such other person, to induce that person to bet on a sporting event.

Bookmaker to be approved and registered

54C (1) No bookmaker shall carry on business as such unless he or she is approved and registered by the Board.

(2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.

Registration of bookmaker's managers and clerks

54D (1) No person other than the holder of a bookmaker's licence shall perform any act connected with the business of a bookmaker unless he or she -

(a) is employed by such a holder; and

(b) is registered as -

(i) a bookmaker's manager; or

(ii) a bookmaker's clerk

(2) Any person desiring to be registered as a bookmaker's manager shall make application for such registration to the board.

(3) A bookmaker shall not employ any person to manage his or her business unless such person is registered as a bookmaker's manager.

(4) A bookmaker shall within 14 days inform the Board in writing in respect of termination or resignation of either the bookmaker's manager or clerk.

(5) Any person who contravenes a provision of subsection (1), (3) or (4) shall be guilty of an offence.

Amendment of section 55 of Act 5 of 1996

45. Section 55 of the principal Act is hereby amended by deletion thereof.

Amendment of section 56 of Act 5 of 1996

46. Section 56 of the principal Act is hereby amended by -

(a) substituting for the subsection (3) of section 56 of the following subsection:

“(3) The Board shall not grant approval under subsection (1) where the person who is the subject of the application is disqualified in terms of this [law] Act to hold a licence.”

- (b) substituting for subsection (4)(b) of section 56 of the following subsection:

“(b) who has or wishes to procure a direct or an indirect financial interest of less than [ten] five per cent in any business to which a licence relates, and”

- (c) addition of the following subsection after subsection (5) of section 56:

“(6) The provisions of section 33 shall, where applicable, mutatis mutandis apply to a person who wishes to procure an interest as contemplated in subsection (2).”

Amendment of section 57 of Act 5 of 1996

47. Section 57 of the principal Act is hereby amended by deletion thereof.

Amendment of section 58 of Act 5 of 1996

48. Section 58 of the principal Act is hereby amended by substituting for subsection (3) of section 58 of the following subsections:

“(3) The holder of [an operator] manufacturer, maintenance and supplier licence shall not sell a gambling device, [other than playingcards or dice,] to any person in the Province other than the holder of a licence issued under this [law] Act.”

Amendment of section 59 of Act 5 of 1996

49. Section 59 of the principal Act is hereby amended by substitution thereof of the following section:

“The holder of a licence shall keep such books, accounts and records and furnish such returns as may be prescribed in the licence and determined in the rules of the Board.”

Amendment of section 63 of Act 5 of 1996

50. Section 63 is hereby amended by –

- (a) substitution of the title of the following title:

“Rules of [gambling] casino games”

- (b) substitution for subsection (2) of section 63 of the following subsection:

“(2) The holder of any licence shall, in respect of any game authorised by such licence for which no rules have been approved by the Board, make rules relating to the playing of such game and submit such rules to the Board for approval before such casino game may be played or betting conducted is determined by the Board.”

Amendment of section 65 of Act 5 of 1996

51. Section 65 of the principal Act is hereby amended by:

(a) substituting for subsection (1) of section 65 of the following subsection:

“(1) Over and above any value-added tax or other sales tax, if any, and income tax which may be payable in terms of any other law, every holder of a licence (except a manufacturer, maintenance or supplier licence) shall be liable to, at such intervals as may be prescribed, pay a gambling levy on the gross win which such licence holder derives from the conduct of gambling and which gambling levy shall be calculated on such basis and at a rate as may be prescribed, and be payable in the manner and before the date as prescribed: Provided that different rates may be so prescribed in respect of different types of licences.”

(b) substituting for subsection (2) of section 65 of the following subsection:

“(2) Any payment of the gambling levy referred to in subsection (1) shall be accompanied by a **[financial statement attesting to the gross win derived from the conduct of gambling by the licence holder for the period for which the gambling levy is payable]** return in a form determined by the Board.”

(c) deleting subsection (3) of section 65 and substituting for the following subsections:

“(3) (a) Notwithstanding anything to the contrary contained in any other law, there shall be no period of grace for the payment of the gambling levy referred to in subsection (1), and if such gambling levy is not paid on or before the prescribed date referred to in subsection (1), the licence may be suspended by the Board in terms of section ? until the gambling levy and the penalties payable in terms of subsection (4), have been paid.

(b) Any licence holder who fails to pay the gambling levy on or before the date prescribed referred to in subsection (1), shall in addition to such gambling levy, pay for each day or part of a day during which such licence holder is liable for the payment of the gambling penalty calculated at the prescribed rate of the unpaid gambling levy or outstanding amount: Provided that the total amount of such penalty shall not exceed twice the total amount of the gambling levy payable.”

Amendment of section 66 of Act 5 of 1996

52. Section 66 of the principal Act is hereby amended by –

(a) substituting for the title thereof of the following title:

“[Tax] Levy payable upon conviction”

(b) deleting section 66 and substituting for the following subsections:

“(1) (a) Where a person is convicted in terms of section 88, the Board shall estimate the amount such person would, in the opinion of the Board, have been liable to pay as gambling levies in terms of section 81 had he or she been the holder of a licence, and the Board shall forthwith notify such person in writing of the amount so estimated.

(b) The amount contemplated in paragraph (a) shall be estimated in respect of a period of not more than 3 years calculated retrospectively from the date of conviction of the person concerned.”

Amendment of section 67 of Act 5 of 1996

53 . Section 67 of the principal Act is hereby amended by:

(a) substituting for the title of section 67 of the following title:

“Persons engaged in casino occupations or manufacture or sale of certain machines or devices to be registered”

(b) deleting section 67 and substituting thereof of the following section:

“(1) No person shall –

(a) perform any act pertaining to any casino occupation;

(b) be engaged in the manufacture, sale, lease, making available, distribution, importing, marketing, maintenance or repair of any gaming machine, roulette wheel or other gaming device, unless such person is registered with the board; or

(c) be engaged in any other prescribed occupation, unless such person is registered with the board.

(2) Any person desiring to be registered as contemplated in subsection (1) shall make application for such registration to the board.

(3) A holder of a licence shall not employ any person to perform any act or be engaged in any activity or occupation contemplated in subsection (1) unless such person is registered with the board as provided in subsection (1).

(4) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.

(5) The provisions of sections 21(1) and 22 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (2).

Amendment of section 68 of Act 5 of 1996

54. Section 68 of the principal Act is hereby deleted and substituted of the following section:

"Disqualified persons not to be registered"

(1) No application for registration contemplated in section 67(2) shall be granted if the applicant is subject to any disqualification contemplated in section 27, which shall apply *mutatis mutandis*.

(2) The Board shall not refuse an application for registration without giving the applicant the opportunity of being heard.

(3) Where the Board refuses an application for registration, the chief executive officer shall on request furnish the applicant concerned in writing with the reasons for such refusal."

Amendment of section 69 of Act 5 of 1996

55. Section 69 of the principal Act is hereby deleted.

Amendment of section 70 of Act 5 of 1996

56. Section 70 of the principal Act is hereby deleted.

Amendment of section 71 of Act 5 of 1996

57. Section 71 of the principal Act is hereby amended by deletion thereof and substituting for section 71 of the following section:

"Registration of employees"

(1) Where the board grants an application for registration contemplated in section 67(2), the Designated Officer shall issue to the applicant a certificate of registration in the form prescribed or determined by the Board.

(1A) The Board may grant an application for registration subject to such conditions as the Board may determine.

(2) (a) Registration in terms of this Chapter shall, subject to the provisions of this subsection and section 70, endure indefinitely.

- (b) The Board may determine that any particular applicant shall be registered for a specified period only, but then -
- (i) the chief executive officer shall on request furnish the applicant in writing with the reasons for such determination; and
- (ii) the period so specified shall be stated in the certificate of registration issued in terms of subsection (1).
- (c) A person who has been registered for a specified period may apply for the extension of such period or the substitution for such registration for an indefinite period, and if the Board grants such extension or substitution, the Chief Executive Officer shall make the necessary alteration on the certificate of registration.
- (3) The Designated Officer shall keep and maintain a register in which he or she shall enter the name, and particulars prescribed or determined by the Board, of each person to whom a certificate of registration has been issued in terms of this section."

Amendment of section 72 of Act 5 of 1996

58. Section 72 of the principal Act is hereby deleted.

Amendment of section 73 of Act 5 of 1996

59. Section 73 of the principal Act is hereby amended by deletion and substitution thereof of the following section:

"Suspension and revocation of registration

- (1) The Board may at any time suspend for a specified period or revoke the registration of any person in terms of this Chapter after giving the person concerned an opportunity of being heard -
- (a) if any information contained in the application for registration was false in any material respect or was subject to any material omission;
- (b) if the person registered has become subject to a disqualification contemplated in section 27, as applied *mutatis mutandis* by section 68(1).
- (c) if the person registered has performed any act or been engaged in any activity or occupation contemplated in section 67(1), whether as agent or employee or otherwise for or on behalf of a person who is not the holder of a licence; or
- (d) if the person registered has contravened a provision of this Act or a condition of his or her registration.
- (2) The provisions of section 39(2) shall *mutatis mutandis* apply in relation to a suspension or revocation of registration contemplated in subsection (1).

Amendment of section 74 of Act 5 of 1996

60. Section 74 of the principal Act is hereby amended by the following:

(a) substituting for the title of section 74 of the following title:

"Employment before issue of certificate of registration"

(b) substituting for the section 74 of the following section:

"Notwithstanding the provisions of section 67 and 68, where an application for a certificate of **[approval]** registration has been made and the Board is of the opinion that -

- (a) a decision in relation to the application may not be made for some time
- (b) the operation of the business in respect of which the licence concerned was granted will be seriously prejudiced or disadvantaged by the delay in the employment of the applicant; and"
- (c) the commencement of the employment of the applicant will not prejudice the integrity and proper operation of the business in respect of which the licence concerned was granted, the Board may grant permission in writing to the applicant to be so employed before the determination of the application, subject to such terms, conditions and restrictions as the Board considers appropriate in a particular case"

Amendment of section 75 of Act 5 of 1996

61. Section 75 of the principal Act is hereby amended by substitution thereof of the following section:

"No person who is required to hold a certificate of **[approval]** registration in terms of section 67 and 68, shall in a casino or a bingo hall, as the case may be with which he or she is associated participate in or play any game in the Province: Provided that such a person may participate in such gambling if it is necessary for the performance of his or her functions as such an employee."

Amendment of section 78 of Act 5 of 1996

62. Section 78 of the principal Act is hereby amended by the deletion thereof.

Insertion of section 78A in Act 5 of 1996

63. The following section is hereby inserted after section 78A of the principal Act:

"Functions and powers of inspectors"

78A (1) An inspector may, for the purposes of this Act on the authority of an entry warrant-

- (a) without previous notice, enter upon any premises which are occupied or used for the purposes of any gambling activity or other premises on which it is suspected that -

- (i) a casino or any other gambling activity is being conducted without the authority of a licence;
 - (ii) persons are being allowed to play or participate in any gambling game or to play any gambling machine; or
 - (iii) any gambling machine or any equipment, device, object, book, record, note or other document used or capable of being used in connection with the conducting of a casino or any other gambling activity by any person, and, after having informed the person who is then in charge of the premises of the purpose of his or her visit, make such investigation and enquiry as he or she may think necessary;
- (b) in any premises referred to in paragraph (a) -
 - (i) require the production of any licence or written permission or authorisation that any person is required to hold under this Act regulating gambling activities;
 - (ii) question or search any person who is on or in such premises and inspect any activities in connection with the conducting of any gambling activity; and
 - (iii) examine or inspect any gambling machine, equipment, device, object, book, record, note or other document referred to in paragraph (a) and make a copy thereof or an extract therefrom;
- (c) require from any person in charge of any premises referred to in paragraph (a) -
 - (i) to point out any equipment, device or object referred to in that paragraph which is in his or her possession or custody or under his or her control;
 - (ii) to produce for the purpose of examination or of making copies or extracts, all books, records, notes or other documents referred to in that paragraph which are in his or her possession or custody or under his or her control;
 - (iii) to provide any information in connection with anything which has been pointed out or produced in terms of subparagraph (i) or (ii); and
- (d) seize and remove any gambling machine, equipment, device, object, book, record, note or other document referred to in that paragraph which in his or her opinion may furnish proof of contravention of any provision of this Act or leave it on the premises concerned after marking it for the purpose of identification.

(2) An inspector may, upon written authorisation by the Director of Public Prosecutions inspect or make copies of any account of any person at any financial institution which account may, in the opinion of the Director of Public Prosecutions, afford evidence of the commission of an offence in terms of the provisions of this Act.

(3) When performing any function in terms of subsection (1), an inspector may be accompanied by and avail himself or herself of the services of an assistant or interpreter or any police official.

(4) Nothing in this section shall preclude any inspector appointed and authorised in terms of a National Gambling Act to perform any of the above-mentioned functions and powers in the Province.

(5) An inspector may on the authority of an entry warrant, issued in terms of subsection (2), enter upon any licensed premises -

(a) in or upon which any article or thing -

(i) which is concerned with or is upon reasonable grounds suspected to be concerned with any matter which is the subject of any investigation in terms of this Act;

(ii) which contains, or is upon reasonable grounds suspected to contain, information with regard to any such matter, is or is upon reasonable grounds suspected to be, and may on the authority of a search warrant, issued in terms of subsection (2) -

(aa) inspect and search such premises and there make such inquiries as he or she may deem necessary;

(bb) examine any article or thing found in or upon such premises;

(cc) request from the person who is in control of such premises or in whose possession or under whose control any article or thing is when it is found, or who is upon reasonable grounds believed to have information with regard to any article or thing, an explanation or information;

(dd) make copies of or extracts from any such article found upon or in such premises;

(ee) seize any article or thing found upon or in such premises which he or she upon reasonable grounds suspects to be an article or thing mentioned in subparagraph (i) or (ii);

(ff) after having issued a receipt in respect thereof remove any article or thing found on such premises and suspected upon reasonable grounds to be an article or thing mentioned in subparagraph (i) or (ii), and retain such article or thing for a reasonable period for the purpose of further examination or, in the case of such article, the making of copies thereof or extracts therefrom. Provided that any article or thing that has been so removed, shall be returned as soon as possible after the purpose of such removal has been accomplished;

(b) an in or upon such premises -

(i) require the production of any licence or written permission or authorisation that any person is required to hold under this Act regulating gambling activities;

(ii) question any person and in respect of any activities in connection with the conducting of any gambling activity.

(6) An entry or search warrant referred to in subsection (1) shall be issued by a judge of the High Court or by a magistrate who has jurisdiction in the area where the premises in question are situated, and shall only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that an offence has been committed on such premises or that an article or thing mentioned in paragraph (a)(i) or (ii) of subsection (1) is upon or in such premises, and shall specify which of the acts mentioned in subsection (1) may be performed thereunder by the person to whom it is issued.

(7) A warrant issued in terms of this section shall be executed by day unless the person who issues the warrant authorises the execution thereof by night at times which shall be reasonable, and any entry upon or search of any premises in terms of this section shall be conducted with strict regard to decency and order, including -

- (a) a person's right to, respect for and the protection of his or her dignity;
- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.

(8) Any inspector executing a warrant in terms of this section shall immediately before commencing with the execution -

- (a) identify himself or herself to the person in control of the premises, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent place on the premises;
- (b) supply to such person at his or her request with particulars regarding his or her authority to execute such a warrant.

(9) (a) Any inspector may without a warrant enter upon any premises, other than a private dwelling, and exercise the powers referred to in subsection (1) -

- (i) if the person who is competent to do so consents to such entry, search, seizure and removal; or
- (ii) if he or she upon reasonable grounds believe that -
 - (aa) the required warrant will be issued to him or her in terms of subsection (2) if he or she were to apply for such warrant; and
 - (bb) the delay caused by the obtaining of any such warrant would defeat the object of the entry, search, seizure and removal.

(b) Any entry and search in terms of paragraph (a) shall be executed by day, unless the execution thereof by night is justifiable and necessary.

(10) (a) Any inspector who may on the authority of a warrant issued in terms of subsection (2), or under the provisions of subsection (5), enter upon and search any premises, may use such force as may be reasonably necessary to overcome resistance to such entry or search.

(b) No inspector may enter upon or search any premises unless he or she has audibly demanded admission to the premises and has notified the purpose of his or her entry, unless such inspector is upon reasonable grounds of the opinion that any article or thing may be destroyed if such admission is first demanded and such purpose is first notified.

(11) If during the execution of a warrant or the conducting of a search in terms of this section, a person claims that an article found on or in the premises concerned contains privileged information and refuses the inspection or removal of such article, the inspector executing the warrant or conducting the search shall, if he or she is of the opinion that the article contains information which is relevant to the investigation and that such information is necessary for the investigation or hearing, request the registrar of the Supreme Court which has jurisdiction or his or her delegate, to seize and remove that article for safe custody until a court of law has made a ruling on the question whether the information concerned is privileged or not.

(12) A warrant issued in terms of this section may be issued on any day and shall be of force until -

- (a) it is executed; or
- (b) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority; or
- (c) the expiry of one month from the day of its issue; or
- (d) the purpose for the issuing of the warrant has lapsed, whichever may occur first."

Amendment of section 80 of Act 5 of 1996

64. Section 80 of the principal Act is hereby amended by deletion thereof.

Amendment of section 81 of Act 5 of 1996

65. Section 81 of the principal Act is hereby amended by substituting for subsection (1)(b)(ii) of section 81 of the following subsection:

"(ii) the manufacture, assembly, maintenance, repair or alteration of any [slot] gambling machine or gambling device [(other than playing cards or dice)] or any component thereof, and"

65A. Section 81 of the Principal Act is hereby amended by substituting for subsection (2) (a) of the following subsection:

" No person shall without the approval of the Board have any direct or indirect financial interest of [ten] five percent or more in any gambling business or establishment within the Province."

65B. Section 81 of the Principal Act is hereby amended by substituting for subsection (5) of the following subsection:

"(5) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding **[one hundred thousand rand]** two million rand or imprisonment for a period of not more than ten years or both such fine and such imprisonment; provided that in the event of a second or subsequent convictions, the Court may impose a penalty not exceeding twice the amount of such fine or the period of such imprisonment."

Amendment of section 85 of Act 5 of 19 96

66. Section 85 of the principal Act is hereby amended by:

(a) substituting for subsection (1) of section 85 of the following subsection:

"(a) No person who is in any way concerned with the management, supervision, control or administration of a **[casino or any game played at that casino]** gambling business other than a bookmaking business or any game played at such a business shall participate in such game or in gambling at **[that casino]** such business or at any other **[casino]** gambling business other than a bookmaker's business operated by the same licence holder in the Province, save in so far as he or she may be required to do so by the nature of his or her employment in the operation of such game so as to enable other persons to participate in the game or betting."

(b) substituting for subsection (2)(b) of section 85 of the following subsection:

"(b) take part in any gambling or betting or handle or operate a gambling **[machine]** device, or"

(c) substituting for subsection (3) of section 85 of the following subsection:

"(3) No licence holder or employee of a licence holder shall permit any person who is under the age of eighteen years, and no parent or guardian of a person under the age of eighteen years shall permit such person to enter in any area where gambling takes place or to take part in any gambling or to handle or operate a gambling **[machine]** device."

(d) substituting for subsection (4) of section 85 of the following subsection:

"(4) Where the court which has convicted a person of any offence is of the opinion that, by reason of the nature of the offence or the circumstances under which it was committed, it is desirable in the interest of public order, public morals or fair play that such person should not be permitted to enter any or specific premises licensed under this **[law]** Act, the court may issue a written order prohibiting him or her from entering any such premises specified in the order for a period to be stated in the order."

(e) substituting for subsection (5) of section 85 of the following subsection:

“(5) Where a court makes an order under subsection (4), the Clerk of the Court or Registrar of the High Court shall submit a copy of the order to the Designated officer who shall cause a copy thereof to be delivered to the licence holder or licence holders named in the order.”

66A Section 88 of the Principal Act is hereby amended by -

1. Substituting for subsection (9) of the following subsection:

“(9) Contravenes any other provision of the [law] Act, shall be guilty of an offence and on conviction (unless otherwise expressly provided elsewhere in the [Law] Act) be liable to a fine not exceeding [one hundred thousand rand] two million rand or to imprisonment for a period not exceeding ten years, provided that in the event of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine or the period of such imprisonment”

2. Inserting subsection 10

“(10) All fines imposed in terms of this Act shall be accrue to the Provincial Revenue Fund, provided that the fines imposed in terms of a rule contemplated in section 96 shall accrue to the Board.”

3. Inserting subsection 11

“(11) Whenever any person is convicted of an offence in terms of this Act; all costs incurred by the Board or the South African Police Services, including any costs for the transport or storage of any gambling devices, equipment or ant other thing by means of which the offence was convicted or which was used in the commission of the offence or found in the possession of the convicted person, shall, in addition to any fine or penalty imposed in terms of subsection (9) be for the account of such person, unless the Court orders otherwise.”

Amendment of section 95 of Act 5 of 1996

67. Section 95 of the principal Act is hereby amended by:

(a) substituting for subsection (1) of section 95 of the following subsection:

“(1) The responsible Member in conjunction with the Executive Council, may by notice in the Provincial Gazette make regulations regarding.”

(b) addition after subsection (1)(f) of section 95 of the following subsection:

“(g) the stakes for which any casino game may be played.”

(c) addition of the following subsections after subsection (3) of section 95:

“(4) Not less than one month before any regulation is made under this section, the Responsible Member shall cause the text thereof to be published in the Provincial Gazette together with a notice declaring his or her intention

to make that regulation and inviting interested parties to furnish any comments thereon or any representations which they may wish to make in regard thereto, to the Responsible Member.

(5) The provisions of subsection (4) shall not apply in respect of –

(a) any regulation which, after the provisions of that subsection have been complied with has been amended by the Responsible Member, in consequence of comments or representations received in pursuance of such compliance; or

(b) any regulation in respect of which the public interest requires it to be made without delay.”

Amendment of section 96 of Act 5 of 1996

68. Section 96 of the principal Act is hereby amended by:

(a) substituting for subsection (1) of section 96 of the following subsection:

“(1) The Board may by notice in the Provincial Gazette make rules not inconsistent with the provisions of this [Law] Act relating to the exercise of its powers and the performance of its functions, including - ”

(b) substituting for subsection (1)(b) of section 96 of the following subsection:

“(b) the management and control of licensed premises and [gambling operations] licence holders;”

(c) addition of the following subsections after subsection (1)(c) of section 96:

“(d) the operational standards and minimum internal control requirements for licensees;

(e) such control measures as the Board may deem necessary; and

(f) in general, any matter in respect of which it is necessary or expedient to make rules in order to achieve the objects of this Act.”

(d) deleting of subsection (2) of section 96 and substituting thereof of the following subsection:

“(2) Different rules may be made in respect of different areas, types of licences or casino games.”

(e) addition of the following subsections after subsection (2) of section 96:

“(3) A rule of the Board may provide for fines not exceeding ten thousand rand (R10 000) for any contravention thereof or failure to comply therewith and which may be imposed by the Board after affording the person concerned an opportunity to be heard.

(4) Not less than one month before any rule is made under this, the Board shall cause the text thereof to be published in the Provincial Gazette together

with a notice declaring its intention to make that rule and inviting interested persons to furnish any comments thereon."

Amendment of section 97 of Act 5 of 1996

69. Section 97 of the principal Act is hereby amended by substitution thereof of the following subsection:

"Save for the provisions of a National Gambling Act 33 of 1996 as contemplated in [section 126(3)] schedule 4 of the Constitution of the Republic of South Africa, [1993 (Act 200 of 1993) 1996 (Act No. 108 of 1996) or as may otherwise be provided in this [law] Act, nothing contained in any other law relating to gambling or racing shall apply in respect of any gambling or racing conducted in the Province."

Amendment of section 98 of Act 5 of 1996

70. Section 98 of the principal Act is hereby amended by:

- (a) substituting for subsection (4) of section 98 of the following subsection:

"(4) All licences issued in terms of the Horse Racing and Betting Ordinance, 1968, shall after the commencement of this [Law] Act, remain valid until they expire or are revoked in terms of this [Law] Act, whereafter application for new licences shall be made in terms of this [Law] Act."

- (b) insertion after subsection (4) of section 98 of the following subsection, the existing subsection (5) becoming subsection (6):

"(5) All licences issued by the Northern Cape Gambling Board in terms of section 55 of the Northern Cape Gambling and Racing Act No. 5 of 1996 shall be deemed to have expired with effect from the date of promulgation of this Act."

- (c) substituting for subsection (5) of section 98 of the following subsection:

"(6) Any person who at the commencement of this [Law] Act uses or permits to be used any premises in such manner that he or she is required in terms of this [Law] Act to be in possession of a totalisator premises licence contemplated by section 53 for each such premises may, for a period of one hundred and eighty days after such commencement, continue to use or permit to be used premises in such manner while not in possession of such licence or licences."

- (d) substituting for subsection (6) of section 98 of the following subsection:

"(7) Any person who at the commencement of this [Law] Act is so employed that he or she is required to be in possession of a key employee certificate of registration or a gambling employee certificate of registration contemplated by section 67 and 68 may, for a period of one hundred and

eighty days after such commencement, continue to be so employed while not in possession of the relevant certificate of registration."

70A. Amendment of section 98 by the deletion of subsection (7) thereof.

[The Premier shall, not less than thirty days prior to the coming into operation of this Act in terms of section 108

- (a) make a public announcement ; and**
- (b) cause a notice to be published in the Provincial Gazette,**

in which the Premier shall specify the date on which this Act will come into operation so as to afford all persons in the province who are involved with ant gambling activity which is not licenced in accordance with this Act, an early opportunity to cease such involvement on or before the coming into operation of the sections of the Act relating to the establishment and appointment of the Board]

Amendment of section 100 of Act 5 of 1996

71. Section 100 of the principal Act is hereby amended by substituting thereof of the following subsection:

"A provincial or local division of the [Supreme] High Court having jurisdiction may, at the instance of a person who has made any application, objection or representation in terms of this Act and who feels aggrieved by a decision made by the competent authority in connection with that application, objection or representation, review such decision; Provided, however, that a decision granting or denying a licence may be set aside only [is it] if it is proved by clear and convincing evidence to be contrary to the provisions of this Act or to have been procured by fraud."

Amendment of section 102 of Act 5 of 1996

72. Section 102 of the principal Act is hereby amended by:

- (a) substituting for the title of the section of the following title:

"Appeals to [Supreme] High Court"

- (b) substituting for subsection (1) of section 102 of the following subsection:

"(1) A person who has made any application, objection or representation in terms of this Act and who feels aggrieved by a decision on a question of law other than a question of fact made by the competent authority in connection with the application, objection or representation, may within a period of three months from the date of the decision of the Board, appeal to a provincial or local division of the [Supreme] High Court having jurisdiction against the decision."

Repeal of existing laws

73. The following Acts are hereby repealed:

- (i) The Horse Racing and Betting Ordinance, 1968 (Ordinance 34 of 1968)
- (ii) The Northern Cape Gambling and Racing Amendment Act, 2000 (Act 6 of 2000)

Short title and Commencement

74. (1) This Act shall be called the Northern Cape Amendment Act 2000 and shall come into operation on a date fixed by the Premier by proclamation in the Provincial Gazette.
- (2) Different dates may be so fixed in respect of different areas in the Province.
- (3) Different dates may be so fixed in respect of different provisions of this Act.
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