

FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

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GENERAL NOTICE 6 OF 2009/2010

**PUBLICATION OF THE FREE STATE
GAMBLING AND LIQUOR BILL**

It is notified for general information and comment that the above-mentioned Bill is hereby published in terms of Rule 147 of the Rules and Orders of the Free State Legislature.

Any comments or remarks must be submitted to the Secretary: Free State Legislature, Private Bag X20561, Bloemfontein, 9300 to reach him not later than **18 February 2010**.

**TB PHITSANE
ACTING SECRETARY: FREE STATE
LEGISLATURE**

**ALGEMENE KENNISGEWING 6 VAN
2009/2010**

**PUBLIKASIE VAN DIE VRYSTAATSE
WETSONTWERP OP DOBBEL EN DRANK**

Dit word vir algemene kennisname en kommentaar bekendgemaak dat bostaande Wetsontwerp hierby gepubliseer word in terme van Reël 147 van die Reëls en Orders van die Vrystaatse Wetgewer.

Enige kommentaar of opmerkings moet gestuur word aan die Sekretaris: Vrystaatse Wetgewer, Privaatsak X20561, Bloemfontein, 9300 om hom nie later as **18 Februarie 2010** te bereik nie.

**TB PHITSANE
WAARNEMENDE SEKRETARIS:
VRYSTAATSE WETGEWER**

BILL

To provide for control over gambling and liquor; and to provide for matters incidental thereto.

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SCHEDULE

BE IT ENACTED by the Provincial Legislature of the Free State Province as follows:

CHAPTER 1

DEFINITIONS, INTERPRETATION, OBJECTS AND APPLICATION OF ACT 5

Definitions and interpretation

1. (1) In this Act, unless the context indicates otherwise -

“**accommodation establishment**” means any place in or upon which the business of providing accommodation with or without meals is conducted for gain; 10

“**amusement game**” means any game, other than bingo or a game similar to or derived from a game normally played in a casino or on a slot machine, played with or by means of an amusement machine which, upon payment of money, a token or a similar object, is available to be played and which enables the player to win a prize, provided that such prize may not be in the form of cash, tokens, credit or any negotiable instrument, but must be limited to non-cash prizes with a retail value not more than the prescribed amount; 15
20

“**amusement machine**” means any machine or device, other than a gambling device, on or by means of which an amusement game may be played; 25

“**applicant**” means a person who has lodged an application in terms of this Act; 25

“**Auditor-General**” means the person appointed as Auditor-General in terms of the Public Audit Act, 2004 (Act No. 25 of 2004); 30

“**authorised dealer**” has a similar meaning as used in the Methylated Spirits Regulations issued in terms of the National Liquor Act; 30

“**Authority**” means the entity established in terms of section 4; 35

“**beer**” includes - 35

(a) ale, cider and stout; and

(b) any other fermented drink, other than traditional African beer - 40

(i) that is manufactured as, or sold under the name of, beer, ale, cider or stout, if it contains more than one per cent by volume of alcohol; or

(ii) that is declared to be beer under section 42(2)(a) of the National Liquor Act; 45

“**bingo**” means a game, including a game played in whole or in part by electronic means –

- (a) that is played for consideration, using cards or other devices - 5
 - (i) that are divided into spaces each of which bears a different number, picture or symbol; and
 - (ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols; 10
- (b) in which an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match each such number, picture or symbol on the card or device as it is called or displayed; and 15
- (c) in which the player who is first to match all the spaces on the card or device or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize, 20

or any other substantially similar game declared to be bingo in terms of section 6(4) of the National Gambling Act, 2004;

“**bingo hall**” means the licensed premises upon which the game of bingo is played under a bingo operator licence; 25

“**board**” means the Free State Gambling and Liquor Board referred to in section 4; 30

“**bookmaker**” means a person who directly or indirectly lays fixed-odds bets or open bets with members of the public or other bookmakers or takes such bets with other bookmakers;

“**casino**” means premises where gambling games are played or are available to be played, but does not include premises in which - 35

- (a) only bingo and no other gambling game is played or available to be played;
- (b) only limited gambling machines are available to be played; 40
- (c) limited gambling machines and bingo, but no other gambling game, are played or available to be played;

- (d) only social gambling is conducted in terms of a temporary licence or this Act;

“**casino game**” means any game played with playing cards, dice, gambling machines, gambling devices or any other device used to bring about the result of a wager by determining win or loss for money, property, cheques, credit or anything of value (other than an opportunity to play a further game), including, without derogating from the generality of the foregoing, roulette, bingo, twenty-one, black-jack, chemin de fer and baccarat, but excluding lottery;

5

“**company secretary**” means a person appointed by the board as set out in terms of section 268A-G of the Companies Act, 1973 (Act No. 61 of 1973);

10

“**competent authority**” means the responsible Member or the board, as the case may be, by whom any power or function in terms of this Act is to be exercised or performed;

15

“**concoction**” means any substance that is unsafe for human consumption;

“**consideration**” means –

20

- (a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar objects; or

- (b) any other thing, undertaking, promise, agreement or assurance, regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

25

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

30

“**contingency**” means an event or occurrence of which the outcome is uncertain or unknown to any person until it happens;

“**control**” has a similar meaning as contemplated in the provisions of the Competition Act, 1998 (Act No. 89 of 1998);

35

“**department**” means the department responsible for liquor and gambling matters in the Province;

“**designated area**” –

40

- (a) in relation to a site, means an area at that site in which any limited gambling machine is authorised to be placed;

- (b) in any other case, means an area within licensed premises where any gambling game is available to be played;

45

- (c) any area within 5 metres of a bookmaker or totalisator's serving counter on a race course; and
- (d) must include any area designated as such by the board in the conditions of any license issued by it; 5
- “domestic partnership”** means the conjugal or non-conjugal domestic relationship between unmarried people of the same or opposite sex;
- “Executive Council”** means the Executive Council of the Province contemplated in section 125 of the Constitution; 10
- “family member”** means a person's –
- (a) spouse; 15
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;
- “financial interest”** means – 20
- (a) a right or entitlement to share in profits or revenue;
- (b) a real right in respect of property of a company, corporation or business; 25
- (c) a real or personal right in property used by a company, corporation or business; or
- (d) a direct or indirect interest in the voting shares, or voting rights attached to shares, of a company or an interest in a close corporation; 30
- “fixed-odds bet”** means a bet on one or more contingencies in which odds are agreed at the time the bet is placed;
- “gambling”** means wagering a stake on any activity of which the outcome is uncertain for the sake of a return and is the generic term encompassing all forms of gambling and wagering; 35
- “gambling device”** means equipment or any other thing, excluding currency, that is used directly in conduct of a gambling activity, or which, at the time of its manufacture was designed to be used, in determining the result of a gambling activity; 40

“**gambling game**” means any activity –

- (a) which it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to, or receive a pay-out; and 5
- (b) which the result might be determined by the skill of the player, the element of chance or both;

“**gambling machine**” means any mechanical, electrical, video, electronic, electro-mechanical or other device, contrivance, machine or software, other than an amusement machine, that – 10

- (a) is available to be played or operated upon payment of a consideration; and 15
- (b) may, as a result of playing or operating it, entitle the player or operator to a pay-out, or deliver a pay-out to the player or operator;

“**Head of Department**” means the Head of the Department responsible for liquor and gambling matters in the Province; 20

“**inspector**” means a person contemplated as such in terms of section 115;

“**licence**” means a gambling licence issued in terms of this Act; 25

“**licensed or registered premises**” means that part or parts of any premises which have been licensed or registered for the conducting of gambling or liquor sales or manufacturing in terms of this Act;

“**licensee**” or “**licence holder**” means a person licenced for gambling in terms of this Act; 30

“**limited gambling machine**” means a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed by regulations made in terms of the National Gambling Act; 35

“**liquor**” means -

- (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989); 40
- (b) beer or traditional African beer; or
- (c) any other substance or drink declared to be liquor under section 42(2)(a) of the National Liquor Act; 45

“**lottery**” means a lottery as defined in section 1 of the Lotteries Act, 1997 (Act No. 57 of 1997);

“**municipality**” means a category A or B municipality as defined in section 155(1)(a) and (b) of the Constitution;

“**manufacture**” means to produce or bottle liquor or methylated spirits for the purpose or with the intent of selling it; 5

“**methylated spirits**” means spirits denatured in accordance with any law on the denaturation or methylation of spirits or any other denatured, medicated, perfumed or otherwise treated spirit declared to be “**methylated spirit**” under any law; 10

“**micro-manufacturer**” means a person registered as such to manufacture liquor or methylated spirits at or below the threshold volume prescribed by the National Liquor Act; 15

“**minor**” means a person who has not attained the age of 18 years;

“**National Gambling Act**” means the National Gambling Act, 2004 (Act No. 7 of 2004), including any regulations made under it; 20

“**National Liquor Act**” means the Liquor Act, 2003 (Act No. 59 of 2003), including any regulations made under it;

“**National Minister**” means the Minister responsible for liquor and gambling matters nationally; 25

“**open bet**” means –

(a) a bet, other than a totalisator bet, taken by a bookmaker on one or other contingencies, in which no fixed-odds are agreed at the time the bet is placed; or 30

(b) a bet in respect of which the pay-out is determined after the outcome of the contingency on which such a bet is struck became known, with reference to dividends generated by a totalisator; 35

“**opportunity to play a further game**” means an opportunity which cannot be distributed or transferred to the person who has won such opportunity or to any other person, for any purpose other than to use such opportunity without any interruption to continue playing the type of game in respect of which the opportunity was won, and excludes an opportunity which can in any manner, whether directly or indirectly, be converted into money, property, cheques, credit or anything of value, or be so converted in terms of any scheme, arrangement, system, plan or device which the responsible Member may from time to time by notice in the *Provincial Gazette* declare not to be an opportunity to play a further game; 40 45

“**organ of state**” means an organ of state as defined in section 239 of the Constitution;

“**person**” includes a partnership, association, trust, or a juristic person established by or in terms of any law; 5

“**political office-bearer**” means –

(a) a member of the National Assembly, the National Council of Provinces or the Cabinet; 10

(b) a member of the Provincial Legislature;

(c) a member of a municipal council; 15

(d) a diplomatic representative of the Republic who is not a member of the public service;

(e) a member of a house , or council of traditional leaders; or 20

(f) a national or provincial office-bearer of a political party;

“**premises**” includes any place, land, building or conveyance, or any part of it;

“**prescribed**” means prescribed by regulation and “**prescribe**” has a corresponding meaning; 25

“**prize**” means any movable or immovable property whether corporeal or incorporeal; 30

“**Province**” means the Free State Province as established by section 103 of the Constitution and “**provincial**” has a similar meaning;

“**Provincial Legislature**” means the Provincial Legislature of the Province as referred to in section 104 of the Constitution; 35

“**public servant**” means a person employed within an organ of state, a court or a judicial officer;

“**public transport**” means transport which the public have a right to use; 40

“**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 have been made known by public advertisement or private invitation;

“**registered person**” means -

- (a) a micro-manufacturer or retail seller; or
- (b) a person acting in the capacity of an employee or agent of a person referred to in paragraph (a); 5

“**registrant**” means a person who has been registered for purposes of liquor sales or manufacturing or methylated spirits in terms of this Act; 10

“**regulation**” means a regulation made under this Act;

“**Republic**” means the Republic of South Africa as referred to in section 1 of the Constitution; 15

“**responsible Member**” means the Member of the Executive Council of the Province responsible for regulation of gambling and liquor;

“**retail sale**” means the sale of liquor or methylated spirits for the purpose of consumption; 20

“**retail seller**” means a person who is registered to sell liquor or methylated spirits, or make liquor or methylated spirits available for sale, for the purpose of consumption; 25

“**rule**” means a rule made under section 138;

“**sell**” includes exchange, offer, display, deliver, supply or dispose of, for sale, or authorise, direct or allow a sale; 30

“**site**” means premises licensed for the placement of one or more limited gambling machines contemplated in section 77;

“**sporting event**” means any legal event or contingency unless as otherwise prescribed; 35

“**spouse**” means a person’s -

- (a) partner in a marriage;
- (b) civil union partner as provided for in the Civil Union Act, 2006 (Act No. 17 of 2006); 40

- (c) partner in a customary union according to indigenous law; or
- (d) partner in a domestic partnership;
- “**State**” includes all three spheres of government; 5
- “**supply**”, with regard to any liquor or methylated spirits, means to place a person in possession or control of that liquor or methylated spirits, respectively;
- “**tavern**” means a place whose main business is the supply of liquor, food and various forms of entertainment; 10
- “**this Act**” includes any rule, schedule, regulation or notice made under this Act;
- “**totalizator**” means a system of betting on a sporting event in which the aggregate amount staked on such event or combination of events, after deduction from such aggregate amount of any amounts which may lawfully be deducted therefrom, whether under this Act or by agreement, is divided amongst those persons who have made winning bets on that event or combination of events in proportion to the amounts staked by such persons in respect of such winning bets, and includes any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles; 15
20
- “**traditional African beer**” - 25
- (a) has the meaning determined in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964), if any; or
- (b) in the absence of a meaning contemplated in paragraph (a), has the meaning set out in Schedule 1 of the National Liquor Act; 30
- “**ward**” means a ward as demarcated for purposes of local government elections.
- (2) For all purposes of this Act, the question whether, at the time of producing, bottling or acquiring any liquor or methylated spirits, a person did so for the purpose or with the intention of selling that liquor or methylated spirits is a matter of fact to be inferred from the circumstances, including but not limited to - 35
- (a) the frequency and quantity of liquor or methylated spirits produced, bottled or acquired by that person; 40
- (b) the frequency and quantity of sales of liquor or methylated spirits by that person;

- (c) the existence or absence of any evidence that-
- (i) at the time that liquor or methylated spirits was acquired, the person could reasonably have expected that the acquisition and retention of that liquor or methylated spirits could result in commercial gain; or 5
 - (ii) the person acquired or retained the liquor or methylated spirits with the expectation of realising a commercial gain;
- (d) the existence or absence of evidence of advertising, promotional or marketing activity by that person relating to the sale of liquor or methylated spirits; and 10
- (e) the nature of any relationship between that person and a registered person. 15
- (3) (1) An activity is a gambling activity if it involves -
- (a) placing or accepting a bet or wager in terms of sub-subsection (2);
 - (b) placing or accepting a totalisator bet, in terms of sub-subsection (3); or 20
 - (c) making available for play, or playing bingo or another gambling game as contemplated in sub-subsection (4). 25
- (2) A person places or accepts a bet or wager when that person -
- (a) being a player, stakes money or anything of value on a fixed-odds bet, or an open bet, with a bookmaker on any contingency; or 30
 - (b) being a bookmaker -
 - (i) accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency; or 35
 - (ii) stakes money or anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency;
 - (c) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or 40
 - (d) expressly or implicitly undertakes promises or agrees to do anything contemplated in paragraph (a), (b) or (c).

- (3) A person places or accepts a totalisator bet when that person stakes money or anything of value on the outcome of an event or combination of events by means of –
- (a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or 5
 - (b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles. 10
- (4) An activity is a gambling game if -
- (a) it meets the following criteria: 15
 - (i) it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to, or receive a pay-out; and 20
 - (ii) the result might be determined by the skill of the player, the element of chance, or both; or
 - (b) it is a bet or wager in terms of sub-subsection (2), that is placed in a casino in relation to an activity that meets the criteria in paragraph (a). 25
- (5) Despite sub-subsection (4), for all purposes of this Act, none of the following activities is a gambling game:
- (a) a bet or wager in terms of sub-subsection (2), other than a bet or wager contemplated in sub-subsection (4)(b); 30
 - (b) a totalisator bet in terms of sub-subsection (3); or
 - (c) an amusement game. 35
- (6) (a) Subject to paragraph (b), a pay-out is any money, merchandise, property, a cheque, credit, electronic credit, a debit, a token, a ticket or anything else of value won by a player - 40
- (i) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and
 - (ii) regardless how the pay-out is made.

- (b) Neither of the following is a pay-out:
- (i) an opportunity to play a further game; or
 - (ii) a prize given to a participant or team of participants in a sporting event in respect of the participant's or team's performance in that event. 5
- (c) The result of a gambling game - 10
- (i) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game –
 - (aa) in respect of which the opportunity was won; and 15
 - (bb) on the machine on which the opportunity was won; but
 - (ii) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be - 20
 - (aa) distributed or transferred to the person who has won such an opportunity or to any other person, or
 - (bb) converted into money, property, a cheque, credit or any other thing of value; or 25
 - (cc) converted in terms of any scheme, arrangement, system, plan or device prescribed in terms of the National Gambling Act. 30

Objects of Act

2. The objects of this Act are -

- (1) in relation to liquor to - 35
- (a) reduce the socio-economic and other costs of alcohol abuse by -
 - (i) implementing essential national norms and standards in the liquor industry as determined by the National Liquor Act; 40
 - (ii) regulating the micro-manufacturing and retail sale of liquor or methylated spirits; and
 - (iii) providing for public participation in the consideration of applications for registration; and 45

- (b) promote the development of a responsible and sustainable liquor industry in a manner that facilitates -
 - (i) the entry of new participants into the industry; 5
 - (ii) diversity of ownership in the industry;
 - (iii) an ethos of social responsibility in the industry; and
 - (iv) local tourism and economic growth; and 10
- (2) in relation to gambling to -
 - (a) implement national norms and standards in the gambling industry as determined by the National Gambling Act; 15
 - (b) ensure that –
 - (i) gambling activities are effectively regulated, licenced, controlled and policed; 20
 - (ii) members of the public who participate in any licenced gambling activity are protected;
 - (iii) society and the economy are protected against over-stimulation of the latent demand for gambling; and 25
 - (iv) the licensing of gambling activities is transparent, fair and equitable;
 - (c) generate revenue for the Province. 30

Application of Act

- 3. Subject to the relevant provisions of the National Gambling Act and National Liquor Act, this Act applies to – 35
 - (a) all retail sale, consumption and micro-manufacturing of liquor or methylated spirits; and
 - (b) gambling conducted in the Province. 40

CHAPTER 2 ESTABLISHMENT AND ADMINISTRATION OF ENTITY

Establishment of Entity 45

- 4. (1) There is hereby established an entity called the Free State Gambling and Liquor Authority as juristic person.

- (2) The Authority consists of the board, chief executive officer and administration.
- (3) The powers and functions of the Free State Gambling and Liquor Authority are managed and controlled by a board appointed by the responsible Member, in consultation with the Executive Council. 5

Powers and functions of the board

5. The board may - 10
- (a) invite applications for licences or accept any applications without such invitation, subject to the provisions of the Act;
- (b) consider, grant or refuse applications in terms of this Act; 15
- (c) cancel, suspend, vary, renew or revoke a licence or registration approved by it subject to this Act;
- (d) furnish a report or recommendation to the responsible Member on a matter referred to it or requested by the responsible Member; 20
- (e) exercise any other power conferred or imposed in terms of this Act or any other law;
- (f) exercise any power necessary to conduct the business, manage the administration and finances of the Free State Gambling and Liquor Authority, which includes, amongst others, entering into agreements, attend to litigation, lease property for the operations of the board; 25
- (g) condone, on good cause shown, any immaterial non-compliance with the provisions of the Act; 30
- (h) co-opt persons, without voting rights, who is able to assist the board with a specific matter where special skills are required; 35
- (i) notwithstanding anything to the contrary contained in this Act, the interim board referred to in section 6(5) may exercise and perform the powers and functions of the board, excluding the granting and revocation of licences or registrations, in the absence of the board. 40

Composition of the board

6. (1) The board consists, together with persons contemplated in subsection (2), of -
- (a) 1 member who is qualified to be admitted to practice as a legal practitioner in the Republic and has, for a cumulative period of at least 5 years after having so qualified, practised as a legal practitioner or performed service related to the application or administration of the law; 45

- (b) 1 member who is an accountant or auditor in the Republic and has, for a cumulative period of at least 5 years after having so qualified, practised as such;
 - (c) two employees of the department, designated by the responsible Member; 5
 - (d) two employees representing the Provincial Treasury, designated by the Member of the Executive Council responsible for Finance;
 - (e) not more than 9 members who must have proven business acumen or knowledge of the gambling industry or liquor industry, who are suitable for appointment to the board. 10
- (2) The chief executive officer and the company secretary are *ex officio* members of the board without voting rights. 15
- (3) The responsible Member appoints a member of the board as the chairperson, and another member as the deputy chairperson, of the board.
- (4) If the chairperson is absent or is for any reason unable to act as chairperson, the deputy chairperson must perform the functions of the chairperson. 20
- (5) Notwithstanding any other provisions of this Act, the responsible Member may, in consultation with the Executive Council and in the absence of the board, appoint an interim board subject to the following: 25
- (a) the interim board may be appointed without inviting nominations;
 - (b) the interim board may consist of not more than 15 members; 30
 - (c) the interim board may be appointed for a period of not longer than 4 months;
 - (d) the powers and functions of the interim board is regulated in terms of section 5(i). 35

Eligibility to be appointed as member of the board

7. (1) A person may not be appointed or remain a member of the board - 40
- (a) unless he or she -
 - (i) is a natural person;
 - (ii) is a citizen of the Republic and ordinarily resident in the Province; 45
and
 - (iii) is a fit and proper person;

- (b) if he or she -
- (i) has any direct or indirect financial interest in -
 - (aa) any gambling activity; or 5
 - (bb) any other business or enterprise,
that may conflict with the proper performance of his or her functions
as a member of the board; 10
 - (ii) is a political office-bearer;
 - (iii) is a partner or associate of, or related within the second degree by
affinity or consanguinity to, a person referred to in paragraph (b) (i)
or (ii); 15
 - (iv) is an unrehabilitated insolvent;
 - (v) has at any time been removed from an office of trust on account of
misconduct; 20
 - (vi) has been convicted during the previous ten years, in the Republic or
elsewhere, of theft, fraud, forgery or uttering a forged document,
perjury, an offence under the Corruption Act, 1992 (Act No. 94 of
1992), an offence under the Prevention and Combating of Corrupt
Activities Act, 2004 (Act No. 12 of 2004), or an offence in terms of
this Act or similar law, and has been sentenced to imprisonment
without the option of a fine, or to a fine exceeding the prescribed
amount, unless the person has received a grant of amnesty or free
pardon for the offence; 25
30
 - (vii) is a public servant: Provided that this disqualification may not apply
to a member of the board referred to in section 6(1) (d) or (e); or 35
 - (viii) is listed in the register of excluded persons held by the National
Gambling Board;
 - (ix) has or acquires a direct or indirect financial interest in premises used
for an activity that must be licensed in terms of this Act; 40
 - (x) has been declared mentally ill by a court of law.

- (2) (a) If any member of the board during his or her term of office becomes disqualified in terms of subsection (1), or acquires, or whose partner, associate or family member, as referred to in subsection (1)(b) (iii), acquires, an interest which is likely to be an interest as referred to in subsection (1)(b) (i) or (ii), he or she must as soon as practicable after he or she has been disqualified or after the acquisition of such interest, or after he or she has become aware of such information, in writing declare such information to the responsible Member. 5
- (b) If the responsible Member, after receiving the information from a member of the board as referred to in paragraph (a), is of the opinion that such member is disqualified in terms of subsection (1) to remain a member of the board, he or she must, subject to section 10(2), terminate the term of office of such member in terms of section 10(1)(b). 10

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Procedure for appointment

8. (1) Prior to appointment, the responsible Member must invite interested parties in the *Provincial Gazette* and in at least one newspaper circulating in the Province to nominate members for appointment on the board. 20
- (2) Notwithstanding the provision of subsection (1), a vacancy in the office of a member immediately occurs when –
- (i) such member dies; 25
- (ii) such member's written resignation is received by the responsible Member;
- (iii) such member's term of office has expired; or 30
- (iv) such member's term has been terminated in terms of section 10.

Tenure of office

9. (1) A member of the board holds office for such period, not exceeding 3 years, as the responsible Member may determine at the time of his or her appointment, and such term may on expiry be extended for a maximum period of 2 years by the responsible Member in consultation with the Executive Council. 35
- (2) A member of the board is eligible for reappointment at the termination of his or her term of office contemplated in subsection (1), subject to sections 6, 7 and 8. 40

Termination of office and filling of vacancies

10. (1) The responsible Member may, after he or she has afforded a member of the board the opportunity to state his or her case, at any time terminate the term of office of such member if - 45

- (a) there are good reasons for doing so, it is in the best interest of the board and the proper control and regulation of gambling or liquor industries;
 - (b) he or she is disqualified to remain a member of the board in terms of section 7; or 5
 - (c) he or she has been absent from more than 2 consecutive meetings of the board without the prior leave of the chairperson.
- (2) If the responsible Member terminates the term of office of a member of the board in terms of subsection (1), he or she must disclose such termination by way of notice in the *Provincial Gazette* within 14 days after the date of such termination. 10

Remuneration and allowances

11. (1) Members of the board who are not in the full-time service of the State or the Province may, in respect of their services, be paid such remuneration and allowances from the funds of the board as may be determined by the responsible Member after consultation with the Member of the Executive Council responsible for Finance and in line with guidelines from the National Treasury. 15
- (2) The remuneration and allowances of the members of the board may differ according to the different offices held by them or the different functions performed by them. 20

Chief executive officer and other staff

12. (1) The board must, in the exercise of its powers and the performance of its functions under this Act, be assisted by - 30
- (a) a suitably qualified and experienced person as chief executive officer who must be appointed by the responsible Member, after consultation with the board, subject to subsections 7(1)(a)(i), (iii) and 7(1)(b); and
 - (b) a suitably qualified and experienced person as company secretary appointed by the board, subject to subsections 7(1)(a)(i), (iii) and 7(1)(b). 35
- (2) The persons appointed by the board in terms of subsection (1) must from the funds of the board be paid such remuneration and allowances and must receive such other employment benefits and be appointed on such terms and conditions and for such periods, as the board may determine. 40
- (3) The responsibilities of the chief executive officer include -
- (a) execution of functions and exercise of powers of the chief executive officer specifically contemplated in this Act or any other law; 45
 - (b) execution of functions and exercise of any power assigned or delegated to him or her by the board;

- (c) the day to day operations of the Authority, which include reporting on the performance of the Authority, accounting to the board on operational and financial matters and any matter referred to the chief executive officer by the board; 5
- (d) appointment of such staff, as may be necessary, to enable the board to exercise and perform its powers and functions under this Act effectively. 5
- (4) Notwithstanding subsection (3)(d), the board may, in the exercise of its powers and the performance of its functions, at its request and after consultation with the relevant entity, be assisted by officers designated or seconded by the Provincial Government, the South African Police Service, other Government Departments, or a body established by or under any law. 10
- (5) The company secretary is responsible for – 15
- (a) providing members of the board collectively and individually with guidance as to their duties, responsibilities and powers; 15
- (b) making the members of the board aware of all law and legislation relevant to or affecting the Authority and reporting at any meetings of the board, any failure to comply with such law or legislation; 20
- (c) ensuring that minutes of all meetings of the board and its committees are properly recorded; 25
- (6) The chief executive officer and the company secretary is appointed for a period of no longer than 5 years. 25
- Transparency and confidentiality** 30
13. (1) The board must, subject to subsection (2), function in a transparent and open manner. 30
- (2) A member of the board or staff of the board may not, except on the order of a court of law or subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), disclose – 35
- (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; 40
- (b) any document or information which has been furnished to the board by any regulatory or law enforcement authority on condition of confidentiality. 40

Position of trust

14. (1) In order to ensure the independence and integrity of the Authority -
- (a) a member of the board or of the staff of the board may not - 5
 - (i) apart from any remuneration received by virtue of the office he or she holds, directly or indirectly receive anything of value from any person that may conflict or interfere with the proper performance of his or her functions or benefit in any manner from the office that he or she holds; 10
 - (ii) participate in gambling or the liquor industries in the Province: Provided that such a person may participate in such gambling or the liquor industries if it is necessary for the performance of his or her functions under this Act; 15
 - (b) a member, former member, or staff member of the board may not solicit or accept employment or be employed by the holder of, or an applicant for a licence or registration in terms of this Act within 1 year after the termination of his or her term of office or service, as the case may be: Provided that a member, former member or staff member of the board may solicit and accept such employment within such period if – 20
 - (i) the board has in consultation with the responsible Member consented thereto in writing; 25
 - (ii) in the opinion of the board, exceptional circumstances exist; and
 - (iii) the board is satisfied that such employment would not frustrate the purpose of this Act; 30
 - (c) A member of the board or staff member of the board, any family member of such member or any person related to such member within the second degree of consanguinity, may not accept any donation, reward or other such benefit directly or indirectly from an applicant for, or the holder of, a licence or registration in terms of this Act, and no such person must directly or indirectly give or offer such donation, reward or such benefit to such member, family member or relative: Provided that the provisions of this subsection may not apply to – 40
 - (i) a reasonable meal with a value of less than the amount determined by the responsible Member given to a member of the board or staff of the board whilst such member or staff is acting in the course and scope of his or her duties; 45

- (ii) a *bona fide* gambling win by such a member of the board, staff member of the board, family member or relative at premises of such applicant, licence holder or registrant or an affiliate thereof where such person is not prohibited from so gambling in terms of this Act; 5
- (iii) subject to subsection 14(1)(d), a salary earned by such family member or person related to such member within the second degree of consanguinity from such applicant, licence holder or registrant in so far as the employment of such person by the licence holder will, in the opinion of the board, not compromise the objectivity of the member of the board or staff member of the board to whom such person is related; 10
- (iv) any benefit such as discounted accommodation, free promotional materials and the like, available to all members of the general public; 15
- (v) any benefit or object with a value not exceeding that determined by the responsible Member;
- (vi) buying of liquor or methylated spirits from a registrant; 20
- (d) no family member of a member or staff of the board must be employed at or by a gambling or liquor business in the Province if such employment would, in the opinion of the board, lead to a conflict of interest; 25
- (e) a member of the board or of the staff of the board must, before commencing to exercise or perform the powers or functions of his or her office, take the oath or make the affirmation as determined by the responsible Member. 30
- (2) The provisions of subsection 1(a) and (b) apply *mutatis mutandis* in respect of the responsible Member.
- (3) (a) A member of the board may not vote, attend or in any other manner participate in the proceedings at any meeting or hearing of the board if, in relation to any matter before the board - 35
- (i) he or she or his or her family member referred to in section 7(1)(b) (iii), 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 for a licence; or 40
- (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. 45

- (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 as referred to in paragraph (a) -
- (i) that member must 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 should be precluded from participating in the further proceedings at such meeting or hearing by reason of a conflict of interests; and 5
10
 - (ii) such disclosure and the decision taken by the remaining members of the board in this regard, must be recorded in the minutes of the proceedings in question. 15
- (c) If any member of the board fails to disclose any interest as referred to in paragraph (a) or if, having such an interest, he or she attends or in any manner whatsoever participates in the proceedings at the meeting or hearing concerned, the relevant proceedings are 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 or registered business to new premises, will thereby be invalidated. 20

Funds of the Authority 25

15. (1) The funds of the Authority consist of –
- (a) money appropriated by the Provincial Legislature for that purpose; and 30
 - (b) other money lawfully paid to the Authority.
- (2) All application fees, licence fees, penalties and any other moneys payable in terms of the provisions of this Act and all fines imposed in respect of offences under this Act, must be paid to the Authority for the benefit of the Provincial Revenue Fund and the board must monthly pay such amounts over to the Provincial Revenue Fund, furnishing such returns and information as the Provincial Treasury may require. 35
- (3) All application fees, licence fees, penalties and any other moneys payable in terms of the provisions of this Act, must be a debt due to the Provincial Administration of the Free State, and may be recovered in a competent court by the said Administration or by the board on behalf of the Administration: Provided that the board must primarily be responsible for the collection of the said amounts on behalf of the Provincial Administration. 40
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Financial management of the Authority

16. (1) Financial management and financial accountability of the Authority is regulated by the Public Finance Management Act, 1999 (Act No. 1 of 1999).

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(2) The annual financial statements of the Authority must be audited by the Auditor General.

Meetings of the board

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17. (1) (a) The first meeting of the board must be held at a time and place determined by the chairperson, and thereafter the board will meet at such times and places as the board may from time to time determine for the expeditious conduct of its business: Provided that the board must meet at least 4 times a year.

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(b) The chairperson may at any time on reasonable notice convene an extraordinary meeting of the board to be held at a time and place determined by him or her: Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, removal, suspension or revocation of a gambling licence, certificate or registration, may be taken at an extraordinary meeting.

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(2) The proceedings at a meeting of the board must, in as far as it has not been prescribed, be determined by the board.

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(3) The quorum for a meeting of the board is a majority of the members of the board.

(4) A decision of the board must be taken by a majority of the votes of the members present at a meeting of the board and, in the event of an equality of votes on any matter, the chairperson must have a casting vote in addition to his or her deliberative vote.

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(5) No decision of the board is invalid merely by reason of a vacancy in the board or the fact that any person who is not entitled to sit as a member, sat as a member of the board when the decision was taken: Provided that the decision was taken by the required majority of the members of the board then present and entitled to sit as members of the board.

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(6) Any meeting of the board convened for the purpose of -

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(a) considering representations or objections in relation to any application for a licence made in terms of this Act, must be accessible to the public: Provided that the chairperson in his or her discretion, or the board, may direct that a person may not attend the meeting or must leave the meeting, if the chairperson or the board, as the case may be, is of the opinion that such person's presence is not desirable at the meeting concerned; and

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- (b) deliberations with a view to making decisions and to voting thereon in respect of any matter at a meeting, must take place behind close doors.

Committees of the board

18. (1) The board may appoint one or more committees to exercise the powers and perform the functions delegated or assigned to it by the board. 5
- (2) A committee must consist of such members of the board as the board may designate. 10
- (3) The board must designate the chairperson of a committee.
- (4) (a) A committee must exercise its powers and perform its functions subject to the provisions of this Act and such directives of the board as are not in conflict with such provisions. 15
- (b) Any delegated power or function so exercised or performed is deemed to have been exercised or performed by the board. 20
- (c) All the provisions relating to the conduct and process applicable to the board apply *mutatis mutandis* to the committees of the board.

Minutes of the board

19. Minutes of every meeting of the board and its committees must be kept and be retained at the offices of the board. 25

Enquiries by the board

20. (1) The board may, subject to this section, conduct any enquiry into any matter falling within the scope of its powers and functions. 30
- (2) For the purpose of any enquiry in terms of subsection (1), the board may, by written notice, summon any person who is or who may be affected by or is concerned in the consideration of a particular matter by the board, to appear before the board - 35
- (a) to give evidence; or 40
- (b) to produce any book, document or thing which is in his or her possession or under his or her control and which, in the opinion of the board, relates or may relate to a matter to be considered thereat: Provided that at any enquiry held by the board, the person applying for a licence or registration or the transfer or removal of a licence or registration in terms of this Act, or any person objecting to the granting of such an application, or the person who is the subject of the enquiry, as the case may be, must, if he or she so requests, be entitled to appear before the board and to call witnesses. 45

- (3) A person who has received a notice in terms of subsection (2), must personally appear before the board on the date, time and place set out in the notice: Provided that if such a person is not legally competent to so appear before the board, any person who by law is competent to act on his or her behalf or any person authorised thereto by the board, may so appear on his or her behalf. 5
- (4) The provisions of subsection (3) apply *mutatis mutandis* to any corporate body, organisation or institution.
- (5) The board may call and examine any person present at the enquiry, whether or not he or she has been summoned under subsection (2) to attend the enquiry, and may inspect and retain for a reasonable period any book, document or thing, the production of which was required under that subsection: Provided that the said person affected must be entitled to make copies of such book, document or thing, if practicable, before it is so retained by the board. 10
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- (6) The board may require from any person appearing before the board at an enquiry in terms of subsection (1), to give his or her evidence on oath or affirmation, and the member of the board presiding at the enquiry, may administer the oath or accept an affirmation from any such person. 20
- (7) The law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, document or thing before a court of law, apply in relation to the examination of any such person or the production of any book. 25
- (8) Any person who appears before the board at an enquiry must be entitled to be represented by his or her legal representative.
- (9) The board may consider to compensate a person, except for the applicant or objectors to application, for his or her reasonable expenses. 30

CHAPTER 3 LIQUOR

Application of Chapter 35

21. Chapter 3 applies only to liquor and methylated spirits.

PART 1 RESTRICTIONS

40

Regulation of liquor and methylated spirits

22. (1) No person may undertake – 45
- (a) the micro-manufacturing of liquor or methylated spirits; or

(b) the retail sale of liquor or methylated spirits,
without being duly registered to do so in terms of this Act.

- (2) No person may manufacture, sell, supply as liquor or beer or have in his or her possession a concoction. 5

Registered activities from registered premises

23. (1) A registrant may carry out its registered activities only in or from registered premises and in accordance with this Act and any applicable conditions of registration. 10

- (2) A registrant may store liquor or methylated spirits only in registered premises, and in accordance with applicable legislation and conditions of registration. 15

- (3) A registrant must take reasonable steps to prevent consumption of liquor contrary to conditions of registration and applicable legislation.

Restrictions regarding employment in liquor industry 20

24. (1) Despite any law or agreement to the contrary, a registered person may not employ a person who has not yet attained the age of 16 in any activity relating to the micro-manufacturing or retail sale of liquor or methylated spirits unless the employee is undergoing training or a learnership contemplated in section 16 of the Skills Development Act, 1998 (Act No. 97 of 1998). 25

- (2) Despite any agreement to the contrary, an employer may not -

- (a) supply liquor or methylated spirits to any person as an inducement to employment; 30

- (b) supply liquor or methylated spirits to an employee as or *in lieu* of wages or remuneration; or 35

- (c) deduct from an employees' wages or remuneration any amount relating to the cost of liquor or methylated spirits -

- (i) supplied to the employee or to a person on behalf of the employee; or 40

- (ii) purchased by, or on behalf of, the employee.

Advertising restrictions

25. (1) A person may not advertise - 45

- (a) liquor or methylated spirits -

- (i) in a false or misleading manner;

- (ii) in a manner intended to target or attract minors or school going learners; or

(b) a substance that is prohibited in terms of this Act.

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- (2) A person may not advertise a substance as liquor or methylated spirits if that substance is not liquor or methylated spirits as defined in this Act.

Restriction of supply of liquor or methylated spirits to minor or school going learner

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- 26. (1) A person may not sell or supply liquor or methylated spirits to a minor or school going learner.

- (2) Despite subsection (1), the parent, adult guardian of a minor or school going learner or a person responsible for administering a religious sacrament, may on occasion supply to that minor or school going learner a moderate quantity of liquor to be consumed by the minor or school going learner in the presence and under the supervision of that parent, guardian or other person.

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- (3) A person must take reasonable measures to determine accurately whether or not a person is a minor or school going learner, before selling or supplying liquor or methylated spirits to that person.

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- (4) A minor or school going learner may not make a false claim about age in order to induce a person to sell or supply liquor or methylated spirits to him or her.

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- (5) A person may not make a false claim about the age of a minor or a school going in order to induce a person to sell or supply liquor or methylated spirits to the minor or school going learner.

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- (6) A minor or school going learner may not supply liquor or methylated spirits to another person.

PART 2 REGISTRATION PROCESS

35

Registration

- 27. (1) A person, who is not disqualified as contemplated in subsection (3), including any registered person, may apply in the prescribed manner and form, to be registered as a micro-manufacturer or retail seller of liquor, or both.

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- (2) Subject to the National Liquor Act, a micro-manufacturer or an authorised dealer of methylated spirits may apply in the prescribed manner and form, to be registered as a micro-manufacturer or authorised dealer of methylated spirits.

- (3) Any person may be registered as a micro-manufacturer or retail seller of liquor or methylated spirits, or both, except a person who -
- (a) is a minor or school going learner at the date of submitting the application for registration; 5
 - (b) is an unrehabilitated insolvent;
 - (c) at the time of consideration of the application is committed in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002); 10
 - (d) has been convicted of a contravention of this Act or any other liquor legislation within the three years immediately preceding the date of application; or 15
 - (e) has been convicted, under applicable legislation, of an offence the elements of which are inconsistent with the objects and purposes of this Act, at any time -
 - (i) after the coming into operation of this Act; and 20
 - (ii) within the three years immediately preceding the date of application.

Determination of application

- 28.** (1) The board may - 25
- (a) require further information relevant to an application; and
 - (b) refuse an application if the applicant has not supplied all information required in terms of paragraph (a) within the prescribed time. 30
- (2) If the application complies with the provisions of the Act, the board must further consider the application, relating to the following criteria: 35
- (a) The applicant's proposed contribution to combating alcohol abuse, including whether the applicant has subscribed to any industry code of conduct approved by the National Minister as contemplated in section 13(1)(b) of the National Liquor Act; and 40
 - (b) The extent to which the proposed registration may materially restrict or promote -
 - (i) new entrants to the liquor industry; 45
 - (ii) job creation within the liquor industry;
 - (iii) diversity of ownership within the liquor industry;
 - (iv) efficiency of operation of the liquor industry; or 50
 - (v) competition within the liquor industry.

- (3) For a micro-manufacturing registration, the board may consider the applicant's commitment to black economic empowerment.
- (4) When considering application for registration, the board must also take due regard of issues of – 5
- (a) public interest;
- (b) proximity of the proposed premises to – 10
- (i) institutions of learning; or
- (ii) places of worship;
- (iii) existing outlets; 15
- (c) the ratio of population vis-à-vis the number of outlets in the relevant ward;
- (d) the report of the relevant municipality received in terms of section 31; and 20
- (e) the reports, views, comments and objections contemplated in sections 31(4) to 35;
- (5) After considering the application and all relevant factors the board may either - 25
- (a) register the applicant; or
- (b) refuse to register the applicant. 30
- (6) If the board refuses an application, the board must give the applicant written reasons for the decision.

Conditions of registration

29. (1) Registration is subject thereto that reasonable access be given to the relevant premises for purposes of inspection by members of the South African Police Service and inspectors. 35
- (2) The board may also issue the registration subject to any other reasonable conditions. 40
- (3) Registration may not be for a period longer than ten (10) years, but an application may be submitted anew in terms of the provisions of this Act prior to lapsing thereof. 45

Certificate, validity and public notice of registration

- 30.** (1) Upon registering an applicant, the board must –
- (a) issue a prescribed certificate of registration to the applicant; and 5
 - (b) enter the registration in the register.
- (2) A valid certificate of registration is sufficient proof that the registrant is registered in terms of this Act. 10
- (3) A registration -
- (a) takes effect on the date on which the applicant pays the prescribed registration fees; and 15
 - (b) remains in effect until –
 - (i) the registration is cancelled in terms of this Act; or 20
 - (ii) the registration certificate expires.
- (4) A certificate issued under subsection (1), must -
- (a) at all times be displayed by the holder in a conspicuous place in or on the premises to which such certificate refers; 25
 - (b) be kept by the holder in a clearly legible condition, as issued; and
 - (c) be produced by the holder or his or her agent to an inspector or designated police officer, on demand. 30
- (5) Where a certificate is lost or destroyed or becomes useless or illegible, the certificate holder may apply, in writing, to the board for the issue of a duplicate certificate and, if the board is convinced that the certificate has indeed been lost or destroyed or has become useless or illegible, it must issue a duplicate certificate, upon surrender of the useless or illegible certificate, depending on the case. 35

Application procedure for registration

- 31.** (1) Every application for a new registration must be submitted to the board at offices designated by the responsible Member by notice in the *Provincial Gazette* for the relevant area in which the registration is sought. 40
- (2) Every application for a new registration must provide or be accompanied by – 45
- (a) a detailed written motivation in support of the registration applied for;

- (b) the building plans of the premises as approved by the relevant municipality;
 - (c) a detailed written description of external and internal features of the premises to which the application relates; 5
 - (d) proof of publication in the *Provincial Gazette* and in at least one newspaper normally circulated in the ward where the premises is situated;
 - (e) proof of payment of the prescribed application fee into the account of the board; 10
 - (f) the full business address and location of the premises to which the application relates; and
 - (g) a certified copy of the identity document of the applicant or a certified proof in the case of trust, consortium, partnership or legal entity. 15
- (3) On receipt of the application by the board, said board must request -
- (a) a report by a liquor inspector regarding the application which includes the information contemplated in section 32(1); 20
 - (b) a report from the South African Police Service regarding the application, which must include information regarding the suitability of the applicant and the information contemplated in section 32(2); 25
 - (c) a report from the relevant municipality, which must include the information contemplated in section 32(3).
- (4) The municipality, liquor inspector and designated police officer contemplated in subsection (3) must compile and submit the relevant reports within the prescribed period. 30

Reports on application

32. (1) A report by a liquor inspector must provide details on those matters prescribed or which ought, in the opinion of the liquor inspector, have to be taken into consideration in respect of application concerned. 35
- (2) A report by a designated police officer must provide details of those matters prescribed and matters which ought, in the opinion of the designated police officer, to be taken into consideration in respect of the application concerned. 40
- (3) A report from the relevant municipality must provide information on - 45
- (a) the zoning of the relevant premises;

- (b) the impact on surrounding traffic patterns, traffic congestion, entrances and exits to and from the premises and parking requirements;
- (c) environmental health; or
- (d) any other matter which, in the opinion of the municipality, ought to be taken into consideration in respect of the application for registration.

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Objections

- 33.** (1) Any person may, in the prescribed manner, lodge an objection to the granting of a registration within 21 days from date of publication of the notice in the *Provincial Gazette*.
- (2) The objection must state full reasons and contain full particulars and contact details of the objector and be accompanied by supporting documents.

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Response to objections

- 34.** The applicant must, within a period of 14 days of receipt from the board of the objection lodged in terms of section 33, make a written response to the board and submit a copy thereof to the objector.

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Hearing of objections

- 35.** (1) The board may convene a sitting to consider any objections to the application in question, on a date, time and place as determined by the chairperson.
- (2) The applicant and a person who has lodged an objection to the application, must be afforded an opportunity to be heard and may be represented by a person of their choice.
- (3) A hearing may be adjourned and resumed on a date, time and a place as the board may determine.

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Application, registration and renewal fees

- 36.** (1) The responsible Member may prescribe -
- (a) an application fee to be paid in connection with any application in terms of this Act;
 - (b) registration fee to be paid upon registration; and
 - (c) an annual renewal fee to be paid by registrants.
- (2) The responsible Member may prescribe different fees in terms of subsection (1) for different categories of applicants or registrants.

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Variation of conditions of registration

37. (1) The board may reconsider, and vary the conditions of registration of a registrant, in any of the following circumstances: 5
- (a) If the registrant has notified the board of a material alteration contemplated in subsection (2);
 - (b) Upon request by the registrant submitted to the board in the prescribed manner and form. 10
- (2) A registrant may notify the board in the prescribed manner and form if it proposes to -
- (a) relocate any of the activities authorised under its certificate of registration; or 15
 - (b) alter the nature or conduct of any of registered activities, in a manner that differs in a material way from that specified in its application for registration. 20
- (3) Within 30 days after receiving a notice in terms of subsection (2), the board must advise the registrant either that - 25
- (a) the board will review the conditions of registration in light of the proposed changes; or
 - (b) the board accepts the proposed changes. 30
- (4) If the board reviews conditions of registration in terms of this section - 35
- (a) section 28, read with the changes required by the context, applies to the review; and
 - (b) the board may determine new or alternative conditions - 40
 - (i) only in relation to the registrant's materially altered circumstances, in the case of a review contemplated in subsection (1)(a) or (b); or
 - (ii) to the extent permitted by section 29, having regard to the circumstances at the time of the review.

Alteration or extension of registered premises

38. (1) A registrant may not effect structural alteration, addition or reconstruction of or to the registered premises except with permission of the board on application made by the registered person and the board is of the opinion that the proposed alteration, addition or reconstruction will be suitable for the purpose for which they are to be used. 5
- (2) The board may not grant the permission in terms of subsection (1) without the written consent of the municipality who approved the building plans for the proposed structural alteration, addition or reconstruction to the registered premises. 10

Transfer of registration

39. (1) The registration certificate may be transferred to another person if - 15
- (a) the registrant, or the person to whom the registration is to be transferred, applies in the prescribed manner and form for approval of the transfer; 20
- (b) the person to whom the registration is to be transferred is not disqualified under section 27; and
- (c) the board has considered the application and approved the transfer. 25
- (2) If an application in terms of subsection (1) proposes a transfer of registration, section 28, read with the changes required by the context, applies to that application.
- (3) If a registered person acquires control over another registered person that holds a different category of registration, the registered persons may notify the board in the prescribed manner and form. 30
- (4) If two or more registered persons establish a joint venture to hold a category of registration that is different from the category held by either of them, a new application for registration must be submitted in the name of the joint venture. 35

Death, insolvency or incapacity of registered person

40. (1) For the purposes of this section, the expression an “administrator” includes - 40
- (a) an executor of a deceased estate;
- (b) a liquidator or trustee of an insolvent estate; and 45
- (c) a curator.

- (2) If a registrant dies, becomes insolvent, is placed in liquidation or is placed under curatorship, the administrator of that registrant's estate may, for the purposes of the administration of the estate -
- (a) continue to conduct the registered activities in the name of the estate; or 5
 - (b) make a proposal to the board in terms of section 39 to transfer the registration to another qualified person.
- (3) Any person may apply in the prescribed manner and form to the board for the appointment of a person to conduct the registered activities of a registrant, pending the appointment of an administrator contemplated in subsection (1). 10
- (4) Before granting an application made in terms of subsection (3), the board must be satisfied that - 15
- (a) every person with a financial interest in the matter has been given reasonable notice of the application;
 - (b) an administrator has not been appointed; and 20
 - (c) there are reasonable grounds for believing that an administrator will be appointed.
- (5) A person appointed in terms of subsection (3) may, for the purposes of the administration of the estate, continue to conduct the registered activities in the name of the estate, until an administrator has been appointed. 25

Removal of registration

- 41.** (1) A registrant may apply to the board for the permanent removal of the registration from one premises to another in which case the application procedure for registration must be followed with regard to the new premises. 30
- (2) A registrant may apply to the board for the temporary removal of the registration from one premises to another, provided that – 35
- (a) the proposed premises are situated within the same municipality;
 - (b) the proposed premises is suitable for the purpose for which it is intended to be used, which include issues of public interest referred to in section 28(4); and 40
 - (c) the application is in the prescribed manner and form in terms of this Act.

Cancellation and lapsing of registration

42. (1) A registration may be cancelled -
- (a) by the board, in terms of subsection (2); 5
 - (b) voluntarily by the registrant, in terms of section 43; or
 - (c) as a consequence of liquidation, winding-up or dissolution, in terms of section 40. 10
- (2) The board may cancel a registration -
- (a) if the registrant becomes disqualified on any of the grounds set out in section 27; 15
 - (b) if the registrant does not comply with a condition of registration;
 - (c) if the registrant does not comply with the provisions of this Act; 20
 - (d) if the registrant informs the board in terms of section 43;
 - (e) on receiving a notice contemplated in section 44; or
 - (f) if the registration of the registrant lapsed. 25
- (3) Prior to taking any decision to cancel registration, the board must follow a procedurally fair process as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 30
- (4) If the board has cancelled a registration, the board must notify the former registrant in writing of -
- (a) the cancellation; 35
 - (b) the reasons for the cancellation;
 - (c) the date of cancellation; and
 - (d) the right of review as contemplated in the Promotion of Administrative Justice Act, 2000. 40
- (5) If a registration is cancelled in terms of this section, the board must -
- (a) cancel the registration certificate; and 45
 - (b) amend the register accordingly.

- (6) A registration is cancelled as of the date on which the board notifies the former registrant of the cancellation, which, in the case of a cancellation in terms of section 43, must be on the date specified by the registrant in the notice of voluntary cancellation. 5
- (7) Registration lapses –
- (a) after the expiry of ten (10) years from date of issuing of registration by the board; 10
 - (b) if the annual renewal fees are not paid on or before the prescribed date;
 - (c) in terms of section 146(3)(c).
- (8) A registrant may apply again for registration in the prescribed manner and form prior to lapsing of registration referred to in subsection (7)(a) and (c). 15

Voluntary cancellation

43. A registrant may cancel the registration by giving the board written notice in the prescribed manner and form - 20
- (a) stating the person's intention to voluntarily cancel the registration and reasons for doing so; and 25
 - (b) specifying a date, at least seven (7) days after the date of the notice, on which the cancellation is to take effect.

Cancellation as consequence of liquidation, sequestration, winding-up or death

44. (1) If a registrant is wound up or sequestrated without having transferred the registration in terms of section 39, the liquidator or trustee may notify the board in the prescribed manner and form within six (6) months after the sequestration or winding-up, or such longer time as the board, on written request, may allow. 30
- (2) If a registrant dies, the executor of his or her estate may notify the board in the prescribed manner and form within three (3) months after the death, or such longer time as the board, on written request, may allow. 35
- (3) Upon receiving a notice in terms of subsection (1) and (2), the board must cancel the registration concerned. 40

Provincial record of registrations

45. (1) The board must establish and maintain a register of all persons who have been registered under this Act, including those whose registration has been transferred, altered or cancelled. 45

- (2) The board must -
- (a) permit any person to inspect the register established in terms of subsection (1), during normal business hours; 5
 - (b) publish the register on a website; and
 - (c) provide a print copy of the register, or extract from it at any time to a person requesting it, upon payment of the prescribed fee. 10
- (3) Any person may -
- (a) inspect a copy of a registration certificate issued in terms of this Act; and
 - (b) obtain a copy of it, upon payment of the prescribed fee. 15

PART 3 ON-CONSUMPTION AND OFF-CONSUMPTION REGISTRATION

Kinds of registration certificates 20

46. (1) The following registration certificates may be issued by the board for the sale and supply of liquor or methylated spirits –
- (a) For consumption on the registered premises concerned, namely - 25
 - (i) Accommodation establishment registration certificate;
 - (ii) Restaurant registration certificate;
 - (iii) Club registration certificate;
 - (iv) Tavern registration certificate; 30
 - (v) Pub registration certificate;
 - (vi) Pool club registration certificate;
 - (vii) Sorghum beer registration certificate;
 - (viii) Special events registration certificate;
 - (ix) Gambling registration certificate; or 35
 - (x) Night club registration certificate.
 - (b) For consumption off the registered premises concerned, namely -
 - (i) Liquor store registration certificate; 40
 - (ii) Grocer's wine registration certificate;
 - (iii) Micro-manufacturer of liquor registration certificate;
 - (iv) Sorghum beer registration certificate;
 - (v) Sale of methylated spirits registration certificate;
 - (vi) Micro-manufacturer of methylated spirits registration certificate; or 45
 - (vii) Special events registration certificate.
- (2) If a need arises, the responsible Member may prescribe further categories for consumption on and off the premises. 50

- (3) Regulations contemplated in subsection (2) must be tabled within 30 days after publication thereof in the provincial legislature, or if the provincial legislature is not in session, within 30 days after the next session starts.
- (4) If the provincial legislature rejects the regulations, the responsible Member must repeal them. 5

Place for sale of liquor or methylated spirits

47. A registered person may not sell liquor or methylated spirits at any place other than the registered premises except with the permission of the board which permission may be given only for the purposes of special events. 10

Times of business

48. The holder of a registration certificate may sell liquor on any day during the prescribed times and must close his or her business not more than 30 minutes after prescribed time for selling of liquor. 15

Place for on-consumption of liquor

49. A holder of an on-consumption registration certificate must ensure that liquor sold thereunder be consumed on the registered premises only. 20

Accommodation establishment

50. (1) The holder of an accommodation establishment registration certificate must at all times maintain on the registered premises a *bona fide* accommodation establishment. 25

- (2) A record of all guests must be kept on the registered premises at all times. 30

- (3) The holder of an accommodation establishment registration certificate must sell liquor on the registered premises to a guest for consumption by the guest in the accommodation establishment. 35

Restaurant

51. (1) The holder of a restaurant registration certificate must at all times maintain on the registered premises a *bona fide* restaurant at which meals are regularly supplied to guests. 40

- (2) The holder of the restaurant registration certificate must only sell liquor to a person taking a meal purchased on the registered premises.

Club

52. (1) A club registration may not be granted except to a club in respect of which the board is satisfied that it is a *bona fide* club and that, according to the constitution or the rules thereof - 5
- (a) consists of at least fifteen ordinary members;
 - (b) its management is elected by its members and the management regularly holds meetings of which proper minutes are kept; 10
 - (c) only its members are permitted to pay for facilities, liquor or refreshments supplied on the premises of the club;
 - (d) in so far as the use of its facilities by guests, excluding family members of its members, is permitted by its rules, the number of guests of any member may not on any occasion exceed the number so permitted; 15
 - (e) proper records, including a register of members, are kept; 20
 - (f) members pay annual subscription fee;
 - (g) no profit from the sale of liquor by the club accrues to any individual; and
 - (h) membership is not discriminating based on race. 25
- (2) The holder of a club registration certificate must at all times maintain on the registered premises a *bona fide* club in respect of which the requirements of this Act are being complied with. 30

Tavern

53. (1) The holder of a tavern registration certificate must at all times ensure that the registered premises are separated from any other dwelling by means of solid walls. 35
- (2) The registrant may provide various other forms of light musical entertainment not exceeding the relevant decibels, as well as within any other prescribed measures.

Liquor pub

54. The holder of a Liquor pub registration certificate must at all times maintain on the registered premises facilities, which may include provision of light meals, dancing and entertainment. 40

Pool club

55. The holder of a pool club registration must maintain on the premises a *bona fide* pool club.

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Sorghum beer on-consumption

56. The holder of a sorghum beer registration certificate must sell only sorghum beer for consumption on the registered premises.

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Special events

57. (1) Only registrants may apply for special events registration.
- (2) The holder of a special events on-consumption registration certificate must ensure that the liquor provided at the event is for the consumption on the premises in respect of which a registration certificate has been granted.
- (3) Registrants must apply for special events registration certificates in the prescribed manner and form in terms of this Act.

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Gambling

58. (1) The holder of a gambling registration certificate may supply liquor for consumption only on the registered premises.
- (2) The holder of a gambling registration certificate must conduct a lawful gambling business on the registered premises.

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Night club

59. The holder of a night club registration certificate must at all times maintain on the registered premises, facilities which may include dancing and live entertainment.

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Off-consumption of liquor or methylated spirits

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60. (1) The holder of every off-consumption registration certificate must ensure that no liquor or methylated spirits is consumed on the registered premises.
- (2) The holder of a liquor store registration certificate may not under any circumstances distribute any liquor or methylated spirits in terms of this Act.
- (3) The holder of micro-manufacturer registration certificate must ensure that no liquor or methylated spirits is consumed on the registered premises.

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Micro-manufacturer

61. (1) A micro-manufacturing registration certificate must only be to a person who engages in the manufacturing of liquor or methylated spirits. 5
- (2) The holder of a micro-manufacturing must only supply to a micro-manufacturer, retail seller registered in terms of this Act, or to a manufacturer or distributor registered in terms of the National Liquor Act.
- (3) The provisions of the National Liquor Act that relate to micro-manufacturers apply *mutatis mutandis* to micro-manufacturers registered in terms of this Act. 10

Liquor store

62. (1) Subject to subsection (2), the holder of a liquor store registration certificate may sell liquor to any person who is not a minor or school going learner. 15
- (2) The holder of the liquor store registration certificate must ensure liquor is sold in receptacles which are properly and securely sealed. 20

Grocer's wine

63. (1) The holder of a grocer's wine registration certificate must at all times carry on business of grocer on the registered premises. 25
- (2) The holder of a grocer's wine registration certificate may not sell liquor other than wine.
- (3) The holder of a grocer's wine registration certificate may not sell liquor in a receptacle which has a capacity of more than five litres and which is not properly and securely sealed. 30

Sorghum off-consumption

64. The holder of a sorghum beer registration certificate for consumption off the registered premises may not sell sorghum beer in a receptacle which has capacity of more than five litres, which is not properly and securely sealed. 35

**CHAPTER 4
GAMBLING**

40

Application of Chapter

65. Chapter 4 applies only to gambling.

PART 1 LICENCING

National norms and standards

66. No licence may be granted under this Act unless the board takes cognisance of - 5
- (a) the provisions of, or norms and standards determined under the National Gambling Act; and 10
 - (b) any recommendations made by the National Gambling and Wagering Board established under the National Gambling Act,
- which may relate to the granting of such licence. 15

Disqualification for licences in general

67. (1) This section does not apply to a certificate of approval.
- (2) A person may not hold a licence referred to in this Act, or a financial interest in the holder of such a licence, if that person – 20
- (a) is not a fit and proper person, in that such person's character, integrity, honesty, prior conduct, regard for the law, reputation, habits and associations may reasonably pose a threat to the health, safety, morals, good order and general welfare of the inhabitants of the Province or to provisions and policy of this Act; 25
 - (b) is under the age of 18 years; 30
 - (c) is a public servant or political office bearer;
 - (d) is listed on the register of excluded persons contemplated in the National Gambling Act; 35
 - (e) is subject to an order of a competent court holding that person to be mentally unfit or deranged;
 - (f) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or 40
 - (g) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or an offence in terms of this Act or the National Gambling Act, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence; 45

- (h) is an unrehabilitated insolvent; or
- (i) is a family member, other than a brother or sister, of a person who is a member or employee, of a regulatory authority exercising oversight over that licensee. 5
- (3) The board must refuse to issue a licence to a person who is disqualified from holding an interest in a licence holder, licensed premises, or the business to which a licence relates, in terms of subsection (2). 10
- (4) The board must refuse to issue a licence to an applicant if, after conducting the prescribed investigations, it has reason to believe that the applicant, or any person who holds a financial interest of five percent or more in the applicant is disqualified from holding an interest in a licence holder or the business to which a licence relates, in terms of subsection (1). 15
- (5) For the purpose of this section, a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment. 20
- (6) A licence may not be granted unless the board is satisfied that –
 - (a) the granting of such a licence will not bring into existence or aggravate any dominant or over concentrated market share or any restrictive practice, acquisition or monopoly situation in the Province as contemplated in the Competition Act, 1998 (Act No. 89 of 1998) in the gambling industry or a branch thereof; and 25
 - (b) the granting of such a licence will not result in the establishment of an unduly large gambling industry in the Province, having regard to the number of inhabitants of the Province, their financial means and the number of licences already granted in terms of this Act or any other law. 30

Kinds of licences

- 68. (1) The board may, subject to the provisions of this Act, grant the following licences in respect of gambling, namely - 35
 - (a) casino licences;
 - (b) limited gambling machine operator licences; 40
 - (c) limited gambling machine site licences;
 - (d) bingo operator licences;
 - (e) manufacturer, maintenance or supplier licences;
 - (f) totalizator licences;
 - (g) bookmaker licences; 45
 - (h) race-meeting licences.

- (2) Any licence referred to in subsection (1) must be in writing.
- (3) A licence grants to the holder thereof such rights and privileges and subjects him to such obligations and liabilities as may by virtue of this Act be regulated thereby or ensue from the holding thereof. 5
- (4) The maximum number of any kind of licence that may be granted by the board, may be prescribed: Provided that the maximum number of casino licences that may be granted by the board, must at any given time be as determined by the National Gambling Act. 10

Applications

69. (1) Any person may apply for a licence referred to in section 68: Provided that - 15
- (a) any person whose application has been refused on any ground referred to in section 67, or whose licence has been revoked on any ground referred to in section 84, may not reapply for a licence, within 12 months from the date of such refusal or revocation, and any person who has a direct or indirect interest of 5 per cent or more in the business or premises of such applicant or licensee may not apply for a licence within 12 months from the date of such refusal or revocation, if such person was the direct or effective cause of such refusal or revocation; and 20
- (b) any person whose application has been refused more than once on any ground referred to in section 67, or whose licence has been revoked more than once on any ground referred to in section 84, may not reapply for a licence within 3 years from the date of the latest refusal or revocation, and any person who has a direct or indirect interest of 5 percent or more in the business or premises of such applicant or licensee, may not apply for a licence within 3 years from the date of the latest refusal or revocation, if such person was the direct or indirect or effective cause of such refusal or revocation. 25 30
- (2) Any application for a licence must - 35
- (a) be lodged with the chief executive officer in the prescribed form; and
- (b) be accompanied by - 40
- (i) the approval or representations of the local authority within whose area of jurisdiction the premises in respect of which the application is made, are 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) such other documents and information determined by the board. 5
- (3) An applicant may in the application concerned identify any document or information included in the application which in the opinion of the applicant is confidential or should for any reason not be disclosed to the public, and show cause why the board may determine that such document or information should not be open to public inspection. 10
- (4) An application for a licence must, subject to the provisions of this Act, be considered by the board and the board may thereafter - 15
 - (a) refuse the application;
 - (b) grant the application.
- Application fees** 20
- 70.** Any person who submits an application to the board under section 69, must -
 - (a) on the submission of such an application, pay to the board the prescribed fees; and 25
 - (b) be liable for and pay to the board all reasonable expenses incurred by the board, if any, to conduct the investigations referred to in section 73 and any other reasonable expenses incurred by the board in considering and deciding on the application: Provided that the board may, at any time before or while conducting such investigations, require from an applicant security for the payment of such expenses. 30
- Objections** 35
- 71.** (1) Any person who desires to object to any application made for a licence in terms of this Act, may, not later than 30 days after the publication of the relevant notice in the *Provincial Gazette* as referred to in section 69(2)(b)(ii), lodge with the chief executive officer in writing an objection in the prescribed manner. 40
- (2) The chief executive officer must forthwith notify the applicant and supply the applicant with a copy or details, as the case may be, of -
 - (a) any objections lodged with the board in terms of subsection (1); and 45
 - (b) any matter or fact whatsoever which may, in the opinion of the board, constitute a ground for an objection against the application of the applicant,

and invite the applicant to reply to such objections, if he or she so chooses, within a period of 14 days, or such longer period as the board may determine, of the date of such notification.

- (3) A person lodging an objection may show cause why the board may determine under section 72(2)(b) that his or her identity should not be divulged. 5

Application and objections to be open to public inspection

72. (1) Any application, objections and response lodged in terms of this Act must, subject to subsection (2), be open to public inspection by interested persons during the normal office hours of the board for the prescribed period from the date of lodgement of the application as reflected in the notice referred to in section 69(2)(b)(ii) and the board must, 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, objections, response or information. 10
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- (2) The board may determine that -
- (a) any document or information relating to the financial capacity of any person participating in an application, the names of prospective employees or the business plans of an applicant, may not be open to public inspection, if such document or information can be separated from the remainder of the application and is marked confidential; and 20
- (b) the identity of any person who lodged an objection to an application, may not be divulged to any other person. 25

Public hearings

- 72A.(1) The board must hold a hearing – 30
- (a) in respect of every application for a casino licence received by the board;
- (b) in respect of every application for any other kind of licence contemplated in sections 68 received by the board regarding which an objection has been lodged in accordance with section 71; 35
- (c) in any application for which the board deems it necessary to conduct a hearing, 40
- on such a date, time and place as determined by the board, and made known by notice published in the *Provincial Gazette*, and in a newspaper circulating in the district in which the premises to which such application relates are situated, in any official language in which such newspaper is published. 45

- (2) At such a hearing –
- (a) the applicant must be afforded an opportunity to be heard;
 - (b) any person who lodged an objection against the application in terms of section 71 and who, in such objection, indicated his or her desire to make oral presentations at the hearing of the application must be afforded the opportunity to be heard; and 5
 - (c) the applicant and each such person may be assisted or represented by any person of his or her choice. 10
- (3) A hearing may be adjourned and resumed on such date and at such time and place as the board may determine. 15
- (4) Subject to subsection (5), a hearing must be accessible to the public.
- (5) The person presiding at the hearing may –
- (a) if the presence of any particular person is not conducive to the good order or conduct of the hearing, direct that such person may not attend, or must leave the hearing; 20
 - (b) if the board is considering any matter contemplated in section 72(2)(a) or representations by a person contemplated in section 72(2)(b), or if it is otherwise in the interest of the consideration of the matter concerned, direct that the public or any member or category thereof may not attend, or must leave the hearing. 25
- (6) The provisions of sections 20(2) to 20(9) must apply with the necessary changes in respect of a hearing. 30

Investigations and police reports

- 73.** (1) In order to determine whether or not a licence should be granted, the board may, subject to any other law, gather such information as it deems necessary from any person or source, regarding the suitability of the applicant for a licence to hold such a licence in terms of this Act and the suitability of the premises in respect of which the application has been made. 35
- (2) In order to determine the continued suitability of the holder of a licence, certificate of suitability or certificate of approval in terms of this Act, the board may, subject to any other law, gather such information from any source or person regarding the continued suitability of the holder of such a licence, certificate of suitability or certificate of approval and the suitability of the licensed premises in respect of which a licence was granted, if applicable. 40 45

- (3) The chief executive officer may, for the purposes referred to in subsections (1) and (2), ask the South African Police Service for a report stating -
- (a) particulars of any convictions recorded against the applicant referred to in subsection (1), the licence or certificate holder referred to in subsection (2) or any person who will be involved in the proposed business of the applicant, licence holder or certificate holder and in respect of whom the board deems it necessary to obtain the police report; 5
 - (b) such matters as may be prescribed; and 10
 - (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, licence or certificate concerned. 15
- (4) The report referred to in subsection (2) must be furnished to the chief executive officer within 1 month of the date of the request thereof.

Temporary licences in respect of incomplete premises

74. (1) If an application for a licence is granted by the board in respect of premises not yet erected or premises requiring any structural alteration, addition or reconstruction so as to make them suitable for the purposes for which they will be used under the licence, the board may, upon being furnished with the required forfeitable guarantee, issue a temporary licence to the applicant concerned, subject to the compliance, with such conditions or requirements referred to in the temporary licence, with regard to these premises as the board may determine, within such period as may likewise be determined and referred to. 25
- (2) The board may at any time after the issue of such a temporary licence, on application by the applicant concerned - 30
- (a) extend the period determined under subsection (1);
 - (b) extend or further extend the period determined under subsection (1) or the period so determined and extended under paragraph (a) of this subsection, as the case may be, in respect of premises not yet erected at the time of the issue of the temporary licence, if the board is satisfied that a substantial part of the premises has since been erected. 35
- (3) The period determined under subsection (1) or the period so determined and extended under subsection (2) (a), as the case may be, may not be longer than 24 months, and the period extended or further extended under subsection (2) (b), as the case may be, may not be longer than a further 24 months. 40

- (4) When the board is satisfied that the premises in respect of which a temporary licence has been granted under subsection (1), have been substantially completed in accordance with the plan thereof approved by the board, the conditions and requirements determined by the board have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, the board must issue the licence in terms of this Act to the applicant concerned. 5
- (5) If the licence is not issued before the expiration of the period determined under subsection (1), extended under subsection (2) (a) or further extended under subsection (2) (b), as the case may be, the temporary licence must lapse, the application for the licence must be deemed not to have been granted and the guarantee referred to in subsection (1) must be forfeited. 10
- (6) The provisions of this Act must, subject to subsection (1), *mutatis mutandis* apply to temporary licences, and in such application a reference in this Act to a licence must, where applicable, also be construed as a reference to a temporary licence. 15

Casino licences 20

75. (1) 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, in consultation with the responsible Member, inviting applications and which notice may -
- (a) state the number of licences to be issued and the areas in which the casinos are to be situated; 25
- (b) state development and other requirements;
- (c) set the amount of the payment referred to in section 58 or invite applicants to tender for such payments; 30
- (d) state the evaluation criteria to be applied.
- (2) The board must only grant a casino licence after consultation with the responsible Member, and if the board is satisfied that the applicant - 35
- (a) has appropriate knowledge or experience, or is able to acquire such knowledge or experience, to operate a casino; 40
- (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) must have and maintain sole and exclusive legal possession of the licensed premises; and 45

- (d) has met all applicable requirements set by the board.
- (3) A casino licence must authorise, subject to the provisions of this Act, the playing in or on the licensed premises specified in the licence, of such casino games prescribed or specified in the licence. 5

Limited gambling machine operator licences

76. (1) No person may apply for a gambling machine operator licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, in consultation with the responsible Member, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements. 10
- (2) A gambling machine operator licence may not be granted by the board - 15
- (a) unless the board is satisfied that the applicant –
- (i) has appropriate knowledge and experience, or is able to acquire such knowledge and experience, to operate gambling machines; and 20
- (ii) meets the prescribed requirements;
- (b) for the operation of more than the prescribed number of gambling machines. 25
- (3) A gambling machine operator licence must authorise, subject to the provisions of this Act, the operation of any prescribed gambling machines or gambling machines specified in the licence, on the licensed premises of the holder of a gambling machine site licence, and for such purposes the holder of such a gambling machine operator licence may enter into an agreement with the holder of such a gambling machine site licence for the placement of such gambling machines on the premises concerned. 30
- (4) The holder of a gambling machine operator licence – 35
- (a) may not make available for play –
- (i) more limited gambling machines than the maximum number for which the operator is licensed; 40
- (ii) on any particular site, more limited gambling machines than that site is licensed to accommodate;
- (b) must maintain the limited gambling machines owned and operated by the holder of that gambling machine operator licence; and 45

- (c) must collect money from those machines and pay to the board all levies in respect of those machines.
- (5) The holder of a gambling machine operator licence must link all the gambling machines in respect of which the licence has been granted, to an electronic monitoring system as referred to in section 87. 5
- (6) A gambling machine operator licence must only be granted by the board after consultation with the responsible Member. 10

Limited gambling machine site licences

77. (1) No person may apply for a gambling machine site licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements.” 15
- (2) A gambling machine site licence may not be granted by the board -
- (a) except to a person who meets the prescribed requirements; 20
 - (b) for the operation and keeping of more than the prescribed number of gambling machines for any one (1) gambling machine site licence; and
 - (c) unless the board is satisfied that the premises in respect of which the licence is to be granted, may not be primarily utilised for the operation of gambling machines. 25
- (3) A gambling machine site licence must authorise, subject to the provisions of this Act, the operation and keeping in or on the licensed premises specified in the licence, of any prescribed gambling machines specified in the licence: Provided that: 30
- (a) the maximum charge for playing on any such gambling machine may not exceed the prescribed amount; 35
 - (b) the prize in respect of any one (1) game played by means of any such gambling machine may not in the aggregate exceed in value the prescribed amount; 40
 - (c) there must be displayed on every gambling machine the value of the maximum prize prescribed under paragraph (b) which can be won by playing a game once by means of such a gambling machine; and
 - (d) any gambling machine must be placed in an area of the licensed premises to which no person under the age of 18 years have access. 45

- (4) The holder of a gambling machine site licence may be linked to the holder of a particular gambling machine operator licence or may be independent.
- (5) The holder of an independent gambling machine site licence has the same rights, powers and duties as – 5
- (a) the holder of a gambling machine operator licence in terms of section 76; and
- (b) the holder of a gambling machine site licence in terms of subsections (1) and (2) above. 10
- (6) Only a juristic person may be licensed to own or operate more than five limited gambling machines as the holder of an independent site licence. 15
- (7) The holder of a site operator licence or independent site operator licence must –
- (a) prominently display at the entrance of the designated area –
- (i) the licence issued to the holder of that licence; 20
- (ii) a copy of the licence issued to the relevant holder of the gambling machine operator licence, if applicable; and
- (b) maintain adequate control and supervision of all limited gambling machines at the site during the licensed hours of operation. 25

Bingo operator licences

78. (1) No person may apply for a bingo operator licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting all applications and which notice may state the evaluation criteria to be applied and any other requirements 30
- (2) A bingo operator licence may not be granted by the board, unless the board is satisfied that the applicant meets the prescribed requirements. 35
- (3) A bingo operator licence must authorise, subject to the provisions of this Act, the playing in or the licensed premises specified in the licence, of the game of bingo: Provided that the maximum charge for playing a game of bingo once must be of a prescribed amount. 40

Manufacturer, maintenance or supplier licences

79. (1) Any person, desiring to operate, carry on or conduct any form of manufacturing, selling, distribution, import, marketing, maintenance or repair of any gambling device must apply to the board for the relevant licence. 45

- (2) The holder of a casino licence, a gambling machine operator licence, gambling machine site licence or a bingo operator licence may, notwithstanding the provisions of subsection (1) -
- (a) with the approval of the board, dispose of by sale or in a manner approved by the board, of any or all of its gambling devices; and 5
 - (b) maintain or repair to the extent approved by the board, any or all of its gambling devices. 10
- (3) In the event of the death, insolvency, liquidation or the placing under judicial management of the licence holder referred to in subsection (2), or a declaration that such licence holder is incapable of handling his or her own affairs -
- (a) the administrator of the deceased or insolvent estate; and 15
 - (b) the judicial manager, curator or liquidator,
- may, notwithstanding the provisions of subsection (1), dispose of by sale or in the manner approved by the board, of any or all of the gambling devices of such licence holder. 20
- (4) A manufacturer, maintenance or supplier licence may not be granted by the board, unless the board is satisfied that the applicant has appropriate knowledge and experience, or is able to acquire such knowledge and experience, to conduct business under the licence. 25
- (5) The relevant manufacturer, maintenance or supplier licence must authorise, subject to the provisions of this Act - 30
- (a) the manufacture, selling, distribution, import, marketing, maintenance or repair of the types and models of gambling devices which meet the requirements set and approved by the board; and
 - (b) the supply of gambling devices or services to licence holders. 35

Race-meeting licences

80. (1) No person may apply for a race-meeting licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting such applications. 40
- (2) The board must only grant a race-meeting licence after consultation with the responsible Member - 45
- (a) to a person who meets the prescribed requirements; and

- (b) if the board is satisfied that the race-course to which it will relate is suitable and complies with the requirements of the Jockey Club of Southern Africa.
- (3) A race-meeting licence must authorise, subject to the provisions of this Act, the holding of so many race-meetings per annum as is specified in the licence on the race-course likewise specified. 5
- (4) No person may -
 - (a) hold, organise or arrange the holding of a race-meeting except under authority of a race-meeting licence; 10
 - (b) aid or abet any other person in the holding, organising or arranging of a race-meeting in contravention of paragraph (a); or 15
 - (c) take part in or attend a race-meeting held in contravention of paragraph (a).

Totalizator licences

- 81. (1) No person may apply for a totalizator licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting applications and which notice may state - 20
 - (a) the number of licences to be issued and the areas to which the licences will relate; 25
 - (b) an invitation to tender payment of a lump sum for the acquisition of a licence; and
 - (c) the evaluation criteria to be applied. 30
- (2) The board must only grant a totalizator licence to a person who meets the prescribed requirements.
- (3) A totalizator licence must authorise, subject to the provisions of this Act, the conducting of a totalizator on the licensed premises, in accordance with rules made by the holder of the licence and approved by the board. 35
- (4) Nothing in this section must prohibit the holder of a totalizator licence from applying for additional licensed premises: Provided that the provisions of sections 69 to 73 must *mutatis mutandis* apply in respect of such an application. 40

Bookmaker's licences

82. (1) No person may apply for a bookmaker's licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting applications and which notice may state - 5
- (a) the number of licences to be issued and the areas to which the licences will relate;
 - (b) an invitation to tender payment of a lump sum for the acquisition of a licence; and 10
 - (c) the evaluation criteria to be applied.
- (2) The board must only grant a bookmaker's licence to a person who meets the prescribed requirements. 15
- (3) A bookmaker's licence must authorise, subject to the provisions of this Act, the accepting of fixed odds bets and open bets on sporting events on the licensed premises. 20

Special licences

83. (1) Notwithstanding any other provisions of this Act, the board may, on application in the manner determined by the board, issue to any person, for specified dates, a special licence, subject to such conditions as the board may determine. 25
- (2) The provisions of sections 69 and 71 may not apply in respect of an application referred to in subsection (1). 30

Suspension or revocation of licence

84. (1) The board may at any time suspend, for such period as the board may determine, or revoke from such date as the board may determine, any licence, if - 35
- (a) any information contained in any application made by the licence holder for the purpose of obtaining the granting, renewal, transfer or removal of such licence was at the time when the information was furnished, false in any material respect or was subject to any material omission with the intention to mislead the board; 40
 - (b) the licence holder is in terms of section 67 disqualified from holding a licence;

- (c) the licence holder, an employee of the licence holder or any other person acting on his or her behalf has failed to comply with any term or condition of the licence or any provision of this Act, and has not complied with such term, condition or provision within 30 days, or such further period as the board in writing may allow, after delivery of a written notice by the board to the licence holder requiring such failure to be remedied; 5
- (d) the licence holder has, without the prior written consent of the board, failed to carry on business under the licence for a period of at least three (3) consecutive months; 10
- (e) the licence holder fails to pay any amount prescribed in terms of this Act within the prescribed period;
- (f) the licence holder fails to pay out forthwith any prize legitimately won through any gambling conducted under the licence; 15
- (g) the licence holder fails to comply with section 102(2);
- (h) the licence holder no longer complies with the prescribed requirements of the licence concerned; 20
- (i) the licence holder, without the prior consent of the board, sells or alienates or ceases to operate any business in respect of the licence or any part of the premises or development to which the licence relates; or 25
- (j) the licence holder wilfully and persistently uses or tolerates methods of operation deemed unsuitable by the board.
- (2) The board may at any time revoke any order of suspension or revocation issued in terms of subsection (1), if the reasons for such suspension or revocation have been remedied to the satisfaction of the board. 30
- (3) The board must inform the licence holder in writing of any suspension or revocation of the licence in terms of subsection (1). 35
- (4) A casino licence, gambling machine operator licence or race-meeting licence must only be suspended or revoked by the board after consultation with the responsible Member. 40
- (5) When a licence is suspended or revoked in terms of subsection (1), no licence fee or any portion thereof must be refunded.
- (6) Where the board proposes to revoke a licence, the board must serve a written notice on the licensee stating - 45

- (a) that the board proposes to revoke the licence;
 - (b) the ground or grounds for revocation;
 - (c) that the licensee may within 30 days after the date of the written notice - 5
 - (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 10
 - (d) the effect of subsection (7).
- (7) If, within the period mentioned in subsection (6) (c), the board receives neither written representations nor written notification of the intention of the licensee to make oral representations, the revocation must take effect at the end of that period. 15

Transfer and removal of licence

- 85.** (1) A licence granted under this Act may, subject to this section, not - 20
- (a) be transferable to another person; or
 - (b) be removable from the licensed premises concerned to other premises. 25
- (2) If the holder of a licence -
- (a) desires to transfer such licence to another person such licence holder and such other person must make a joint application to the board for such transfer in the prescribed manner; 30
 - (b) desires to remove such licence from the licensed premises to any other premises, whether permanently or temporarily, such licence holder must make an application to the board for the removal of such licence in the prescribed manner. 35
- (3) An application for a transfer or removal of the licence in terms of subsection (2), must be considered by the board and the board may thereafter - 40
- (a) refuse the application; or
 - (b) grant the application, conditionally or unconditionally.

- (4) A licence may not -
- (a) be transferred to a person who is disqualified or otherwise incompetent in terms of this Act to hold the licence concerned; 5
 - (b) be removable from the licensed premises concerned to other premises unless the board is satisfied that the other premises are or will on completion be suitable for the purposes for which they will be used under the licence. 10
- (5) In the case of a casino licence, gambling machine operator licence or race-meeting licence, the board must only grant an application in terms of subsection (2) after consultation with the responsible Member. 10
- (6) The provisions of sections 69 to 73 must *mutatis mutandis* apply to an application in terms of this section. 15

Amendment of the licence

- 85A.**(1) The holder of a licence may at any time make an application for the amendment of the licence. 20
- (2) An application for the amendment of a licence must be considered by the board and the board may thereafter conditionally or unconditionally – 25
- (a) refuse the application;
 - (b) grant the application.
- (3) The provisions of sections 69 to 73 must *mutatis mutandis* apply in relation to an application contemplated in subsection (1) for an amendment that the board determines as material. 30

PART 2 CONDITIONS

35

General conditions of licences

- 86.** (1) The board may in respect of any kind of licence impose such conditions to a licence as the board considers appropriate, and may in particular include conditions - 40
- (a) relating to the games that may be played;
 - (b) relating to the method of operation of any game; 45

- (c) for the purpose of ensuring that the operation of any gambling accords with decency, dignity, good taste and honesty;
- (d) requiring the keeping of books, accounts, records and other information relating to the operation of any gambling; 5
- (e) requiring certain minimum standards in relation to the premises on which gambling is to take place;
- (f) requiring the submission to the board of such reports and returns relating to the operation of gambling as the board may from time to time require; 10
- (g) relating to the days on which and hours during which gambling may be carried on; 15
- (h) in the case of a casino licence, relating to the installation and maintenance of surveillance systems;
- (i) relating to the provision by the licensee of a guarantee, as determined by the board, for the liabilities of the licensee in relation to - 20
 - (i) gambling levies payable in terms of this Act; and
 - (ii) gambling debts payable by the licensee. 25
- (2) The board may at any time suspend, withdraw or amend any condition imposed under subsection (1), by a notice delivered or tendered to the holder of a particular licence. 30
- (3) Where the board intends to suspend, withdraw or amend any condition under subsection (2), the board must serve a written notice on the licensee stating - 35
 - (a) that the board intends to suspend, withdraw or amend, as the case may be, any condition imposed under subsection (1); 35
 - (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 40
 - (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, must take effect at the end of that period. 5
- (5) Any condition imposed under subsection (1), or suspended, withdrawn or amended under subsection (2), in respect of a casino licence, gambling machine operator licence or race-meeting licence -
- (a) must be effected after consultation with the responsible Member; and 10
- (b) may not be effected retrospectively.

Electronic monitoring system for gambling machines

87. (1) The board may, subject to section 75, in respect of a casino licence, a gambling machine operator licence and a gambling machine site licence require any such licence holder to link any gambling device to a central electronic monitoring system for purposes of the monitoring and detection of significant events associated with each gambling device, including a system for continuous on-line real time recording, monitoring and control of any significant game play transactions as may be prescribed or determined by the board. 15
- (2) The board may - 20
- (a) require from any licence holder referred to in subsection (1), to conduct such electronic monitoring system; or 25
- (b) on application, approve any other person to conduct, on behalf of such licence holder, such electronic monitoring system, 30
- subject to the requirements determined and conditions imposed by the board.
- (3) For purposes of this section “electronic monitoring system” means any electronic or computer or communications system or device that is so designed that it may be used, or adapted, to send or receive data from gambling devices in relation to the security, accounting or operation of gambling devices. 35

Financial interests in business of licensee

88. (1) Any person, other than an institutional investor, a depository institution or a central securities depository, who directly or indirectly, procures a financial interest of 5% or more in the business to which a licence relates must, within the prescribed period and in the prescribed manner, apply to the board for approval to hold such interest. 40
- 45

- (2) Any institutional investor, central securities depository or depository institution who, directly or indirectly, procures a financial interest of –
- (a) not less than 5% but less than 15% in a business to which a licence relates must within the prescribed period and in the prescribed manner inform the board of its acquisition of that interest and must in such notice set out the grounds on which it asserts it is an institutional investor; 5
 - (b) 15% or more in the business to which a licence relates must, within the prescribed period and in the prescribed manner, apply to the board for approval to hold such interest. 10
- (3) The provisions of sections 67 and 69 to 73 must, *mutatis mutandis* apply in relation to an application contemplated in subsection (1) and (2). 15
- (4) The board may not grant approval under subsection (1) and (2) where the person or institution referred to, who submits the application, would be disqualified to hold a licence in terms of this Act.
- (5) Where approval is not granted, the person or institution referred to in subsection (1) must, within the prescribed period and in the manner determined by the board, dispose of its financial interest in the licence holder concerned. 20
- (6) No person or institution referred to in subsection (1) must procure an interest contemplated in subsection (1) and (2) as nominee or agent of or otherwise on behalf of any principal or beneficiary if that person has not in writing informed the holder of the licence concerned and the board of the identity of such principal or beneficiary. 25
- (7) The provision of this section may not apply to an institution referred to in subsection (1) in respect of which it holds a financial interest on behalf of persons other than itself in securities listed on a stock exchange in South Africa registered as such in terms of the Stock Exchange Control Act, 1985 (Act No. 1 of 1985). 30
- (8) For purposes of this section, unless the context indicates otherwise – 35
- “**central securities depository**” means a person who is licenced as a central securities depository under the Securities Services Act, 2004 (Act No. 36 of 2004); and 40
- “**institutional investor**” means a mutual fund, unit trust fund, pension fund, merchant bank, or insurance company, registered as such in terms of an applicable law and which trades securities in large volumes on behalf of large numbers of investors.

Suitability of third parties

89. (1) The board may prohibit a licensee from contracting with any supplier for the purchase of goods or services or any lender until such time as such supplier or lender has applied for and been granted a certificate of suitability by the board, in the manner determined by the board. 5
- (2) The board may require from any third party with whom a licensee has contracted, to apply to the board for a certificate of suitability in the manner and within such time as determined by the board, and if such a certificate is not granted, the board may require the termination of the contract or association between the licensee and the third party. 10
- (3) The certificate of suitability issued in terms of subsections (1) and (2) must be valid for a period of twelve months and thereafter subject to renewal upon payment of the prescribed fees. 15
- (4) The provisions of section 73 must *mutatis mutandis* apply to an application referred to in subsections (1) and (2). 20

Gambling devices

90. The holder of a casino licence, a bingo operator licence, a gambling machine operator licence or a gambling machine site licence must – 25
- (a) not use or allow any game to be played on a gambling device other than a gambling device which -
- (i) has been supplied by the holder of a manufacturer, maintenance or supplier licence; 30
- (ii) is identical in all material aspects to a type and model that has been approved by the board;
- (iii) has been registered with the board as prescribed; and 35
- (iv) complies with the national norms and standards and such further requirements as the board may from time to time determine;
- (b) keep such records and information as may be determined by the board in respect of each gambling device. 40

Books, accounts and records

91. The holder of a licence must keep such books, accounts and records as may be prescribed, specified in the licence or determined in the rules of the board. 45

Control of entry to certain premises

92. The holder of a licence (excluding a manufacturer, maintenance or supplier licence), or an employee of such a licence holder may -
- (a) refuse to admit any person, other than a member of the board, staff member of the board or a police officer to the licensed premises; 5
 - (b) request any person, other than a member of the board, staff member of the board or a police officer who is on the licensed premises, to leave the premises; 10
 - (c) request any police officer or inspector to remove or assist in removing from the licensed premises any person referred to in paragraph (a) or (b) or remove from the licensed premises any person who refuses or fails to comply with a request referred to in paragraph (a) or (b). 15

Excluded persons

93. (1) The holder of a licence or employee of such a licence holder may not knowingly allow a person who is registered as an excluded person in the national register for excluded persons, as contemplated in the National Gambling Act, to enter or remain in a designated area within the licensed premises or to participate in any gambling activity on the licensed premises. 20
- (2) Every licensee authorised to make a gambling activity available to the public must – 25
- (a) make available at the licensed premises –
 - (i) the form prescribed in terms of the National Gambling Act to be used by persons wishing to register as an excluded person; 30
 - (ii) A directory of locally recognised counselling, treatment or education services addressing the problems of compulsive and addictive gambling; and 35
 - (b) prominently post a notice advertising the availability of those materials, in the manner and form prescribed by the National Gambling Act, at every entry to those premises. 40

Advertisement

94. (1) Subject to any regulations made under section 137, this section and the provisions of the National Gambling Act, it must be lawful to advertise any gambling which may lawfully be conducted under this Act. 45

- (2) The holder of a licence, any person acting on his or her behalf or any other person may not, without the board's consent conduct any advertising with regard to gambling -
- (a) at or in close vicinity of any school or other institution or place where persons under the age of 18 years are the dominant frequenters; and 5
 - (b) in any newspaper, newsletter, magazine or periodical, or in any broadcast or transmission on radio, television or through any other medium, which is mainly aimed at persons under the age of 18 years. 10
- (3) Any advertisement of a gambling machine or device, a gambling activity, or a licensed premises at which gambling activities are available –
- (a) must include a statement, in the manner and form prescribed by the National Gambling Act, warning against the dangers of addictive and compulsive gambling; 15
 - (b) may not include any element which directly or indirectly promotes or encourages the removal of a person from the register of excluded persons. 20
- (4) A person may not advertise or promote any gambling or related activity as being available to the public free of charge or at a discounted rate contrary to this Act or the National Gambling Act, as an inducement for gambling. 25

Credit

95. The holder of a licence (excluding a manufacturer, maintenance or supplier licence), or an employee of such a licence holder, may not extend any credit in any form to any person in connection with or for the purpose of gambling, except as may be prescribed. 30

Rules of certain games

96. (1) The holder of a casino licence must in respect of any game for which no rules have been made by the board under section 138, make rules relating to the method of playing of such a game: Provided that such rules must be approved by the board. 35
- (2) All rules made in terms of section 138 and subsection (1), must at all times be available where any such game is played and be produced to any player on demand. 40

Assistance to customers

97. The holder of a licence (excluding a manufacturer, maintenance or supplier licence), must - 5
- (a) at the request of any customer make available for examination a copy of the rules in respect of any particular gambling game; and
 - (b) display prominently within the licensed premises such advice or information regarding any gambling game as may be prescribed. 10

Duration of licence

98. (1) Any licence granted under section 69(4) must, subject to being renewed, be valid as from the date of the issue thereof until the date on which – 15
- (a) the holder thereof abandons it in writing;
 - (b) it is revoked by the board under section 84. 20
- (2) Where a licence is suspended under section 84, the holder of such licence may not exercise any right or privilege conferred by such licence during the period of suspension.

Licence fees 25

99. (1) There must be charged and payable in respect of any licence granted or renewed under this Act the prescribed licence fees, which must be in addition to any other amounts or levies payable under this Act. 30
- (2) The licence fees referred to in subsection (1), may differ in relation to different types of licences.
- (3) Any licence holder who fails to pay any licence fees referred to in subsection (1) on or before the date on which he or she becomes liable to pay such licence fees, must in addition to such licence fees, pay the prescribed penalty: Provided that the amount of such penalty may not exceed twice the amount of the licence fee applicable to the licence concerned. 35

Duty to display licence 40

100. A licence holder must at all times prominently display his or her licence on the licensed premises.

Duty to produce licence or certificate

- 101.** A licence holder, employee of the licence holder or a person acting on behalf of the licence holder must, on demand of an inspector or police officer, produce the relevant licence or certificate of approval referred to in section 106(5). 5

Renewal of licence

- 102.** (1) A licence must, subject to the provisions of this Act and the conditions under which it was granted, remain in force and must on application by the licence holder be renewed by the board annually on production of the licence for the preceding year and on payment of the licence fees referred to in section 99. 10
- (2) An application for the renewal of a licence in terms of subsection (1) must be in the prescribed form and be submitted to the board not later than 90 days prior to the date on which the licence becomes renewable. 15

Payment in respect of exclusivity

- 103.** (1) The board may, after consultation with the responsible Member, require as a condition for granting a casino licence for the first time, a one-time payment in consideration of guaranteeing to such licence holder, exclusivity in respect of any determined type of gambling in a determined area and for a determined period of time: Provided that the board may, after consultation with the responsible Member, and in the prescribed manner, extend such period of exclusivity against such further payment as may be tendered by such licence holder. 20 25
- (2) Any payment in terms of subsection (1) must be paid to the board for the benefit of the Provincial Revenue Fund, at the time and in the manner determined by the board after consultation with the responsible Member. 30

PART 3 EMPLOYEES OF GAMBLING BUSINESSES

Requirement for certain employees 35

- 104.** (1) Subject to section 111, no person may be employed in any business relating to gambling if such a person is not the holder of a certificate of approval issued in terms of section 106(5). 40
- (2) The responsible Member may prescribe any occupation to be an occupation for purposes of subsection (1).

Application for certificate

105. (1) An application for a certificate of approval must be made to the chief executive officer in the prescribed form and must be accompanied by - 5
- (a) a complete set of fingerprints of the applicant taken in the prescribed manner; 10
 - (b) such documents, particulars or information as may be prescribed; and 10
 - (c) the prescribed application fees. 15
- (2) The provisions of section 73 must *mutatis mutandis* apply to an application referred to in subsection (1). 15

Disqualifications for certificates of approval

106. (1) The board must consider an application in terms of section 105, and may not issue a certificate of approval in terms of this Act to any person if that person – 20
- (a) is not a fit and proper person, in that such person's character, integrity, honesty, prior conduct, regard for the law, reputation, habits and associations may reasonably pose a threat to the health, safety, morals, good order and general welfare of the inhabitants of the Province or to the provisions and policy of this Act; 25
 - (b) is an unrehabilitated insolvent or is subject to any legal disability;
 - (c) is a member of the board, a member of the Executive Council or a member of the standing committee of the Provincial Legislature responsible for this Act, or is a family member of such person; 30
 - (d) is an employee of the board, or a family member of such person, provided that the board may condone such disqualification, where it exists in respect of a family member, if it is satisfied that no material conflict of interest will arise by reason of such employment; 35
 - (e) is under the age of 18 years;
 - (f) is a public servant or political office bearer; 40
 - (g) is listed on the register of excluded persons contemplated in the National Gambling Act;
 - (h) is subject to an order of a competent court holding that person to be mentally unfit or deranged; 45

- (i) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or
 - (j) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of this Act or the National Gambling Act, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence. 5
- (2) If the board is satisfied that the applicant is a suitable person to be so employed, the board must grant the application subject to such conditions as the board may determine. 10
- (3) The board may not refuse an application without giving the applicant the opportunity of being heard or presenting evidence. 15
- (4) If the board refuses an application, the chief executive officer must forthwith notify the applicant in writing of the reasons furnished by the board for such decision. 20
- (5) Where the board grants an application in terms of subsection (2), the chief executive officer must issue to the applicant a certificate of approval in the prescribed form. 25

Register of employees

- 107.** The chief executive officer must keep a register in which he or she must enter the name and prescribed particulars of each person to whom a certificate of approval has been issued under section 106(5), or whose certificate has been suspended or withdrawn under section 110. 30

Duration of certificate

- 108.** (1) A certificate of approval issued under section 106(5), must be valid as from the date of the issue thereof until the date on which - 35
- (a) the holder thereof, in writing and accompanied by the certificate, surrenders the certificate to the chief executive officer; 40
 - (b) the certificate is withdrawn by the board under section 110; or
 - (c) the certificate lapses if the certificate was issued for a specific period.
- (2) Where a certificate of approval is suspended under section 110, the holder of such certificate may not be so employed during the period of suspension. 45

Renewal of certificate

109. (1) A certificate must, subject to the provisions of this Act, remain in force and must be renewed by the board annually on payment of the prescribed fees. 5
- (2) Payment of the prescribed fees must be accompanied by such documents and information as determined by the Board and must be submitted to the Board not later than 30 days prior to the date on which the certificate becomes renewable.
- (3) Failure to pay the annual renewal fee referred to in subsection (1) on or before the date referred to in subsection (2) must result in a penalty as prescribed: Provided that the amount of such payment may not exceed twice the amount of the renewal fee applicable to the certificate concerned. 10

Suspension and withdrawal of certificate 15

110. (1) The board may, subject to subsection (2), at any time suspend for such period, not exceeding 6 months, as the board may determine, or withdraw, from such date as the board may determine, a certificate of approval, if – 20
- (a) any information contained in the application for such certificate was at the time when the information was furnished, false in any material respect or was subject to any material omission; 25
- (b) since the issue of the certificate, the holder of the certificate has become disqualified in terms of section 106(1) to hold a certificate of approval; 25
- (c) the holder of the certificate has acted in contravention of the provisions of section 112; or 30
- (d) the holder of the certificate is no longer a suitable person to be so employed. 30
- (2) The board may not suspend or withdraw a certificate of approval, unless the holder thereof has, by notice of not less than 30 days, been given an opportunity of being heard by the board and of presenting evidence: Provided that any certificate of approval may be suspended with immediate effect pending the outcome of the hearing referred to in this subsection. 35
- (3) The board may at any time revoke the suspension of a certificate of approval if the board is satisfied that the reasons for which the suspension was imposed have been remedied and that it would be just to revoke the suspension. 40

Employment before issue of certificate

- 111.** Notwithstanding the provisions of section 104, where an application for a certificate of approval 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; 5
 - (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 10
 - (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, 15
- 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.

Restrictions applicable to employees 20

- 112.** A person who is required to hold a certificate of approval in terms of section 104(1), may not in a casino or a bingo hall, as the case may be, with which he or she is associated – 25
- (a) participate in or play any gambling game in the Republic: 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; or
 - (b) solicit any tip, gratuity, consideration, or other benefit from any player or customer in that casino or bingo hall, otherwise than as prescribed. 30

CHAPTER 5 COMPLIANCE

Designation of police officers 35

- 113.** (1) The Provincial Commissioner of the South African Police Service may designate any police official of the rank or above the rank of a Sergeant as a designated police officer: Provided that this provision does not prevent any other officer of similar rank to execute functions and responsibilities that relates to a designated police officer. 40
- (2) Police officers may enter registered or licensed premises with a warrant obtained in accordance with the procedure set out in section 118 or without a warrant as set out in section 114. 45

Powers of police to enter licensed or registered premises

114. (1) Notwithstanding anything to the contrary contained in any other law, a police officer of or above the rank of sergeant may on reasonable grounds and when he or she deems it necessary, without a warrant enter a licensed or registered premises for the purpose of - 5
- (a) carrying out such investigations and of taking such steps as he or she may consider necessary for the prevention of an offence; 10
 - (b) the investigation of an offence;
 - (c) the investigation of the conduct of any person therein; and
 - (d) determining whether the conditions referred to in this Act are being complied with. 15
- (2) Any police officer entering a licensed or registered premises under subsection (1), must submit a written report thereon to the board. 20
- (3) A police officer may –
- (a) at any time enter and search any premises, place or vehicle or search any person, object or substance, whether found on those premises or in that place or vehicle or not, if – 25
 - (i) there are reasonable grounds to suspect that an offence in terms of this Act is being committed on those premises or in that place or vehicle, or is being committed by that person or by means of that vehicle or object, or that it is being used in connection with the commission of such an offence; or 30
 - (ii) there are reasonable grounds to suspect that -
 - (aa) a person has in his or her possession liquor or methylated spirits, a vehicle or an object; 35
 - (bb) liquor or methylated spirits, a vehicle or an object kept on those premises or in that place is; 40
 - (cc) liquor or methylated spirits kept in that vehicle or object is;
 - (dd) any other object kept in that vehicle is; or
 - (ee) any other object kept in any receptacle is, 45
- in contravention of this Act or in connection with such a contravention;

- (c) enter premises or place in which liquor or methylated spirits is being sold and demand that the registration certificate authorising such sale be produced to him or her or the licence;
- (d) at any time inspect a record or other document required to be kept by virtue of this Act. 5
- (4) The designated police officer must compile the reports contemplated in this Act.
- (5) In order to perform the functions in subsection (4), the designated police officer may enter any relevant premises in accordance with provisions of this Act. 10

Appointment of inspectors by the board

- 115. (1) The board may appoint any suitably qualified person as an inspector to exercise and perform, subject to the control and directions of the board, any or all of the powers and functions assigned to an inspector in terms of this Act. 15
- (2) Every inspector appointed under subsection (1) must be furnished with a certificate signed by or on behalf of the board and stating that he or she has been appointed as an inspector: Provided that if his or her appointment as inspector is limited to any particular power or function, his or her certificate must state such limitation. 20
- (3) Whenever an inspector appointed under subsection (1), exercises or performs a power or function under this Act in the presence of any person affected thereby, the inspector must on demand by such person produce to him or her the certificate referred to in subsection (2). 25
- (4) The board may request the Minister of Justice to appoint inspectors as peace officers as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in order to exercise the powers conferred on a peace officer by law. 30

Powers and functions of inspectors

- 116. (1) An inspector may, for the purposes of this Act - 35
 - (a) without a warrant in his or her possession enter and inspect –
 - (i) licensed or registered premises; 40
 - (ii) land or premises if authorised to do so by another law; or
 - (iii) with the consent of the owner or person in control of land or premises. 45

- (b) in or on 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; 5
 - (ii) question or search any person who is on or in such premises and inspect any activities in connection with this Act; and
 - (iii) examine or inspect any gambling machine, equipment, device, object, substance, book, record, note or other document referred to in paragraph (a) and make a copy thereof or extract therefrom, where applicable; 10
- (c) require from any person in charge of any premises referred to in paragraph (a) - 15
 - (i) to point out any gambling machine, equipment, device, object or substance referred to in that paragraph which is in his or her possession or custody or under his or her control; 20
 - (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; 25
 - (iii) to provide any information in connection with anything which has been pointed out or produced in terms of subparagraph (i) or (ii);
- (d) seize and remove any gambling machine, equipment, device, object, substance, book, record, note or other document referred to in paragraph (c) which in his or her opinion may furnish proof of a contravention of any provision of this Act or leave it on the premises concerned after marking it for the purposes of identification; 30
- (e) compile reports contemplated in this Act; 35
- (f) take samples of a substance that the inspector reasonably believes is relevant to the inspection;
- (g) for the purpose of the inspection, take photos or make audio-visual recordings of anything or a person, process, action or condition implicated in the inspection on or regarding any premises; 40
- (h) do all things reasonably necessary for conducting the inspection.

- (2) An inspector may, upon written authorisation by the Director of Public Prosecutions or a public prosecutor authorised thereto in writing by the Director of Public Prosecutions, inspect or make copies of any account of any person at any financial institution, if such account may, in the opinion of the Director of Public Prosecutions, afford evidence of the commission of an offence or may be of value in the investigation of an alleged or suspected offence in terms of the provisions of this Act. 5
- (3) An inspector may be accompanied during an inspection by a member of the South African Police Service to ensure the safety of the inspector and also by another person reasonably required to assist in conducting the inspection. 10
- (4) Before commencing an inspection on land or premises in terms of this section, the inspector must – 15
- (a) provide identification to the owner or other person in charge of the premises;
- (b) explain to that person the authority by which the inspection is being conducted; and 20
- (c) show that person the inspector's certificate of designation.
- (5) Before questioning a person in terms of this Chapter, an inspector must inform that person of his or her applicable constitutional rights. 25
- (6) Nothing in this section must preclude any inspector appointed and authorised in terms of a national gambling act to exercise and perform any of the above mentioned powers and functions in the Province. 30
- (7) An inspector may at any time deliver such notices as the board is authorised to issue in terms of this Act.
- (8) An inspection without a warrant must be carried out only during prescribed normal business hours. 35
- (9) Subject to section 118, an inspector may enter any land or premises not registered or licensed in terms of this Act, if a magistrate has issued a warrant to enter or inspect such land or premises. 40

Resistance against entry

117. (1) A police officer or inspector who has the power to enter any premises, may use such force as may be reasonably necessary to overcome any resistance against such entry of a place including the breaking of any door or window: Provided that such police officer or inspector must first audibly demand admission to the said premises and notify the purposes for which he or she seeks to enter the place. 45

- (2) The proviso to subsection (1) may not apply where the police officer or inspector concerned is on reasonable grounds of the opinion that any article which is the subject of the investigation may be destroyed or disposed of if the provisions of the said proviso are first complied with.

5

Procedure to issue warrant

118. (1) A magistrate may issue a warrant to enter and inspect any land or premises if, from information in writing under oath, the magistrate has reason to believe that –

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- (a) it is necessary to obtain information, in the interest of the public, that cannot reasonably be obtained without entering the land or those premises; or

- (b) there is non-compliance with this Act.

15

- (2) A warrant in terms of subsection (1) may be issued at any time and must be in terms of and subject to the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

20

- (3) A warrant issued in terms of subsection (1) is valid until –

- (a) it is executed;

- (b) it is cancelled by the magistrate who issued it or, in the magistrate's absence, by any other judicial officer;

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- (c) the purpose for which it was issued has lapsed; or

- (d) 90 days have lapsed since the date of its issue.

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- (4) Before commencing any inspection, search or seizure, an inspector who carries out a warrant must -

- (a) if the owner of or a person in control of the land or premises is present –

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- (i) identify himself or herself, indicate his or her designation or furnish proof thereof;

- (ii) hand a copy of the warrant to that person or any person named in it; or

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- (b) if the owner or person in control of the land or premises is absent or refuses to accept a copy, attach a copy of the warrant to the land or premises in a prominent and visible place.

45

Compliance notices

- 119.** (1) If an inspector reasonably believes that a provision of this Act or a condition of a licence or registration has not been complied with, the inspector may issue a compliance notice in the prescribed form to - 5
- (a) the registrant; or
 - (b) the owner of the registered premises or a person in control of the registered premises. 10
- (2) A compliance notice contemplated in subsection (1) must set out -
- (a) the provision that has not been complied with; 15
 - (b) details of the nature and extent of the non-compliance;
 - (c) any steps that are required to be taken and the period within which those steps must be taken; and 20
 - (d) any penalty that may be imposed in terms of this Act if those steps are not taken.
- (3) A compliance notice contemplated in subsection (1) remains in force until an inspector issues a compliance certificate contemplated in subsection (4) in respect of that notice. 25
- (4) If the requirements of a compliance notice have been satisfied, the inspector must issue a compliance certificate. 30

Objection to compliance notice

- 120.** (1) A person issued with a compliance notice may object to it by making representations to the board within - 35
- (a) 21 days of receipt of that notice; or
 - (b) such longer period as may be allowed by the board on good cause shown.
- (2) After considering any representations by the objector and any other relevant information, the board may confirm, modify or cancel a compliance notice or any part of such notice. 40
- (3) The board must serve a copy of the notice made in terms of subsection (2) on the objector and, if the objector is not a person registered in terms of this Act, a registered person affected by the notice. 45

- (4) If the board confirms or modifies the notice or a part of the notice, the objector must comply with that notice, within the time period specified in that notice.

Interim orders

- 5
121. (1) The board may, in exceptional circumstances, and upon application by an inspector or a police officer, and where there is an imminent threat to the health, well being or safety of the public, grant an interim order suspending a licence or registration. 10
- (2) An application in terms of subsection (1) may not be granted unless –
- (a) it is supported by affidavit setting out the facts pertaining to the matter; 15
- (b) proof is submitted that the application and supporting affidavits have been served upon the registrant or licence holder not less than forty-eight (48) hours prior to the lodgement of the application; and 20
- (c) it appears from the application that the matter is one of urgency. 20
- (3) An order granted in terms of subsection (1) must be served upon the licence holder or registrant as directed by the board and comes into effect upon the date and at the time of service thereof. 25
- (4) An order granted in terms of subsection (1) must stipulate a date upon which the registrant or licence holder must appear before the board to show cause why the order should not be made final. 30
- (5) The registrant or licence holder may, prior to the date stipulated in subsection (4), lodge with the board a notice of opposition and must thereafter lodge affidavits in which he or she sets out the grounds upon which the application is opposed and must simultaneously serve a copy of such notice and affidavits on the inspector or a police officer referred to in subsection (1). 35
- (6) A licence holder or registrant may at any time prior to the date stipulated in terms of subsection (4) apply to the chairperson to set the matter down for hearing upon an earlier date, and must simultaneously serve a copy of such application on the inspector or designated police officer referred to in subsection (1). 40
- (7) The chairperson may order the return date to be brought forward to an earlier date. 40
- (8) Upon the date of the hearing of the application the board may discharge the interim order or confirm it, subject to such amendments as it deems fit.

**CHAPTER 6
OFFENCES, PENALTIES, PRESUMPTIONS AND COMPLAINTS**

**PART 1
PRESUMPTIONS AND PROHIBITIONS**

5

Prohibition in respect of gambling and presumptions relating thereto

122. (1) A person may not -

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(a) participate in gambling, gamble or wager on the result of any event or contingency with any person other than with the holder of a licence issued in terms of this Act or any other law and who is authorised by such licence to participate in such gambling or to gamble or accept wagers on the event or contingency concerned: Provided that this section must not prevent a licence holder from participating in gambling or accepting wagers from the public in accordance with the conditions of his or her licence;

15

(b) without the required licence conduct or permit any gambling activity at any place under his or her control or in his or her charge;

20

(c) gamble at any place referred to in paragraph (b) or visit any such place with the object of gambling;

(d) accept any employment in any occupation contemplated in section 59 with any person who is not the holder of the required licence, without taking all reasonable precautions to establish the validity of the licence;

25

(e) employ, or offer employment to any person in an occupation contemplated in section 104, without being the holder of the requisite licence.

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(2) A person may not, without the required licence issued in terms of this Act or any other law or without the prior written approval of the board, be in possession of –

(i) a gambling device, other than playing cards or dice;

35

(ii) a gambling machine;

(iii) a reel tape designed for use in a gambling machine;

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(iv) any device which would be a gambling machine but for the removal of any of its parts or the reprogramming thereof;

(v) any device which is capable of electronically representing the reels used in a gambling machine;

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- (vi) any device which was manufactured as a gambling machine and which has been converted at any time so that it is unable to pay out cash or tokens, whether such device enables a player to win a prize or not;
- (vii) any device resembling a gambling machine in any material respect. 5

Improper use of the word “casino”

123. No person must, without the written consent of the board, trade or conduct or advertise a business under a name or title of which the word “casino” forms a part, unless he or she is the holder of a casino licence. 10

Amusement games

124. (1) For the purpose of this Act, the playing of an amusement game does not constitute gambling. 15

- (2) Any prize offered in respect of an amusement game is subject to such limitations as may be prescribed. 20

Prohibition of certain persons from entering licensed premises

125. (1) A person under the age of 18 years may not enter the designated area of any licensed premises and may not partake in any gambling or handle or operate a gambling device. 25

- (2) A licensee or employee of a licensee may not permit any person who is under the age of 18 years, and a parent or guardian of a person under the age of 18 years may not permit such person, to enter or remain in the designated area of the licensed premises and may not permit such person to partake in any gambling or handle or operate a gambling device. 30

- (3) Where the court that 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 interests of public order, public morals or fair play, that such person should not be permitted to enter any or a specific licensed premises, the court may issue a written order prohibiting him or her from entering any such licensed premises specified in the order for a period to be stated in the order. 35

- (4) Where a court makes an order under subsection (3), the clerk of the Court must submit a copy of the order to the chief executive officer who must cause a copy thereof to be delivered to the licensees of all licensed premises named in the order. 40

- (5) The board may, on such grounds as may be prescribed, prohibit any person from entering any licensed premises or partaking in any gambling.

Prohibition of betting through agents and unlawful inducement to bet

- 126.** (1) A person may not, whether or not for gain, - 5
- (a) act as an agent for the holder of a bookmaker's licence for the purpose of betting on a sporting event; or 10
- (b) act as an intermediary between the holder of a bookmaker's licence and any other person for the purpose of betting on sporting event.
- (2) A person may not, 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. 15

Prohibition in respect of manufacture, sale, distribution, import, marketing, altering and modification of gambling equipment and devices

- 127.** (1) A person may not – 20
- (a) operate, manufacture, sell, distribute, import or market any card, token, dice, game or gambling device which is intended to be used in violation of any provision of this Act; 25
- (b) alter, or otherwise modify any gambling device or any associated equipment in a manner that –
- (i) affects the results of a wager by determining win or loss; or 30
- (ii) alters or affects the normal criteria of random selection which determines the outcome of a casino game;
- (c) provide any person with information or a device to cheat in any casino game, knowing that the information so conveyed or the device so provided may be used to violate any provision of this Act. 35

Prohibition of activities in the Province in relation to gambling outside Province

- 128.** A person may not be exempted from liability under any provision of this Act in respect of any act or thing done or authorised or permitted by him to be done in the Province in connection with any gambling, merely by reason that the management, conduct or business of or concerning such gambling is in whole or part carried on at some place outside the Province. 40
- 45

Cheating and cheating devices

129. (1) A person may not –

- (a) allow anyone to conduct, carry on or operate any cheating or cheating device; 5
 - (b) conduct, carry on, operate, deal or expose for play any casino game or games played with cards or through any mechanical device, or any combination of such games and devices, which have in any manner been marked or tampered with or placed in a condition or operated in a manner the result of which tends to deceive players or the public or tends to alter the normal random selection of criteria or the normal chance of the game which could determine or alter the result of such game; or 10
15
 - (c) make use of any counterfeit chip or token, or contravenes the rules of any game or interferes in any way with any gambling device or any other device used for gambling with the intention of obtaining any pecuniary advantage, directly or indirectly, whether for himself or herself or any other person. 20
- (2) For purposes of this section and section 127(c), “**cheating**” or “**cheat**” means to alter the selection of criteria –
- (a) which determine the result of a casino game; 25
 - (b) which determine the amount or frequency of payment in a casino game; or
 - (c) in terms of any scheme, arrangement, system or plan which the responsible Member may from time to time by notice in the *Provincial Gazette* so declare to be cheating. 30

Enforceability of gambling debts and forfeiture of unlawful winnings

130. (1) Despite any provision of the common law, or any other law other than this Act –

- (a) a debt incurred by a person, other than an excluded person, subject to paragraph (d)(ii), or a minor, in the course of a gambling activity that is licensed in terms of this Act, is enforceable in law; 35
- (b) a debt incurred by a person other than an excluded person, subject to paragraph (d)(ii), or a minor, in the course of a gambling activity that is lawful but not required to be licensed, in terms of this Act or the National Gambling Act, is enforceable in law only to the extent that it is enforceable in terms of the common law or another law; 40
45
- (c) a debt incurred by a person in the course of any gambling activity that is unlawful in terms of this Act or the National Gambling Act, is not enforceable in law;

- (d) a debt incurred in the course of a gambling activity –
 - (i) by a minor is not enforceable in law; or
 - (ii) by an excluded person is not enforceable in law, unless that excluded person gained access to that gambling activity by fraudulently claiming to be a different person; and 5
- (e) an informal bet is not enforceable in law. 10
- (2) A person must not knowingly pay any winnings from a gambling activity to –
 - (a) a minor;
 - (b) an excluded person; or 15
 - (c) any other person who won those winnings in a gambling activity that is unlawful in terms of this Act.
- (3) Any person who is prevented from paying winnings referred to in subsection (2) must remit those winnings to the National Gambling Board in the manner and form prescribed by the National Gambling Board, to be held by the National Gambling Board in trust. 20

Imputation of criminal liability 25

- 131.** (1) If a manager, agent or employee of a person commits an offence by performing or omitting to perform an act and such performance or omission would have constituted an offence had it been done by the registrant, that person is equally guilty of the offence if the act or omission fell within the scope of the authority or employment of the manager, agent or employee concerned and the person - 30
- (a) either connived at or permitted the act or omission by the manager, agent or employee concerned; or 35
 - (b) did not take all reasonable steps to prevent the act or omission.
- (2) For purposes of subsection (1), the fact that a person issued instructions prohibiting an act or omission is not in itself sufficient proof that all reasonable steps were taken to prevent the act or omission.

PART 2
OFFENCES, PENALTIES, PRESUMPTIONS AND FORFEITURES

Offences

		5
132. (1)	Any person who –	
(a)	contravenes or fails to comply with any provision of this Act or any rule or regulation made under sections of this Act;	10
(b)	makes any false statement in any application or return under this Act;	15
(c)	contravenes any condition of a licence or registration;	20
(d)	on any licensed premises conducts any gambling or keeps any gambling device which is not prescribed under this Act or conducts any prescribed game otherwise than in accordance with the rules of such game;	25
(e)	hinders or obstructs any police officer or inspector in the performance of his or her functions under this Act;	30
(f)	gives an explanation or information to a police officer or inspector which is false or misleading, knowing it to be false or misleading;	35
(g)	falsely represents himself or herself to be an inspector;	40
(h)	without the consent in writing of the inspector or police officer concerned, removes from the place where it has been left by the inspector or police officer, or tampers with, destroys or makes alterations to anything seized by such inspector or police officer in the performance of his or her functions;	45
(i)	fails to comply with an order made under section 125(3) or knowingly permits such person to enter the licensed premises;	50
(j)	having been summoned to give evidence at an enquiry under section 20(2), without sufficient cause fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the enquiry or until excused by the board from further attendance, or to produce any book, document or thing in his or her possession or custody or under his or her control, which he or she has been summoned to produce;	55
(k)	having been summoned under section 20(2) or called under section 20(5) -	60

- (i) without sufficient cause refuses to take the oath or to make an affirmation as a witness after he or she has been directed by the member of the board presiding at the enquiry to do so, or refuses to testify, or refuses or fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her; or 5
- (ii) after having taken the oath or having made an affirmation, gives false evidence before the board at any enquiry on any matter, knowing such evidence to be false or not knowing or believing it to be true, 10
- is guilty of an offence.
- (2) Any person who - 15
- (a) refuses to grant an inspector access to premises to which the inspector is authorised to have access;
- (b) unlawfully prevents the owner of any premises, or a person working for that owner, from entering the premises in order to comply with a requirement of this Act; 20
- (c) pretends to be a registrant, licence holder or inspector;
- (d) falsifies, or without authorisation, alters - 25
- (i) a registration certificate or licence issued in terms of this Act; or
- (ii) an authorisation of a warrant, compliance notice or compliance certificate contemplated in Chapter 5; 30
- (e) fails to comply with a compliance notice issued in terms of Chapter 5, is guilty of an offence. 35
- (3) A person who -
- (a) is drunk in or on -
- (i) premises on which liquor or methylated spirits is sold; or 40
- (ii) a place to which the public has access;
- (b) sells or supplies liquor or methylated spirits to a drunk person or being a registrant or a person in charge of the premises allows a drunk person to remain upon the registered premises; 45

- (c) purchases liquor or methylated spirits from any person knowing, or having reasonable grounds to suspect, that such person is not registered or permitted to sell liquor or methylated spirits in terms of this Act or in terms of the National Liquor Act; 5
- (d) subject to subsection (4), consumes any liquor or methylated spirits in any road, street, lane or thoroughfare, or on vacant land adjacent thereto, in an urban or rural area or other area subdivided into erven or plots with streets bounded by such erven or plots; 10
- (e) consumes or possesses liquor or methylated spirits on private premises without the consent of the owner or lawful occupier of those premises first having been obtained; 10
- (f) introduces, possesses or consumes any liquor or methylated spirits on a sportsground, or a part thereof, to which the public has or is granted access (irrespective of whether access is granted against payment), except on registered premises situated on the sportsground concerned, 15
- is guilty of an offence. 20
- (4) A person who is in charge of the registered premises must not allow a person who has a weapon in his or her possession to enter the premises.
- (5) Subsection (3)(d) must not apply to liquor with regard to – 25
- (a) the consumption of liquor on vacant land contemplated in that subsection if the liquor has been sold on that land under an on-consumption licence; 30
- (b) a social occasion held on that land by a person who owns or lawfully occupies the land; or 30
- (c) the use of that land by that person in the ordinary course of his or her occupation thereof. 35
- (6) In the application of subsection (3)(e), a person occupying the premises concerned as an employee of the owner or lawful occupier of the land on which those premises are situated, must be deemed not to be the lawful occupier of the premises. 40

Penalties and forfeitures

- 133.(1) A person who is found guilty of an offence in terms of this Act is liable on conviction to a fine or imprisonment not exceeding ten (10) years, or to both a fine and such imprisonment. 45

- (2) A court convicting any person of an offence under this Act may, when requested thereto by the public prosecutor, in addition to any other penalty imposed in respect of that offence, order that the quantity of the product, material, substance or other article concerned which formed the subject of the charge against that person, be forfeited to the State. 5
- (3) Upon conviction or payment of a fine or admission of guilt under this Act, any proceeds of unlawful activities may be forfeited in terms of the provisions of the Organised Crime Act, 1998 (Act No. 121 of 1998). 10
- (4) The court may cancel the licence or registration issued in terms of this Act in case of a conviction or subsequent conviction of an offence under this Act.
- (5) Notwithstanding the provisions of this section, the board may also impose prescribed penalties against a licensee or registrant for failure to comply with the conditions of a licence, provisions of the Act or the Regulations, after conducting an enquiry referred to in section 20. 15
- (6) The prescribed penalty must be paid to the Provincial Revenue Fund. 20

Patron disputes

- 134.** (1) If a licence holder refuses payment of alleged winnings to a player, and the licence holder and the player are unable to resolve the dispute to the satisfaction of the player, the dispute must be resolved in accordance with the prescribed procedure. 25
- (2) Any resolution made by the board in terms of this section and in consequence of a hearing conducted in accordance with the prescribed procedure constitutes a final order of the board. 30

Removal from premises

- 135.** (1) A registrant or licence holder, his or her agent or employee may remove from the registered premises any person who is drunk, violent or disorderly or whose presence on the registered premises may subject the registrant or licence holder to prosecution. 35
- (2) A registrant or licence holder, his or her agent or employee may request a police officer to remove or assist in removing a person referred to in subsection (1). 40

PART 3 COMPLAINTS

Complaints

- 136.** (1) A person aggrieved by the activities at a registered or licensed premises may lodge a complaint in writing to the board in a prescribed manner. 45

- (2) An aggrieved person who could convince the responsible Member that he or she does not have the necessary financial means to approach the High Court as contemplated in section 139 to review a decision of the board taken in subsection (1), may appeal to the responsible Member within 30 days of being notified of the decision of the board in the prescribed manner. 5
- (3) The responsible Member may confirm, amend or set aside the decision of the board contemplated in subsection (2).

CHAPTER 7 REGULATIONS AND RULES 10

Power to issue regulations

137. (1) The responsible Member may, after consultation with the board, make regulations - 15
- (a) required or permitted in terms of this Act;
- (b) necessary or expedient to prescribe in order to achieve the objectives of this Act; 20
- (c) on any matter pertaining to the board;
- (d) on any matter pertaining to an application for a licence or registration; 25
- (e) regarding the management and control of licensed or registered premises;
- (f) on the take-out, commissions or other charges which the holder of the licence may charge; 30
- (g) on the stakes for which any casino game may be played;
- (h) on the winning stakes payable in respect of horse races; 35
- (i) on the mediation of gambling disputes by the board;
- (j) on tasting of wines or liquor promotions held on registered premises;
- (k) subject to national norms and standards regulating liquor during international sport events, which rules may differ from those generally applicable to applications and registrations in terms of the Act and Regulations. 40
- (2) A regulation made under this section may for a contravention thereof or failure to comply therewith, prescribe a fine or imprisonment for a period not exceeding 5 years or both such fine and imprisonment. 45

- (3) Different regulations may be made under this section in respect of different kinds of licences or registrations, licences or registrations of the same kind having different common characteristics, different categories of persons or different areas. 5
- (4) Before promulgating a regulation, the responsible Member must -
- (a) take appropriate steps to notify any persons who are likely to be materially or adversely affected by the regulation or notice and invite comment from them; 10
- (b) publish the regulation or notice in the *Provincial Gazette* and invite comment from the public; and
- (c) consider any comment received and any recommendations made by the board. 15
- (5) The provisions of subsection (4) must 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 20
- (b) any regulation in respect of which the public interest requires it to be made without delay. 25

Rules

138. (1) The board may make rules, not inconsistent with the provisions of this Act, relating to the exercise of its powers and the performance of its functions, including, but not limited to, - 30
- (a) any matter pertaining to an application for a licence or registration; 35
- (b) the management and control of licensed premises and licence holders and registrants;
- (c) rules for the conduct of any form of gambling. 40
- (2) If a licensee contravenes or fails to comply with any rule made under subsection (1), the board may, after conducting an enquiry referred to in section 20, impose on the licensee a fine not exceeding R100 000 for any one such contravention with the quantum of the fine to reflect the relative level of gravity of the contravention. 45

- (3) Not less than 1 month before any rule is made under this section, the board must 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 or any representations which they wish to make in regard thereto, to the board on or before a date mentioned in the notice. 5

CHAPTER 8 GENERAL

Review of decision of the board 10

- 139.** Decisions of the board in terms of this Act are subject to review to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 15

Financial interests

- 140.** A contract in terms of which a financial interest is procured in conflict with section 88(1) or (2), is void. 20

Relinquishing or forgoing of certain rights, privileges, obligations and liabilities

- 141.** Unless this Act specifically or by necessary implication permits such a provision, a contract which contains a provision whereby a person purports to relinquish or forgo a right, privilege, obligation or liability in terms of this Act, must be void irrespective of whether the contract was concluded before or after the commencement of this Act. 25

Repeal of laws

- 142.** The laws mentioned in the Schedule are hereby repealed to the extent indicated in the second column of the Schedule. 30

Limitation of liability

- 143.** Neither the State nor any organ of state or person exercising any power or performing any duty in terms of this Act is liable for any loss or damage resulting from an act or omission in good faith in the exercise of such power or the performance of such duty. 35

Validity of registration subject to suspension and lapsing thereof 40

- 144.** (1) A registration which has been suspended in terms of a provision of this Act remains valid in all respects, except that the registrant may not sell liquor or methylated spirits in terms thereof during the period of suspension.

- (2) The registrant whose registration has been suspended, cancelled or has lapsed in terms of provisions of this Act, may within 30 days of such suspension, cancellation or lapsing, sell by public auction conducted by a licenced auctioneer any liquor or methylated spirits which was upon the registered premises on the date upon which the suspension, cancellation or lapsing came into effect. 5
- (3) A registration which has lapsed is null and void from the date upon which it lapses.

Delegation of power and assignment of functions 10

- 145.** (1) The responsible Member may delegate and assign all or part of a power or function of the responsible Member in terms of this Act, other than the power to make regulations, to the Head of Department or an officer of the department designated by the Head of Department. 15
- (2) At any time, the responsible Member may revoke a delegation and assignment of power and functions under this section, and exercise that power directly.
- (3) The chief executive officer may delegate a power and assign a function vested in the chief executive officer in terms of this Act to a member of the staff. 20
- (4) Subject to subsection (5), the board may, in terms of such conditions as it may determine, in writing, delegate a power or assign a function conferred or imposed upon it under this Act, except the powers and functions referred to in sections 42(2), 74 – 81, 84, 85, to - 25
- (a) the chief executive officer;
- (b) the chairperson; 30
- (c) a committee of members; or
- (d) staff. 35
- (5) A delegation and assignment under subsection (4) does not prevent the board itself from exercising the power or performing the function and such delegation and assignment may at any time be revoked.

Transitional arrangements 40

- 146.** (1) When this Act takes effect –
- (a) all assets, rights, liabilities and obligations of the Free State Gambling and Racing Board and the Free State Liquor Authority are vested in the Authority; 45

- (b) all the employees of the Free State Gambling and Racing Board and the Free State Liquor Authority and inspectors appointed by the department and seconded to the Free State Liquor Authority must be transferred to the Authority in accordance with section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995); 5
- (c) notwithstanding any other provision or document, the board and Authority contemplated in the Free State Gambling and Racing Act, 1996 (Act No. 6 of 1996) and the Free State Liquor Act, 2007 (Act No. 3 of 2007) are dissolved; 10
- (d) any regulations, notices, proclamations or rules issued in terms of the Free State Gambling and Racing Act, 1996 (Act No. 6 of 1996) and the Free State Liquor Act, 2007 (Act No. 3 of 2007) and which may be issued in terms of this Act are deemed to have been issued in terms of this Act; 15
- (e) any accounting and reporting responsibilities of the accounting authorities of the Free State Gambling and Racing Board and the Free State Liquor Authority which have not yet been concluded, may be executed by the board established in terms of this Act; 20
- (f) notwithstanding the repeal of any provision of any Act by this Act, any application made by virtue of such a provision before the date of commencement of this Act and not disposed of on that date must be continued with and disposed of as if that provision were not so repealed. 25
- (2) In relation to gambling –
- (a) Any licence for the operation of a casino in the Province, issued in terms of any act which is repealed by this Act, shall be deemed to have been issued in terms of this Act, after which the provisions of this Act shall apply in respect of such a licence. 30
- (b) Any licence or other authority granted in terms of any Act repealed by this Act and which is capable of being granted in terms of this Act shall be deemed to have been granted in terms of this Act, after which the provisions of this Act shall apply in respect of such licences or authority. 35
- (c) Anything done in terms of a provision of any Act which is repealed by this Act and which shall or may be done in terms of a provision of this Act shall be deemed to have been done in terms of the latter provision. 40
- (3) In relation to liquor –
- (a) A liquor licence together with its conditions in force immediately before commencement of this Act which were given in terms of the Liquor Act, 1989 (Act No. 27 of 1989) or the Free State Liquor Act, 2007 (Act No. 3 of 2007) or a approval or licence issued in terms of subsection (3) is regarded to be a registration given in terms of this Act.

- (b) A notice issued in terms of section 33 of the Liquor Act, 1989, and in force immediately prior to the commencement of this Act must be deemed to be conditions set out in writing in terms of this Act.
- (c) A liquor licence contemplated in paragraph (a), unless otherwise determined by the board upon application in the prescribed manner, lapses three (3) years from date determined by the responsible Member after commencement of this Act. 5
- (d) A consent, approval or privilege granted to a licensee in terms of the National Liquor Act or any Act repealed thereby, which is not inconsistent with the provisions of this Act, is deemed to be a consent, approval or privilege granted in terms of this Act. 10
- (e) A person designated as police officer or inspector in terms of the provisions of the Liquor Act, 1989, is regarded to be designated as such in terms of this Act. 15
- (4) Anything done to appoint the board contemplated in section 4, prior to the commencement of this Act, and which could have been done so under any provision of this Act, must for all purposes be deemed to have been done in accordance with the provisions of this Act. 20

Short title and commencement

147. This Act is called the Free State Gambling and Liquor Act, 2010, and comes into operation on a date to be determined by the Premier by proclamation in the *Provincial Gazette*. 25

SCHEDULE**Laws repealed**

Title, No. and Year of Law	Extent of Repeal
1. Free State Gambling and Racing Act, 1996 (Act No. 6 of 1996)	The whole
2. Free State Liquor Act, 2007 (Act No. 3 of 2007)	The whole

MEMORANDUM

1. Purpose

This Bill gives effect to the intention to align activities, etc. of public entities where possible. The Free State Liquor Authority and the Free State Gambling and Racing Board are both regulatory authorities. Although the regulation of the respective industries are different, there are many other instances where a merging of the two entities would be beneficial, e.g. establishment of only one board, aligning compliance issues relating to police and inspectors and optimizing the use of available staff. Therefore, this Bill provides for the combined regulation of the gambling and liquor industries.

2. Chapter-by-chapter explanation

2.1 Chapter 1

Chapter 1 sets out the definitions, interpretation, objects and application of the Act. In view thereof that in both the liquor and gambling industries technical terms are utilized, it is important that detailed definitions and interpretational clauses be provided. The objects of the Act are the following:

- (1) in relation to liquor to -
 - (a) reduce the socio-economic and other costs of alcohol abuse by -
 - (i) implementing essential national norms and standards in the liquor industry as determined by the National Liquor Act;
 - (ii) regulating the micro-manufacturing and retail sale of liquor or methylated spirits; and
 - (iii) providing for public participation in the consideration of applications for registration; and
 - (b) promote the development of a responsible and sustainable liquor industry in a manner that facilitates -
 - (i) the entry of new participants into the industry;
 - (ii) diversity of ownership in the industry;
 - (iii) an ethos of social responsibility in the industry; and
 - (iv) local tourism and economic growth; and

- (2) in relation to gambling to -
- (a) implement national norms and standards in the gambling industry as determined by the National Gambling Act;
 - (b) ensure that –
 - (i) gambling activities are effectively regulated, licenced, controlled and policed;
 - (ii) members of the public who participate in any licenced gambling activity are protected;
 - (iii) society and the economy are protected against over-stimulation of the latent demand for gambling; and
 - (iv) the licensing of gambling activities is transparent, fair and equitable;
 - (c) generate revenue for the Province.

2.2 Chapter 2

This Chapter establishes the entity as a juristic person. It provides for the board through which the management and control of the entity will be conducted. This chapter deals with the composition, powers, functions and eligibility of board members. It furthermore determines the tenure of office to be not more than 3 years, renewable for a further 2 years and it also provides for termination of office. Amongst others, it empowers the board to appoint staff, which must include a suitably qualified chief executive officer and company secretary. In view of the importance of objectivity of this Authority, it specifically deals with position of trust by members, as well as staff members. Financial management of the board is made subject to the Public Finance Management Act and the Auditor General is appointed as the external auditor for this entity. In view of the fact that this board might be required to meet on a regular basis, the Bill makes provision for the appointment of committees which might be more practical than convening the whole board for each and every instance. Furthermore, in order to ensure that the board has power to summon persons to appear before it, section 20 regulates those powers and processes.

2.3 Chapter 3

This chapter applies only to liquor and methylated spirits and provides for the detail regarding regulation of the liquor industry. This regulation is similar to processes provided for in the Free State Liquor Act, 2007.

- 2.3.1 Part 1 of this chapter relates to the restriction to undertake micro-manufacturing or sale of liquor and methylated spirits without registration, as well as restrictions that are placed on a registrant, for example, the activities such person may carry out on the premises, issues relating to employment, advertisement and supply of liquor to minors or school going learners.
- 2.3.2 Part 2 of chapter 3 regulate the registration process. It, *inter alia*, includes some of the conditions of registration, the procedure for registration, the reports necessary for registration and the process how to deal with objections during a registration process. It furthermore also sets out how registration may be cancelled and provides that registration will lapse after 10 years.
- 2.3.3 Part 3 specifically regulates on-consumption and off-consumption registration. It provides for kinds of registration and specific conditions applicable to such types of registration, for example, clubs, taverns, liquor pub and liquor store. It also includes a provision regarding regulation of times of business.

2.4 Chapter 4

Chapter 4 applies to gambling and provides for the detail on regulation of the industry. This regulation is similar to processes provided for in the Free State Gambling and Racing Act, 1996.

- 2.4.1 Part 1 sets out the provisions regarding licencing of gambling. It, amongst others, determines that the board must take cognizance of the national norms and standards and recommendations made by the National Gambling and Wagering Board before granting any licence. It provides for disqualifications for licences and kinds of licences. Furthermore, it sets out the application procedures which include public hearings, investigations and police reports. It also provides for the suspension or revocation of any licence, as well as the transfer or amendment for a licence.
- 2.4.2 Part 2 provides for the conditions that may be applicable to a licence. Furthermore, it also regulates electronic monitoring system for gambling machines, the financial interest in a business of a licensee, suitability of third parties, as well as provisions on control of entities and the exclusion of persons. Various other provisions relating to credit, rules of games, assistance to customers, renewal of licences are also included.
- 2.4.3 Part 3 regulates employees of gambling businesses. According to this part, employees of gambling businesses must have certificates of approval. This part regulates the disqualifications, the register of employees, the duration of a certificate, renewals, etc.

2.5 Chapter 5

Chapter 5 regulates compliance issues of both liquor and gambling. It provides for the designation of police officers and inspectors. It also sets out the powers and functions of the inspectors. Furthermore, it provides for entry on premises with or without a warrant. It furthermore provides that the board may request the Minister of Justice to appoint inspectors as peace officers. It furthermore empowers the board to issue compliance notices and interim orders should it be necessary to request participants in the industries to comply with certain requests.

2.6 Chapter 6

2.6.1 In view thereof that various technical terms are used and could lead to problems regarding prosecution, it is necessary to provide for in detail certain prohibitions in part 1 of this chapter.

2.6.2 Part 2 regulates the offences, penalties, fines and forfeitures. It, *inter alia*, determines that a person who is found guilty of an offence in terms of this Act, is liable on conviction to a fine or imprisonment not exceeding 10 years, or to both a fine and such imprisonment. It also determines that a court convicting any person of such an offence may declare any proceeds thereof to be forfeited. Furthermore, the court may cancel the licence or registration issued in terms of this Act.

2.6.3 Part 3 regulates complaints and determines that an aggrieved person who could convince the responsible Member that he or she does not have the necessary financial means to approach the High Court for a review application could appeal to the responsible Member.

2.7 Chapter 7

Chapter 7 empowers the responsible Member to issue regulations, which include regulations subject to national norms and standards relating to international sport events. It also determines that such rules may differ from those generally applicable to applications and registrations in terms of this Act and regulations. It furthermore empowers the board to make rules not inconsistent with the provisions of the Act relating to the exercise of its powers and the performance of its functions.

2.8 Chapter 8

Chapter 8 provides for general provisions, which includes review of the decisions of the board in terms of the Promotion of Administrative Justice Act and the repeal of the Free State Gambling and Racing Act and the Free State Liquor Act. It also empowers the responsible Member, chief executive officer and the board to delegate certain powers.

Finally, it provides for transitional arrangements regarding transfer of assets, rights, liabilities and obligations, as well as staff. Furthermore, it provides for the continuation of regulations, proclamations and notices issued in terms of various legislation, as well as for continuation of licences and registrations issued in terms of the various Acts repealed by this Bill. In order to ensure that administrative matters can be concluded, it also provides that the reporting responsibilities of the accounting authorities of the Free State Gambling and Racing Board and the Free State Liquor Authority which have not yet been concluded when the Act takes effect, may be executed by the board established in terms of this Act.

The last section in the Act sets out the short title and commencement thereof.