

FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

VRYSTAAT

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GENERAL NOTICE 7 OF 2009/2010

**PUBLICATION OF THE FREE STATE
GAMBLING LEVIES 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 7 VAN
2009/2010**

**PUBLIKASIE VAN DIE VRYSTAATSE
WETSONTWERP OP DOBBELHEFFINGS**

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 regulation of gambling levies; and to provide for matters incidental thereto.

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

Definitions

1. (1) In this Act, unless the context indicates otherwise - 5
 - “board” means the Free State Gambling and Liquor Board;
 - “**Gambling Act**” means the Free State Gambling and Liquor Act, 2010; 10
 - “**responsible Member**” means the Member of the Executive Council responsible for Finance;
 - “**prescribed**” or “**prescribe**” means prescribed by regulation; and 15
 - “**this Act**” means the Free State Gambling Levies Act, 2010.
- (2) Definitions of the Gambling Act is *mutatis mutandis* applicable to this Act. 20

Gambling levy 20

2. (1) (a) Over and above any value-added tax or other sales tax, if any, and income tax which may be payable in terms of any other law, every holder of a licence envisaged in the Gambling Act (except a manufacturer, maintenance or supplier licence) is liable to pay, at such intervals as may be prescribed, a gambling levy which levy is calculated on such basis and at such rate as may be prescribed, and be payable in the manner and before the date as prescribed: Provided that different rates may be so prescribed in respect of different types of licences. 25
- (b) A person who has made a winning bet with a bookmaker must pay the prescribed levy on the amount and in the manner, as prescribed. 30
- (2) Any payment of the gambling levy referred to in subsection (1), must be accompanied by a return in the form determined by the board. 35
- (3) Notwithstanding anything to the contrary contained in any other law, there is no period of grace for the payment of the gambling levy referred to in subsection (1), and if such levy is not paid on or before the prescribed date referred to in subsection (1), the licence may be suspended by the board in terms of section 84 until the gambling levy and the penalty payable in terms of section (4), have been paid. 40

WETSONTWERP

Om voorsiening te maak vir die regulering van dobbelheffings; en om voorsiening te maak vir sake wat daarmee verband hou.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Vrystaat, soos volg:

Woordomskrywing

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken -

“Dobbelwet” die Vrystaatse Wet op Dobbelen en Drank, 2010;

“hierdie Wet” die Vrystaatse Wet op Dobbelleffings, 2010;

“raad” die Vrystaat Dobbelen- en Drankraad;

“verantwoordelike Lid” die Lid van die Uitvoerende Raad verantwoordelik vir Finansies; en

“voorgeskryf” of “voorgeskrewe” voorgeskryf by regulasie.

(2) Omskrywings van die Dobbelwet is *mutatis mutandis* van toepassing op hierdie Wet.

Dobbelleffing

2. (1) (a) Benewens enige belasting op toegevoegde waarde of ander verkoopsbelasting, indien enige, en inkomstebelasting wat ingevolge enige ander Wet betaalbaar mag wees, is elke houder van ‘n lisensie (behalwe ‘n vervaardigers-, instandhoudings- of verskafferslisensie) aanspreeklik, met sodanige tussenposes as wat voorgeskryf kan word, vir die betaling van ‘n dobbelleffing welke dobbelleffing bereken word op sodanige basis en teen ‘n koers wat voorgeskryf word, en wat betaalbaar is op die wyse en voor die datum soos voorgeskryf: Met dien verstande dat verskillende koerse ten opsigte van verskillende soorte lisensies voorgeskryf kan word.

(b) ‘n Persoon wat ‘n weddenskap met ‘n beroepswedder aangegaan en gewen het, betaal die voorgeskrewe heffing op die bedrag en op die wyse, soos voorgeskryf.

(2) Enige betaling van die dobbelleffing bedoel in subartikel (1), word vergesel van ‘n opgaaf in die vorm deur die raad bepaal.

(3) Ondanks enigiets tot die teendeel vervat in enige ander Wet, is daar geen tydperk van grasia vir die betaling van die dobbelleffing bedoel in subartikel (1) nie, en indien sodanige heffing nie betaal is voor of op die voorgeskrewe datum bedoel in subartikel (1) nie, kan die lisensie ingevolge artikel 84 deur die raad opgeskort word totdat die dobbelleffing en die boete wat ingevolge subartikel (4) betaalbaar is, betaal is.

- (4) Any licence holder who fails to pay the gambling levy on or before the prescribed date referred to in subsection (1), must in addition to such gambling levy, pay for each day or part of a day during which such licence holder is liable for the payment of the gambling levy, a penalty calculated at the prescribed rate of the outstanding amount: Provided that the total amount of such penalty must not exceed twice the total amount of the gambling levy payable. 5

Punitive gambling levies

3. (1) Where a person is convicted of a contravention of section 122(1)(b) of the Gambling Act, the board must estimate the amount such person would, in the opinion of the board, have been liable to pay as gambling levies in terms of section 2 had he or she been the holder of a licence, and the board must forthwith notify such person in writing of the amount so estimated. 10
- (2) The amount referred to in subsection (1) must be estimated in respect of a period of not more than 3 years calculated retrospectively from the date of conviction of the person concerned. 15
- (3) The amount estimated in terms of subsection (1) must be paid by the person convicted in the manner prescribed in terms of section 2(1)(a) within 21 days from the date of the notice referred to in subsection (1). 20
- (4) The provisions of section 2(4) apply *mutatis mutandis* in respect of a person who is liable to pay gambling levies under this section. 25
- (5) The provisions of this section apply to a person who paid an admission of guilt fine in terms of section 57 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 30
- (6) Notwithstanding the provisions of section 84 of the Gambling Act, the board may estimate punitive levies payable by the licensee in relation to the period contemplated in section 84(1)(d). 35

Depositing of levies

4. (1) All gambling levies payable in terms of the provisions of this Act and all penalties on the levy under this Act must be paid to the board 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. 40
- (2) All gambling levies payable in terms of the provisions of this Act are debts 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. 45

- 5 (4) Enige lisensiehouer wat versuim om die voorgeskrewe dobbelheffing voor of op die voorgeskrewe datum bedoel in subartikel (1) te betaal, betaal benewens sodanige dobbelheffing, vir elke dag of gedeelte van 'n dag waarvoor sodanige lisensiehouer laat is met die betaling van die dobbelheffing, 'n boete bereken teen die voorgeskrewe koers van die uitstaande bedrag: Met dien verstande dat die totale bedrag van sodanige boete nie dubbeld die totale bedrag van die betaalbare dobbelheffing oorskry nie.

10 Bestraffende dobbelheffing

- 15 3. (1) Waar 'n persoon aan 'n oortreding van artikel 122(1)(b) van die Dobbelwet skuldig bevind word, moet die raad die bedrag wat sodanige persoon na die oordeel van die raad, as dobbelheffing ingevolge artikel 2 verskuldig sou gewees het indien hy of sy die houer van 'n lisensie was, skat, en die raad stel sodanige persoon onverwyld skriftelik in kennis van die bedrag aldus geskat.
- 20 (2) Die bedrag in subartikel (1) bedoel word geskat ten opsigte van 'n periode nie meer as 3 jaar terugwerkend bereken vanaf die datum van skuldigbevinding van die betrokke persoon nie.
- (3) Die bedrag ingevolge subartikel (1) geskat, moet deur die veroordeelde persoon op die wyse voorgeskryf ingevolge artikel 2(1)(a) binne 21 dae vanaf die datum van die kennisgewing bedoel in subartikel (1), betaal word.
- 25 (4) Die bepaling van artikel 2(4) is *mutatis mutandis* van toepassing ten opsigte van 'n persoon wat aanspreeklik is vir die betaling van 'n dobbelheffing kragtens hierdie artikel.
- 30 (5) Die bepaling van hierdie artikel is ook van toepassing op 'n persoon wat 'n skulderkenningsboete betaal het ingevolge artikel 57 van die Strafproseswet, 1977 (Wet Nr. 51 van 1977).
- 35 (6) Nieteenstaande die bepaling van artikel 84 van die Dobbelwet kan die raad bestraffende dobbelheffings beraam wat betaalbaar is deur die lisensiehouer ten opsigte van die periode beoog in artikel 84(1)(d).

Heffings, gelde en boetes

- 40 4. (1) Alle dobbelheffings wat ingevolge die bepaling van hierdie Wet betaalbaar is, word aan die raad vir die voordeel van die Provinsiale Inkomstefonds betaal en die raad moet sodanige bedrag maandeliks aan die Provinsiale Inkomstefonds oorbetaal met verstrekking van sodanige opgawes en inligting as wat die Provinsiale Tesourie mag vereis.
- 45 (2) Alle dobbelheffings wat ingevolge die bepaling van hierdie Wet betaalbaar is, maak 'n skuld uit wat aan die Provinsiale Administrasie van die Vrystaat verskuldig is, en kan deur sodanige Administrasie of die raad namens sodanige Administrasie, in 'n bevoegde hof verhaal word: Met dien verstande dat die raad primêr verantwoordelik is vir die invordering van gemelde bedrae namens die Provinsiale Administrasie.
- 50

Regulations

5. (1) The responsible Member may, in consultation with the Member of the Executive Council responsible for Gambling, make regulations regarding gambling levies as contemplated in this Act. 5
- (2) Before making regulations in terms of this Act, the responsible Member must publish the draft regulations for a period of not less than a month in the *Provincial Gazette*, together with a notice in at least one newspaper declaring his or her intention to make such regulations and inviting interested parties to furnish comments thereon. 10

Transitional clause

6. Regulations or rules in relation to levies issued in terms of the Free State Gambling and Racing Act, 1996 (Act No. 6 of 1996), is deemed to be issued in terms of this Act. 15

Short title

7. This Act is called the Free State Gambling Levies Act, 2010, and must commence on the same day as the Free State Gambling and Liquor Act, 2010. 20

Regulasies

- 5
5. (1) Die verantwoordelike Lid kan, in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir Dobbely, regulasies maak met betrekking tot dobbelheffings soos beoog in hierdie Wet.
- 10
- (2) Voordat regulasies ingevolge hierdie Wet gemaak word, moet die verantwoordelike Lid die konsepregulasies vir 'n periode van nie minder as 'n maand in die *Provinsiale Koerant* publiseer, tesame met 'n kennisgewing in ten minste een koerant wat sy of haar voorneme verklaar om sodanige regulasies te maak en belangstellende partye nooi om kommentaar daarop te lewer.

Oorgangsbepalings

- 15
6. Regulasies of reëls met betrekking tot heffings wat uitgevaardig is ingevolge die Vrystaatse Wet op Dobbel en Wedrenne, 1996 (Wet Nr. 6 van 1996), word geag uitgevaardig te wees ingevolge hierdie Wet.

Kort titel

- 20
7. Hierdie Wet heet die Vrystaatse Wet op Dobbelheffings, 2010, en moet in werking tree op dieselfde dag as die Vrystaatse Wet op Dobbel en Drank, 2010.

MEMORANDUM

Purpose

The purpose of this Bill is to regulate the imposition of gambling levies in line with section 120 of the Constitution of the Republic of South Africa, 1996, which determines that the imposition and regulation of levies must be included in a money Bill.

Clause-by-clause explanation

Clause 1

This clause explains the definitions necessary to explain meanings in the Act.

Clause 2

Clause 2 imposes the obligation to pay levies, as well as payment of a penalty in the case of late payments.

Clause 3

This clause explains punitive gambling levies when a person is convicted of an offence or paid an admission of guilt fine.

Clause 4

This clause determines that levies must be paid into the Provincial Revenue Fund and that the Provincial Administration may recover outstanding gambling levies as a debt.

Clause 5

This clause empowers the Member of the Executive Council for Finance to make regulations in consultation with the Member of the Executive Council responsible for gambling in the Province. It furthermore makes it clear that any intended regulations must first be published for comment.

Clause 6

Clause 6 explains the transitional provision where it is deemed that previous regulations issued in terms of the Free State Gambling and Racing Act, 1996, is to be regarded to be issued in terms of this Act.

Clause 7

This clause gives the short title and determines that it takes effect on the same date as the Free State Gambling and Liquor Act, 2010.

MEMORANDUM

Doel

Die doel van die Wetsontwerp is om die instelling van dobbelheffings te reguleer ooreenkomstig artikel 120 van die Grondwet van die Republiek van Suid-Afrika, 1996, wat bepaal dat die instelling en regulering van heffings in 'n Geldwetsontwerp ingesluit moet word.

Klousule-vir-klousule verduideliking

Klousule 1

Hierdie klousule verduidelik die omskrywings wat nodig is om betekenis in die Wet te verduidelik.

Klousule 2

Klousule 2 stel die verpligting in om heffings te betaal, asook die betaling van 'n boete vir laat betalings.

Klousule 3

Hierdie klousule verduidelik die bestraffende dobbelheffings wanneer 'n persoon skuldig bevind word aan 'n oortreding of 'n skulderkenningsboete betaal.

Klousule 4

Hierdie klousule bepaal dat heffings in die Provinsiale Inkomstefonds betaal moet word en dat die Provinsiale Administrasie uitstaande dobbelheffings as 'n skuld kan invorder.

Klousule 5

Hierdie klousule magtig die Lid van die Uitvoerende Raad vir Finansies om regulasies te maak in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir Dobbelay in die Provinsie. Dit stel dit ook duidelik dat enige regulasies eers vir kommentaar gepubliseer moet word.

Klousule 6

Klousule 6 verduidelik die oorgangsbepaling waar dit geag word dat vorige regulasies wat ingevolge die Vrystaatse Wet op Dobbelen en Wedrenne, 1996, uitgevaardig is, beskou moet word as uitgevaardig ingevolge hierdie Wet.

Klousule 7

Hierdie klousule gee die kort titel en bepaal dat dit in werking tree op dieselfde datum as die Vrystaatse Wet op Dobbelen en Drank, 2010.