

FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

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BLOEMFONTEIN, 14 APRIL 2011

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OFFICE OF THE PREMIER	KANTOOR VAN DIE PREMIER
<p data-bbox="140 1606 719 1649">No. 3 14 April 2011</p> <p data-bbox="140 1691 719 1798">It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-</p> <p data-bbox="140 1840 719 1904">No. 3 of 2011 : Free State Gambling and Liquor Amendment Act, 2011</p>	<p data-bbox="749 1606 1298 1649">No. 3 14 April 2011</p> <p data-bbox="749 1691 1298 1798">Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-</p> <p data-bbox="749 1840 1298 1904">No. 3 van 2011 : Vrystaatse Wysigingswet op Dobbelen en Drank, 2011</p>

GENERAL EXPLANATORY NOTE:

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

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

ACT

To amend the Free State Gambling and Liquor Act, 2010, by amending the definition of “public servant” and the section on membership; to amend the transitional clause relating to employees; to include limitation of liability; and to provide for matters connected therewith.

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

(Afrikaans text assented to and signed by the Premier.)

Amendment of section 1(1) of Act No. 6 of 2010

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1. Subsection (1) of section 1 of the Free State Gambling and Liquor Act, 2010 (Act No. 6 of 2010) (hereinafter referred to as the “Principal Act”), is hereby amended by the substitution for the definition of “**public servant**” of the following definition:

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“**‘public servant’** means a person employed within an organ of state, a court or a judicial officer, excluding a public entity and municipality: Provided that the exclusions only applies when it relates to a member of the board of this Authority;”

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Amendment of section 6 of Act No. 6 of 2010

2. Section 6 of the Principal Act is hereby amended by -

(a) the deletion of paragraphs (c) and (d) of subsection (1);

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(b) the substitution for paragraph (e) of subsection (1) of the following paragraph:

“(e) not more than [9] 4 members who must have proven business acumen or knowledge of the gambling or liquor industry, who are suitable for appointment to the board;”

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(c) the insertion of the following paragraph in subsection (1) after paragraph (e):

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“(f) one representative of the South African Police Service designated by the Free State Provincial Commissioner.”; and

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vetdruk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

___ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Om die Vrystaatse Wet op Dobbelen en Drank, 2010, te wysig deur die definisie van "staatsamptenaar" en die artikel oor lidmaatskap te wysig; om die oorgangsbepaling met betrekking tot werknemers te wysig; om 'n beperking op aanspreeklikheid in te sluit; en om voorsiening te maak vir aangeleenthede wat daarmee gepaard gaan.

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

(Afrikaanse teks deur die Premier bekragtig en geteken.)

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Wysiging van artikel 1(1) van Wet No. 6 van 2010

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1. Subartikel (1) van artikel 1 van die Vrystaatse Wet op Dobbelen en Drank, 2010 (Wet No. 6 van 2010) (hierna verwys as die "Hoofwet"), word hierby gewysig deur die definisie van "staatsamptenaar" in die subartikel met die volgende definisie te vervang:

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" 'staatsamptenaar' 'n persoon wat in diens is binne 'n staatsorgaan, 'n hof of 'n regsbeampte, uitgesluit 'n openbare entiteit en munisipaliteit: Met dien verstande dat die uitsluitings slegs van toepassing is wanneer dit verband hou met 'n lid van die raad;".

Wysiging van artikel 6 van Wet No. 6 van 2010

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2. Artikel 6 van die Hoofwet word hierby gewysig deur -

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(a) die skapping van paragrawe (c) en (d) van subartikel (1);

(b) die vervanging van paragraaf (e) van subartikel (1) met die volgende paragraaf:

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"(e) hoogstens [9] 4 lede met bewesesakevernuif of kennis van die dobbelbedryf of drankbedryf wat geskik is vir aanstelling op die raad;";

(c) die invoeging van die volgende paragraaf in subartikel (1) na paragraaf (e):

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"(f) een verteenwoordiger van die Suid-Afrikaanse Polisie diens soos aangewys deur die Vrystaatse Provinsiale Kommissaris."; en

- (d) the substitution for paragraph (b) of subsection (5) of the following paragraph:

“(b) the interim board may consist of not more than [15] 7 members;”.

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Amendment of section 11 of Act No. 6 of 2010

3. Section 11 of the Principal Act is amended by the substitution for subsection (1) of the following subsection:

“(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] in consultation with the [Member of the Executive Council [responsible for Finance] and in line with guidelines from the National Treasury.”.

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Amendment of section 17 of Act No. 6 of 2010

4. Section 17 of the Principal Act is amended by the substitution for subsection (1) of the following subsection:

“(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] may not meet more than 12 times a year.

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(b) The chairperson may, if justified by the circumstances, 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 and the chairperson must submit a report to the responsible Member stating the circumstances and reasons for calling a special meeting.”.

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Amendment of section 139 of Act No. 6 of 2010

5. Section 139 of the Principal Act is amended by the substitution for this section of the following section:

“139. 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, unless gross negligence is proved.”.

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(d) die vervanging van paragraaf (b) van subartikel (5) met die volgende paragraaf:

(b) die interim raad mag nie uit meer as [15] 7 lede bestaan nie;”.

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Wysiging van artikel 11 of Wet No. 6 van 2010

3. Artikel 11 van die Hoofwet word gewysig deur subartikel (1) met die volgende subartikel te vervang:

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“(1) Lede van die raad wat nie in die voltydse diens is van die staat of die Provinsie mag, ten opsigte van hul dienste, sodanige vergoeding en toelaes betaal word uit die fondse van die raad soos wat deur die verantwoordelike Lid vasgestel word [na] in oorlegpleging met die [Lid van die] Uitvoerende Raad [verantwoordelik vir Finansies] en in ooreenstemming met riglyne van die Nasionale Tesourie.”.

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Wysiging van artikel 17 van Wet No. 6 van 2010

4. Artikel 17 van die Hoofwet word gewysig deur die vervanging van subartikel (1) met die volgende subartikel:

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“(1) (a) Die eerste vergadering van die raad moet gehou word op ‘n tyd en plek wat deur die voorsitter vasgestel word, en daarna sal die raad vergader op sodanige tye en plekke soos wat die raad van tyd tot tyd sal bepaal vir die vinnige en doeltreffende afhandeling van sy besigheid: Met dien verstande dat die raad [minstens 4] hoogstens 12 keer per jaar [moet] mag vergader.

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(b) Die voorsitter kan, indien die omstandighede dit regverdig, te eniger tyd op redelike kennisgewing ‘n buitengewone vergadering van die raad byeenroep op ‘n tyd en plek soos deur hom of haar bepaal: Met dien verstande dat geen besluit ingevolge hierdie Wet met betrekking tot die toestaan, wysiging, hernuwing, oordrag, verwydering, opskorting of herroeping van ‘n lisensie, sertifikaat of registrasie, by ‘n buitengewone vergadering geneem sal word nie en die voorsitter moet ‘n verslag aan die verantwoordelike Lid voorlê waarin die omstandighede en redes vir die byeenroep van ‘n spesiale vergadering uiteengesit word.”.

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Wysiging van artikel 139 van Wet No. 6 van 2010

5. Artikel 139 van die Hoofwet word gewysig deur die artikel met die volgende artikel te vervang:

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“139. Nòg die staat nòg enige staatsorgaan of persoon wat enige bevoegdheid uitoefen of enige plig uitvoer ingevolge hierdie Wet is aanspreeklik vir enige verlies of skade wat spruit uit ‘n optrede of versuim te goeder trou in die uitoefening van sodanige bevoegdheid of die uitvoering van sodanige plig, tensy growwe nalatigheid bewys word.”.

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Amendment of section 142 of Act No. 6 of 2010

6. Section 142 is amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) all the employees of the Free State Gambling and Racing Board and the Free State Liquor Authority [**and employees appointed by the department for the Liquor Authority**] must be transferred to the Authority in accordance with section [193] 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995); Provided that employees appointed by the department for the Liquor Authority must be absorbed by the department.”

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Validation of decisions

7. Any decision of the Board which occurred after 11 June 2010 and prior to the commencement of this Act, and which would have been lawfully done but for constitution of the membership of the Board, shall be deemed to have been lawfully effected.

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Transitional arrangements

8. At the commencement of this Act, any person who immediately before such commencement was a member of the Board remain, notwithstanding the reduction of the number of members of the Board, a member of the Board until his or her term of office expire.

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Short title and commencement

9. This Act is called the Free State Gambling and Liquor Amendment Act, 2011 and commences on date of publication: Provided that section 6 is deemed to have commenced on 11 June 2010.

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Wysiging van artikel 142 van Wet No. 6 van 2010

6. Artikel 142 word gewysig deur paragraaf (b) van subartikel (1) met die volgende paragraaf te vervang:

“(b) alle werknemers van die Vrystaat Dobbelen Wedrenraad en die Vrystaat Drankowerheid [**en werknemers wat aangestel is deur die departement vir die Vrystaat Drankowerheid**] moet oorgeplaas word na die raad ooreenkomstig artikel 197 van die Wet op Arbeidsverhoudinge, 1995 (Wet Nr. 66 van 1995): Met dien verstande dat werknemers wat aangestel is deur die departement vir die Drankowerheid deur die departement geabsorbeer moet word.”

Geldigheidsbevestiging van besluite

7. Enige besluit van die Raad wat na 11 Junie 2010 geneem is en voor die inwerkingtreding van hierdie Wet, welke besluit wettig sou wees behalwe vir die samestelling van die lede van die Raad, word hiermee geag wettig geneem te gewees het.

Oorgangsbepaling

8. Tydens die inwerkingtreding van hierdie Wet sal enige persoon wie onmiddellik voor sodanige inwerkingtreding ‘n direkteur van die raad was, ‘n direkteur van die raad bly totdat sy of haar ampstermyn verstryk, ongeag die vermindering van die hoeveelheid direkteure van die raad.

Kort titel en inwerkingtreding

9. Hierdie Wet heet die Vrystaatse Wysigingswet op Dobbelen Drank, 2011 en tree in werking op datum van publikasie: Met dien verstande date artikel 6 geag word in werking te getree het op 11 Junie 2010.