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<b>THE PROVINCE OF GAUTENG</b>		<b>DIE PROVINSIE GAUTENG</b>
<b>Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant</b>		
<div>Selling price: R1,75 ◇ Other countries: R2,25 Verkoopprys: R1,75 ◇ Buitelands: R2,25</div>		
<b>Vol. 1</b>	<b>PRETORIA, 7 SEPTEMBER 1995</b>	<b>No. 70</b>

## GENERAL NOTICE

### NOTICE 3345 OF 1995

#### GAUTENG GAMBLING AND BETTING BILL, 1995

By Order of the Speaker the following Bill is published for general information.

## GENERAL EXPLANATORY NOTE

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

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

## BILL

To provide for the licensing of persons conducting casinos, bingo games, lotteries, totalizators and betting pools, and of gaming machine keepers and bookmakers, and for the registration of persons engaged in bookmaking, casino occupations and the manufacture and sale of gaming machines and gaming devices; to provide for the restriction, regulation and control of gambling and betting; to amend the Horse-racing and Betting Ordinance, 1978, so as to repeal the provisions relating to betting; and to effect certain other amendments as a result of the new constitutional dispensation; and to provide for incidental matters.

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**PREAMBLE**

**WHEREAS** gambling and betting have the potential to make a substantial and lasting contribution to the growth and development of tourism and the economy in the Province of Gauteng, and to the prosperity of its people;

**AND WHEREAS** it is recognised that gambling and betting are privileged activities which should stimulate the creation of employment opportunities and assist in the advancement of deprived communities, and thereby promote the improvement of the quality and standard of living of the people of the Province;

**AND WHEREAS** gambling and betting can be a significant source of public revenue for the Province, and so contribute to the well-being of all its people in the general interest;

**AND WHEREAS** the special risks and dangers entailed by opportunities for gambling and betting justify the imposition of appropriate restrictions, regulations and controls:

**BE IT THEREFORE ENACTED** by the Provincial Legislature of Gauteng, as follows: -

## Chapter 1

### Interpretation and application of Act

#### Definitions

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

- (i) "board" means the Gauteng Gambling and Betting Board established by section 3;
- (ii) "casino" means a place where casino games, including bingo or gaming machines, may be played;
- (iii) "casino game" means any game played for money or other valuable consideration with playing-cards, dice or any other device used to determine win or loss, and includes, without derogating from the generality of the foregoing, blackjack, poker, and roulette;
- (vi) "casino occupation" means -
  - (a) the occupation of croupier, dealer, cashier, counter, change attendant, host, floor attendant, shift or pit boss, security attendant or casino or floor supervisor or manager; or
  - (b) any occupation declared to be a casino occupation under subsection (2);

- (v) "chief executive officer" means the chief executive officer of the board appointed in terms of section 12(1)(a);
- (vi) "controlling interest", in relation to any licensee, applicant or business, means any interest of whatever nature enabling the holder thereof to exercise, directly or indirectly, any control whatsoever over the activities or assets of the licensee, applicant or business concerned, and "control" has a corresponding meaning;
- (vii) "Executive Council" means the Executive Council of the Province;
- (viii) "family member" or "member of the family", in relation to any person, means his or her spouse, including a person living with the first-mentioned person as if they were married, or a parent or child of the first-mentioned person;
- (ix) "gaming" means the playing of a casino game;
- (x) "gaming machine" means, subject to the provisions of subsection (3), any mechanical, electrical or electronic apparatus or device, other than a roulette wheel, which is used for playing a game for money or other valuable consideration gambled on the possibility of winning a prize, and which is operated by means of the insertion of a coin or token or the payment of valuable consideration in any other manner;
- (xi) "inspector" means an inspector appointed under section 80;

(xii) "licence" means -

- (a) a casino licence contemplated in Chapter 4, including a temporary casino licence contemplated in section 33(2);
- (b) a bingo licence contemplated in Chapter 5, including a temporary bingo licence contemplated in section 33(2);
- (c) a gaming machine licence contemplated in Chapter 6;
- (d) a route operator licence contemplated in Chapter 6;
- (e) a lottery licence contemplated in Chapter 7;
- (f) a totalizator licence contemplated in Chapter 8; or
- (g) a bookmaker's licence contemplated in Chapter 9;

(xiii) "licensed premises" means the place or premises specified in a licence on which the activities authorised thereby may be conducted in terms of this Act;

(xiv) "local authority" means a transitional council, transitional metropolitan substructure or local government body contemplated in section 1(1) of the Local Government Transition Act, 1993 (Act No. 209 of 1993);

(xv) "lottery" includes any scheme in which participants, in return for a stake or

other contribution, obtain the possibility of winning a prize, or a right to a prize, on the occurrence of an event;

(xvi) "playing-cards" means cards used for playing blackjack, poker or other card games, but excludes cards used in the playing of bingo or any casino game other than a card game;

(xvii) "premises" includes -

(a) a bookmaker's stand or cubicle and, for the purposes of section 25, any place where such a stand or cubicle is or will be located;

(b) a boat, train or aircraft; or

(c) any other place where the activities authorised by a licence may be conducted;

(xviii) "prescribed" means prescribed by regulation;

(xix) "Province" means the Province of Gauteng, and "Provincial" has a corresponding meaning;

(xx) "regulation" means a regulation made under section 84;

(xxi) "responsible Member" means the Member of the Executive Council responsible for the administration of this Act;

(xxii) "route operator" means a person who carries on an activity contemplated in section 48(3);

(xxiii) "rule of the board" means a rule made under section 85;

(xxiv) "sporting event" means any ball-game, race (including a race involving vehicles or animals) or other athletic or sporting contest, competition or game, including a beauty contest, usually attended by the public;

(xxv) "this Act" includes the regulations and the rules of the board.

(2) The responsible Member may, on the recommendation of the board, by notice in the *Provincial Gazette* declare any occupation which is directly connected with, or closely related to, the conducting of a casino game or the operation of a casino, to be a casino occupation for the purposes of this Act.

(3) For the purposes of this Act a gaming machine shall not include any machine, apparatus or device which provides, as the only prize, reward or consideration for successfully playing the game concerned -

(a) a coin or token sufficient in value to enable a player, by inserting such coin or token in the machine, to play the game once again; or

(b) the opportunity to play further games immediately without the insertion of another coin or token.

**Application of Act and other laws**

2.(1) The provisions of the Gambling Act, 1965 (Act No. 51 of 1965), shall not apply in the Province in relation to anything for which a licence or registration is required in terms of this Act.

(2) Subject to section 83(1)(a), no provision of this Act shall be construed as limiting the application of the Abolition of Dog Race Meetings and the Prohibition of Betting on Dog Races Ordinance, 1949 (Ordinance No. 4 of 1949).

(3) This Act shall bind the State.

**Chapter 2****Gambling and Betting Board****Establishment of board**

3. There is hereby established a juristic person to be known as the Gauteng Gambling and Betting Board.

**Functions of board**

4.(1) The functions of the board are -

- (a) to oversee gambling and betting activities in the Province;



- (b) to advise and make recommendations to the responsible Member on matters in connection with the licensing of persons to conduct, and the regulation and control of, gambling in the Province, either of its own accord or at the request of the responsible Member; and
- (c) to exercise such powers and perform such functions and duties as may be assigned to the board in terms of any other law.

(2) The board may, with the approval of the responsible Member and if a law of any other province provides therefor, exercise such powers and perform such functions and duties in terms of such law in respect of persons and matters in the said province as the board may in terms of this Act exercise and perform in this Province.

#### **Constitution of board**

5.(1) The board shall consist of 11 members appointed by the responsible Member, of whom -

- (a) one shall be a practising attorney or advocate with experience as such of not less than five years;
- (b) one shall be an accountant and auditor registered in terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), with experience in public practice as defined in section 1 of that Act of not less than five years;

- (c) one shall be appointed by virtue of his or her knowledge and active involvement in the tourism industry;
- (d) one shall be appointed by reason of his or her knowledge and experience in the field of welfare or of community or socio-economic development;
- (e) one shall be appointed from the ranks of trade unions belonging to federations of trade unions with substantial numbers of members in the Province;
- (f) at least two but not more than three shall be persons with knowledge of the casino or gaming industry and one of whom shall have knowledge of technology relevant to gambling;
- (g) at least one but not more than three shall be persons with knowledge of the betting or horse-racing industry; and
- (h) at least one but not more than three shall be persons who are suitable for appointment as members of the board and who shall not be persons contemplated in paragraphs (a) to (g) inclusive.

(2)(a) A member of the Board shall not be appointed until the responsible Member has invited interested parties by notice in the *Provincial Gazette* and an advertisement in the media regarded as appropriate by the responsible Member to nominate within 21 days of the publication of such notice candidates for consideration.

(b) The names of the nominees shall be published in the said *Gazette* and media.

(c) A member of the Board shall be appointed by the responsible Member after consultation with the Standing Committee of the Provincial Legislature responsible for economic affairs, whose deliberations shall be open to the public.

(d) The final list of appointees shall include both genders.

(e) The final list of appointees shall be published in the said *Gazette* and media.

(3) The responsible Member shall appoint 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 shall perform the functions of the chairperson.

(5) A member of the board shall, before assuming office, make and subscribe an oath or solemn affirmation in the prescribed form before the responsible Member.

#### **Persons disqualified from being members of board**

6. No person shall be appointed a member of the board if such person -

(a) is not a citizen of the Republic resident in the Province;

(b) at the relevant time is, or during the preceding twelve months was, a public servant;

- (c) at the relevant time is, or during the preceding twelve months was, a member of Parliament, any provincial legislature or local authority, or any council, commission or house of traditional leaders established in terms of the Constitution;
- (d) at the relevant time is, or during the preceding twelve months was, an office-bearer or employee of any party, movement, organisation or body of a party political nature;
- (e) has a controlling interest or any financial or other interest in any gambling or fund-raising activity;
- (f) or his or her partner or associate, holds an office in or with, or is employed by, any person, company, organisation or other body, whether corporate or unincorporate, which has an interest contemplated in paragraph (e);
- (g) is an unrehabilitated insolvent;
- (h) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;
- (i) has at any time been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under this Act or the Corruption Act, 1992 (Act No. 94 of 1992), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R100;

(j) has at any time been removed from an office of trust on account of misconduct;

(k) is a member of the family of a person contemplated in paragraph (b), (c), (d), (e) or (f); or

(l) failed to disclose an interest in terms of section 7(2)(a), or attended or participated in the proceedings of the board while having an interest contemplated in section 7(1).

#### **Recusal of board member with conflicting interests**

7.(1) A member of the board shall 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 -

(a) he or she or his or her family member, partner or business associate is a director, 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

(b) 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.

(2) If at any stage during the course of any proceedings before the board it appears that a member of the board has or may have any interest contemplated in subsection (1) -

- (a) that member shall forthwith and fully disclose the nature of his or her interest and leave the meeting or hearing so as to enable the remaining members of the board to discuss the matter and determine whether that member is precluded from participating in the proceedings at such meeting or hearing by reasons of a conflict of interests; and
- (b) such disclosure and the decision taken by the remaining members of the board regarding such determination, shall be recorded in the minutes of the proceedings in question.

(3) If any member of the board fails to disclose any interest contemplated in subsection (1) 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 shall be null and void: Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, revocation or withdrawal of a licence or registration, or the transfer of a licensed business to new premises, shall thereby be invalidated.

#### **Vacating of office by members of board**

8. A member of the board shall vacate his or her office if he or she -

- (a) becomes subject to a disqualification contemplated in section 6; or
- (b) has been absent from more than two consecutive meetings of the board without leave of the chairperson.

**Term of office of members of board, and filling of vacancies**

9.(1) A member of the board shall hold office, subject to the provisions of section 8, for five years.

(2) If a member of the board for any reason vacates his or her office, the responsible Member may, with due regard to section 5(1) and (2), appoint a person to act in the place of such member for the unexpired period of his or her term of office.

(3) Any person whose term of office as a member of the board has expired, shall be eligible for reappointment.

**Remuneration of members of board**

10. A member of the board shall be paid such remuneration and allowances out of the funds of the board as the responsible Member may determine after consultation with the Standing Committee of the Provincial Legislature responsible for financial matters.

**Meetings and decisions of board**

11.(1) The first meeting of the board shall be held at a time and place determined by the chairperson, and thereafter the board shall meet at such times and places as the board may from time to time determine for the expeditious conduct of its business.

(2)(a) 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.

(b) No decision in terms of this Act relating to the granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or the transfer of a licensed business to new premises, shall be taken at an extraordinary meeting.

(3) The quorum for a meeting of the board shall be a majority of its members.

(4) If both the chairperson and deputy chairperson are absent from any meeting of the board, the members present shall from among themselves elect a person to preside at such meeting.

(5) The decision of a majority of the members present at a meeting of the board shall constitute a decision of the board and, in the event of an equality of votes in relation to -

(a) the proposed granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or the transfer of a licensed business to new premises, it shall be deemed that the board has decided against the proposal; and

(b) any other matter, the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote.



(6) No decision taken by or act performed under the authority of the board shall be invalid by reason only of a vacancy on the board or, subject to section 7(3), of the fact that any person not entitled to sit as a member of the board sat as such a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the majority of the members of the board who were present at the time and entitled to sit as members.

(7) The chief executive officer may be invited to attend and participate in any particular meeting of the board but shall not have the right to vote.

(8) The board shall cause minutes of its meetings to be kept, and such minutes shall, subject to section 16(2), be open to public inspection in the prescribed manner.

#### **Staff of board**

12.(1) The board shall in the performance of its functions be assisted by -

- (a) a chief executive officer appointed by the responsible Member after consultation with the board;
- (b) persons appointed by the board; and
- (c) officers and employees placed at the disposal of the board under section 15(3)(a) of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(2) The chief executive officer shall, subject to supervision by the board, perform the functions entrusted to him or her by or in terms of this Act.

(3) The staff of the board who are not in the full-time service of the State shall receive such remuneration, allowances, and other employment benefits out of the funds of the board, and shall be appointed on such terms and conditions and for such periods, as the board, with the concurrence of the responsible Member, may determine.

(4) A member of the staff of the board shall, before assuming his or her duties as such, make and subscribe an oath or solemn affirmation in the prescribed form before the chairperson of the board.

(5) No person shall be admitted to the staff of the board as contemplated in this section if such person or any member of the family of such person has a controlling interest or any financial or other interest in any gambling, gaming or fund-raising activity.

#### **Involvement in gambling or gaming by member or staff of board**

**13.(1)** No member of the board or of the staff of the board shall -

- (a) participate in any gambling or gaming in the Province except in the performance of his or her duties in terms of this Act; or

(b) solicit or accept employment from the holder of, or applicant for, a licence under this Act within one year after the termination of his or her term of office or service, as the case may be.

(2) A member of the board or of the staff of the board, or any family member of such member, shall not accept any donation, reward or other benefit from or on behalf of an applicant for or the holder of a licence, and no person shall give or offer such donation, reward or benefit to such member or family member.

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

#### **Committees to assist board**

14.(1) The board may appoint one or more committees to enquire into any matter referred to it by the board and to report on that matter to the board.

(2) Such a committee shall consist of so many members of the board or so many other persons, or so many members and other persons, as the board may deem necessary, and the board may from time to time dissolve or reconstitute such a committee.

(3) If a committee consists of more than one member, the board shall designate a member of the committee as chairperson thereof.

(4) A member of a committee who is not a member of the board or in the full-time service of the State shall receive such remuneration and allowances from the funds of the board as the board, after consultation with the responsible Member, may determine.

#### **Expert and other assistance**

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

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

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

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

**Transparency and confidentiality**

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

(2) No member of the board or of the staff of the board, no person or expert contemplated in sections 14 and 15 and no inspector shall, except on the order of a court of law, disclose -

- (a) any document or information, or the identity of any person, which the board has determined not to be open to public inspection or to be divulged as contemplated in section 24(2);
- (b) particulars of the proceedings at any hearing from which the public or any member or category thereof have been excluded as contemplated in section 28(2)(b), except to the extent authorised by the board; or
- (c) any document or information which has been furnished to the board by any regulatory or law enforcement authority on condition of confidentiality.

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

**Funds of board**

17. (1) The funds of the board shall consist of -

(a) money appropriated by the Provincial Legislature in order to enable the board to perform its functions under this Act; and

(b) money accruing to the board from any other source.

(2) The board shall, for the purposes of appropriations contemplated in subsection (1)(a), submit to the responsible Member such estimates of expenditure and other inputs in respect of budget matters as the responsible Member or the Provincial Treasury may require.

(3) The board shall utilise its funds for the defrayal of expenses incurred by the board in the performance of its functions in terms of this Act.

(4) The board shall open an account with a registered bank determined by the board with the concurrence of the responsible Member, and shall deposit in that account all money referred to in subsection (1).

(5) The board may invest money deposited in terms of subsection (4) which is not required for immediate use.

(6) Any money standing to the credit of the board at the close of any financial year of the board in the account referred to in subsection (4) or which has been invested under subsection (5), excluding such money as has been approved by the responsible Member as being necessary for the running expenses of the board, shall be paid into the Provincial Revenue Fund.

### Accounting responsibility

18. (1) The chief executive officer shall be the accounting officer of the board charged with accounting for all money received and payments made by the board.

(2) The financial year of the board shall end on 31 March in each year.

(3) The accounting officer shall

(a) keep full and proper records of all money received or expended by, and of all assets, liabilities and financial transactions of, the board;

(b) follow the bookkeeping and accounting systems, instructions and requirements of the Provincial Treasury; and

(c) as soon as is practicable, but not later than three months after the end of each financial year referred to in subsection (2), prepare annual financial statements reflecting, with suitable particulars, money received and expenses incurred by the board during, and its assets and liabilities at the end of, the financial year in question.

(4) The records and annual financial statements referred to in subsection (3) shall be audited by the Auditor-General.

### Chapter 3

#### Licence applications in general

##### Applications

19. (1) A person desiring to obtain a licence shall apply therefor by submitting an application in the prescribed form to the chief executive officer.

(2) An application shall be accompanied by such application fee, plans, documents, approvals, and information as may be prescribed.

(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 under section 24(2)(a) that such document or information should not be open to public inspection.

##### Representations by interested persons

20. (1) The chief executive officer shall, within 14 days after lodgment of an application for a licence, cause notice of the application to be published -

(a) in the *Provincial Gazette*, in any official language; and



- (b) in a newspaper circulating in the district in which the premises are situated to which such application relates, in any official language in which such newspaper is published.

(2) A notice contemplated in subsection(1) shall -

- (a) contain the material particulars of the application;
- (b) invite interested persons -
  - (i) to lodge their written representations in relation thereto with the chief executive officer within one month from the date of such notice; and
  - (ii) to state in any written representations whether or not they wish to make oral representations at the hearing of the application; and
- (c) be in the prescribed form.

(3) A person lodging representations may show cause why the board may determine under section 24(2)(b) that his or her identity should not be divulged.

(4) The chief executive officer shall, within seven days after lodgment of any representations pursuant to a notice in terms of subsection (1), send by registered post or deliver, subject to section 24(2)(b), a copy of such representations to the applicant concerned.

**Representations by local authority**

21.(1) The chief executive officer shall, within 14 days after lodgment of an application for a licence, forward a copy of the application to the local authority in which area of jurisdiction the relevant premises are situated.

(2) The local authority may, within one month from the date of publication of the notice contemplated in section 20(1) -

- (a) lodge written representations with the chief executive officer in relation to the application; and
- (b) state in any such written representations whether or not it wishes to make oral representations at the hearing of the application.

(3) The local authority shall at the time of lodgment of its representations furnish proof to the satisfaction of the chief executive officer that it has sent by registered post or delivered a copy of such representations to the applicant concerned.

**Response by applicant to representations**

22. (1) The applicant shall lodge his or her written response, if any, to any representations lodged in terms of section 20 or 21 with the chief executive officer within two months of the date of the notice contemplated in section 20(1), and the provisions of section 19(3) shall *mutatis mutandis* apply in relation to any such response.

(2) The chief executive officer shall, within seven days after lodgment of any response contemplated in subsection (1), send by registered post or deliver a copy of such response to the person who made the representations concerned.

#### Further information and oral representations

23. (1) An applicant, or any person who, or local authority which, lodged representations as contemplated in section 20 or 21, may be required in writing by the chief executive officer to lodge with the board, within the period specified by the chief executive officer, such further information as may be reasonably necessary with a view to enabling the board properly to consider the application, representations or response concerned, and the provisions of sections 19(3) and 20(3), as the case may be, shall *mutatis mutandis* apply in relation to such further information.

(2) Where any person or the local authority indicated a desire to make oral representations at the hearing of the application as contemplated in section 20(2)(b)(ii) or 21(2)(b), respectively, the board shall -

- (a) with due regard to whether the making of such oral representations will be in the interest of the consideration of the application, grant or refuse the request; and
- (b) inform the person or local authority concerned and the applicant in writing of its decision.

(3) No information shall be required in terms of subsection (1), and no request shall be granted in terms of subsection (2), where the information or representations concerned would amount only to general objections regarding gambling and betting or the control thereof.

#### **Application and representations to be open to public inspection**

24. (1) Any application, representations, response and further information lodged in terms of sections 19 to 23 shall, subject to subsection (2), be open to public inspection by interested persons during the normal office hours of the board for the prescribed period after expiry of the period of two months referred to in section 22, and the board shall, at the request of any interested person, and on payment of such fees as may be prescribed, furnish him or her with a copy of, or extract from, any such application, representations, response or information.

- (2) The board may determine that
- (a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees or to the business plans of an applicant, shall not be open to public inspection, providing such document or information can be separated from the remainder of the application and is marked confidential; and
  - (b) the identity of any person who lodged representations in relation to an application shall not be divulged to any other person.

**Inspection of premises to which application relates**

25. (1) The chief executive officer shall, on lodgment of an application for a licence -

(a) forthwith cause the premises to which the application relates to be inspected by an inspector with regard to the suitability thereof for the carrying on of the business to which the licence relates; and

(b) within 14 days after such lodgment, give notice of the application to the local authority or other competent authority concerned, with a view to the conducting of an inspection by such authority with regard to compliance by the premises with the requirements of any law relating to town planning and the health and safety of the public which applies to those premises.

(2) The local authority or other competent authority shall, on receipt of a notice of the application, forthwith cause the premises to be inspected with regard to the matters contemplated in subsection (1)(b).

(3) On completion of an inspection contemplated in subsection (1) or (2), the inspector or authority concerned, as the case may be, shall furnish a report of such inspection to the chief executive officer within two months from the date of the notice contemplated in section 20(1) in relation to the application concerned.

(4) The chief executive officer shall, within seven days after the furnishing of a report contemplated in subsection (3), send by registered post or deliver a copy of such report to the applicant.

**Police report**

26. (1) The chief executive officer shall, within 14 days after receipt of an application for a licence, ask the South African Police Service for a report stating -

- (a) particulars of any convictions recorded against the applicant, every person in control of the applicant and every manager of the business concerned;
- (b) such matters as may be prescribed; and
- (c) such other matters which ought, in the opinion of the South African Police Service, to be taken into consideration in respect of the application concerned.

(2) A report contemplated in this section shall be furnished to the chief executive officer within two months of the date of the notice contemplated in section 20(1) in relation to the application concerned.

**Hearing of application**

27. (1) The board shall, within one month after the lapse of the period for public inspection contemplated in section 24(1), hold a hearing in respect of every application for a licence received by the board, on such date and at such time and place as shall be determined by the board, and made known by notice published *mutatis mutandis* as provided in section 20(1).

(2) The provisions of section 11(3) to (8) shall *mutatis mutandis* apply in relation to such a hearing.

(3) At such hearing -

- (a) the applicant shall be afforded an opportunity to be heard;
- (b) any person or local authority permitted to make oral representations as contemplated in section 23(2) shall be afforded an opportunity to be heard; and
- (c) the applicant and each such person and authority may be assisted or represented by any person of his or her choice.

(4) Any such hearing may be adjourned and resumed on such date and at such time and place as the board may determine.

#### **Accessibility of hearings to public**

28. (1) Subject to subsection (2), any hearing contemplated in section 27 shall be accessible to the public.

(2) 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 shall leave, the hearing; and

- (b) if the board is considering any matter contemplated in section 24(2)(a) or representations lodged by a person contemplated in section 24(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 shall leave, the hearing.

#### Summoning of witnesses

29. (1) For the purposes of a hearing contemplated in section 27, the board may -
- (a) summon any person who may be able to give material information concerning the application which is the subject of the hearing or who is believed to have in his or her possession or custody or under his or her control any book, document or thing which has any bearing on such application, to appear before it, at a time specified in the summons, which shall not be less than seven days after service thereof, and at a place so specified, to be questioned or to produce that book, document or thing, and may retain for examination any book, document or thing so produced; and
- (b) call and, by the person presiding at the hearing, administer an oath to, or accept an affirmation from, any person present at the hearing who was or could have been summoned in terms of paragraph (a), and question such person or require him or her to produce any book, document or thing in his or her possession or custody or under his or her control.

(2) A summons for the attendance before the board of any person or for the production of any book, document or thing shall be in the prescribed form, shall be



signed by the chairperson of the board or a person authorised thereto by him or her and shall be served by a person in the service of the board.

(3)(a) Any person -

- (i) duly summoned under this section, who fails without sufficient cause to attend at the time and place specified in the summons or to remain in attendance until discharged from further attendance by the person presiding at the hearing; or
- (ii) called under subsection (1)(b), who refuses to be sworn or to make an affirmation as a witness, or fails without sufficient cause to answer fully and satisfactorily to the best of his or her knowledge and belief all questions lawfully put to him or her concerning the application 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 required to produce,

shall be guilty of an offence.

(b) In connection with the examination of any such person or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.

(4) Any witness who, having been duly sworn or having made an affirmation, gives a false answer to any question lawfully put to him or her or makes a false

statement in any matter, knowing such answer or statement to be false, shall be guilty of an offence.

(5) Any person who hinders the presiding board member, or any person in the service of the board, in the exercise of any power conferred upon him or her by or under this section shall be guilty of an offence.

#### **General disqualifications for licences**

30. (1) No application for a licence shall be granted if the applicant, any person who has a controlling interest or a financial interest of five percent or more in the applicant or any manager of the business concerned -

- (a) is an unrehabilitated insolvent;
- (b) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;
- (c) has at any time been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under this Act or the Corruption Act, 1992 (Act No. 94 of 1992), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R100;
- (d) has at any time been removed from an office of trust on account of misconduct;

- (e) is a family member of a member of the board or of the responsible Member;
- (f) is not a fit and proper person to be involved in the business concerned;
- (g) is a family member of a person contemplated in paragraph (f); or
- (h) is, in the case of an application in relation to a casino licence, subject to any disqualification contemplated in section 40.

(2) In order to determine, for the purposes of subsection (1)(f), whether a particular person is not a fit and proper person to be involved in the business concerned, the board shall have regard, in so far as reasonably ascertainable, to -

- (a) the character and general probity of such person;
- (b) whether such person has at any time been convicted, whether in the Republic or elsewhere, of any offence which should be taken into account; and
- (c) whether such person has taken part or been associated with any practice which is deceitful, prejudicial or otherwise improper or discreditable, whether unlawful or not.

(3) No licence shall be granted to -

- (a) the State, a local government or, except in the case of the Totalizator Agency Board (Transvaal) referred to in section 11(1) of the Horse-racing Ordinance, 1978 (Ordinance No. 24 of 1978), read with section 111(3) of this Act, a statutory body; or

- (b) any person in whom the State, a local government or a statutory body has a controlling interest or any financial or other interest.

#### **Decision on application**

31. (1) The board shall, subject to the provisions of section 30 and after having duly considered the application for a licence, any representations made in relation to the application, the applicant's written response thereto, if any, any further information furnished in terms of section 23(1), the inspection and police reports contemplated in sections 25 and 26, and any other evidence tendered to the board in terms of section 29 or otherwise -

- (a) in the case of a casino licence, comply with the provisions of section 42(1); and
- (b) in any other case, grant the application on such conditions as the board may determine, or refuse the application.

(2) The chief executive officer shall on request furnish the written reasons for the decision of the board or the Executive Council, as the case may be, -

- (a) to the applicant, where the application has been refused or has been granted subject to conditions; and
- (b) to any person who lodged representations, where the application has been granted.

# Conditions of licence

32.(1) Subject to sections 66 and 73, a licence may be issued on conditions relating to -

- (a) the hours during which the business concerned may be conducted;
- (b) subject to subsection (2), the provision by the applicant to the board of a guarantee in a form acceptable to the board for the liabilities of the applicant in relation to -
  - (i) taxes payable in terms of this Act; and
  - (ii) gambling debts payable by the applicant;
- (c) in the case of a casino licence, any matter contemplated in section 41; or
- (d) the period of validity of the licence, in the case of -
  - (i) a casino licence, subject to the provisions of section 43(3);
  - (ii) a lottery licence; and
  - (iii) a bookmaker's licence, subject to the provisions of section 56(1);
- (e) the erection, alteration, addition or reconstruction of any premises;

- (f) the place or places -
  - (i) where premises shall or shall not be situated; and
  - (ii) where gambling shall not be permitted on such premises; and
- (g) any other matter which it may be considered necessary or expedient to regulate in the interest of the orderly conducting of the business concerned.

(2) The board may, if any circumstances come to its notice which increase the risks relating to the settlement by the holder of a licence of any liability contemplated in subsection (1)(b), require such holder to furnish guarantees other than or additional to any guarantee contemplated in that subsection.

#### **Issue of licence or temporary licence**

33.(1) Where an application has been granted as contemplated in section 31, the chief executive officer shall, subject to the provisions of subsection (2), cause a licence to be issued within one month after such granting to the applicant in the prescribed form setting out the conditions subject to which the application was granted.

(2)(a) Where an application for a casino licence or bingo licence is granted, the Executive Council in the case of a casino licence, or the board in the case of a bingo licence, may determine that a temporary licence shall be issued -

- (i) where the premises concerned are not yet erected or require alteration, addition or reconstruction as contemplated in section 32(1)(e); or

(ii) in any other circumstance where the issuing of a temporary licence is regarded to be appropriate.

(b) A temporary licence shall be issued subject to compliance by the applicant within the period specified in the temporary licence with such conditions or requirements so specified as may be determined by the Executive Council or the board, as the case may be.

(c) The Executive Council or the board, as the case may be, may on application by the holder of a temporary licence at any time after the issue thereof, extend the period specified under paragraph (b).

(d) The period specified under paragraph (b), or so specified and extended under paragraph (c), shall not be longer than three years.

(e) When the Executive Council or the board, as the case may be, is satisfied on application by the holder of a temporary licence that the conditions and requirements of the temporary licence have been complied with, the chief executive officer shall issue a licence in substitution for the temporary licence concerned.

(f) If a licence is not issued as contemplated in paragraph (e) before the expiration of the period specified under paragraph (b), or so specified and extended under (c), the temporary licence concerned shall lapse and the application for the licence shall be deemed to have been refused.

**Amendment of licence**

34.(1) The holder of a licence may at any time make application for the amendment of the licence.

(2) The provisions of sections 19 to 24, 25 and 26 in so far as they may be applicable, and 27 to 32 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1).

(3) Where the application has been granted the chief executive officer shall cause the amendment to be effected on the licence.

**Transfer of licences to another person**

35.(1) The holder of a licence may at any time make application for the transfer thereof to another person.

(2) The provisions of -

- (a) sections 19, 20, 22 to 24, 26 and 31 to 32, shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1); and
- (b) section 30 shall *mutatis mutandis* apply in relation to the prospective transferee of the licence concerned.



(3) When the application has been granted the chief executive officer shall cause the name of the holder of the licence to be changed on the licence.

#### **Removal of business to other premises**

36.(1) The holder of a licence may at any time make application for the removal, whether permanently or temporarily, of his or her business from the licensed premises concerned to other premises.

(2) The provisions of sections 19 to 25 and 27 to 29, 31 and 32 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1).

(3) When the application has been granted, the chief executive officer shall cause the premises to be changed on the licence.

#### **Suspension and revocation of licences**

37. The Executive Council in the case of a casino licence, and the board in any other case may, after giving the licensee concerned an opportunity to be heard, suspend for a specified time or revoke a licence -

(a) if any information in the application for such licence was false in any material respect or was subject to any material omission;

- (b) if the holder of the licence, or any person in control of the holder, or any manager of the business concerned has been convicted of an offence in terms of this Act;
- (c) if the holder of the licence or any person in control of the holder or any manager of the business concerned has become subject to any disqualification contemplated in section 30 or, in the case of a casino licence, section 40(1);
- (d) the holder of the licence has failed to comply with or has contravened any term or condition of the licence.

#### **Financial and controlling interests**

**38.(1)** Subject to the provisions of section 57(1), the holder of a licence shall not without the consent of the board permit any other person to procure a controlling interest or a financial interest of five percent or more in the business to which the licence relates.

**(2)** The board shall not grant consent under subsection (1) where such other person is subject to any disqualification contemplated in section 30 or, in the case of a casino licence, section 40.

## Chapter 4

### Casino licences

#### Licence required to conduct casino

39.(1) No person shall conduct a casino without a casino licence.

(2)(a) The board may in respect of any area of the Province determine that no application for a casino licence shall be entertained which is lodged otherwise than pursuant to a notice contemplated in paragraph (b), and such determination shall be made known by notice in the *Provincial Gazette*.

(b) The board may invite applications for a casino licence in respect of such an area by causing a notice to that effect to be published in the *Provincial Gazette*, which notice may state -

- (i) the area in which the premises of a casino to be conducted in terms of such a licence shall be situated;
- (ii) the improvements, facilities and amenities which are desired or required to be developed and provided in conjunction with the establishment of the casino;
- (iii) any other requirement which may be necessary or desirable; or
- (iv) that the board invites applicants to tender payment of a lump sum in consideration for the exclusive right to conduct a casino in the area concerned.

**Disqualifications for casino licences**

40. In addition to the general disqualifications contemplated in section 30 -

(a) no person shall be granted a casino licence if such person or any person in control of such person or any manager of the business concerned -

(i) at the relevant time is, or during the preceding twelve months was, a public servant;

(ii) at the relevant time is, or during the preceding twelve months was, a member of Parliament or any provincial legislature or local authority, or any council, commission or house of traditional leaders established in terms of the Constitution;

(iii) at the relevant time is, or during the preceding twelve months was, an office-bearer or employee of any party, movement, organisation or body of a party political nature; or

(iv) is a family member of a person contemplated in subparagraph (i), (ii) or (iii); and

(b) no person shall be granted a casino licence -

(i) if such person does not have access to sufficient experience and knowledge of the operation and management of a casino;

- (ii) if such person does not have access to capital resources which are adequate for the operation of the casino; or

- (iii) if the granting of such licence will or may create or aggravate a monopoly situation as defined in the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979): Provided that this subparagraph shall not be construed so as to prevent the acceptance of a lump-sum payment as contemplated in section 43(2).

#### **Considerations in disposing of application for casino licence**

41. The board shall, in considering whether to recommend the granting of an application for a casino licence, and in considering any conditions and requirements to which any such licence should advisably be made subject, take into consideration -

- (a) whether the casino will enhance the neighbourhood and environment;
- (b) the extent to which the casino will promote tourism at the place where the premises will be situated and in the Province in general;
- (c) the extent to which the casino will promote sustainable employment at such place and in the Province in general;
- (d) the extent to which the applicant will provide training and skills to his or her employees;

- (e) the extent to which the applicant will procure labour, goods and services from such place and the Province in general for the construction and conducting of the casino;
- (f) the extent to which the applicant intends to provide for participation in the ownership or profits of the casino by persons, or groups or categories of persons, disadvantaged by unfair discrimination;
- (g) any facility, advantage or contribution which the applicant intends to provide or furnish for the benefit of, or for utilisation or enjoyment by, any needy community at or near the place where the premises will be located, or any persons or groups or categories of persons contemplated in paragraph (f);
- (h) the extent to which the granting of the licence will promote the attainment of the objects of reconstruction and development projects and programmes referred to in section 3(a) of the Reconstruction and Development Fund Act, 1994 (Act No. 7 of 1994), of the Republic;
- (i) whether the granting of the licence will result in the establishment of an unduly large number of casinos in the Province, having regard to the number of inhabitants of the Province and their financial means and the tourist potential of the Province; and
- (j) any other factors which may affect the question whether it is desirable to grant such application or to attach any such condition or requirement.

**Decision on application for casino licence**

**42.(1)** The board shall, after consideration of an application for a casino licence as contemplated in sections 31(1) and 41 -

- (a) prepare a report in which it shall recommend that the application -
  - (i) be approved either wholly or in part, subject to any condition the board may deem advisable for the Executive Council to impose; or
  - (ii) be refused; and
- (b) furnish its report and recommendation to the responsible Member for submission to the Executive Council.

**(2)** The Executive Council shall not grant or refuse an application, or impose any condition, contrary to the recommendation of the board.

**(3)** The responsible Member shall convey the decision of the Executive Council to the board.

**Activities authorised by casino licence**

**43.(1)** The granting of a casino licence shall, subject to any condition imposed under section 32, authorise -

- (a) the conducting and carrying on of such casino games;

- (b) the keeping of such number of gaming machines; and
- (c) the conducting of such games of bingo,

as may be set out in such licence, on the licenced premises concerned.

(2) Where the board has accepted a lump sum payment contemplated in section 39(2)(b)(iv) from the holder of a casino licence to conduct the casino concerned -

- (a) the board shall by notice in the *Provincial Gazette* make known that such a payment has been made, and the area and period for which it was made; and
- (b) no casino licence shall be granted to any other person to conduct a casino in that area for that period until the first-mentioned licence has lapsed or been revoked.

(3) The period of validity of a casino licence shall be such period, not shorter than ten years, as the Executive Council may determine on the recommendation of the board, having regard to the extent of the improvements, facilities and amenities to be developed and provided in conjunction with the establishment of the casino.

#### **Display of prescribed information and rules of games**

**44.(1)** The holder of a casino licence shall -

- (a) display permanently within the licensed premises such information regarding casino games as is prescribed by the rules of the board; and



- (b) make available for examination at the request of any customer a copy of the rules of the board determining the manner in which any particular casino game shall be played.

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

#### **Use of word "casino"**

45.(1) The holder of a casino licence shall not in connection with the casino use, or refer to himself or herself by, a name that does not include the word "casino".

(2) No person shall trade or carry on business under a name or title of which the word "casino" forms a part while he or she is not the holder of a casino licence granted in terms of this Act.

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

### **Chapter 5**

#### **Bingo licences**

##### **Licence required to conduct bingo games**

46.(1) No person shall maintain premises where the gambling game of bingo is played, without -

(a) a casino licence; or

(b) a bingo licence,

whether or not any such game is linked as contemplated in subsection (2).

(2) No person shall by any electronic or similar method of linking to any other premises provide for the gambling game of bingo to be played at such other premises, without a bingo licence.

#### **Activities authorised by bingo licence**

47.(1) A bingo licence shall, subject to any condition imposed under section 32, authorise, in the case of a licence contemplated in -

(a) section 46(1), the conducting or providing of the game of bingo on the licensed premises concerned; and

(b) section 46(2), the conducting or providing of the game of bingo to any licensed premises referred to in paragraph (a), or to any such premises as may be specified in the licence, by means of a method of linking contemplated in that section.

(2) The maximum amount -

(a) that may be charged to enable a person to play the game of bingo once, shall not exceed the prescribed amount; and

- (b) or value of any prize which may be awarded in respect of a game of bingo, shall not exceed the prescribed amount or value.

## Chapter 6

### Gaming machine and route operator licences

#### Licence required to keep or provide gaming machines

48.(1) No person shall maintain premises where gaming machines are played, without -

- (a) a casino licence; or
- (b) a gaming machine licence.

(2) The board shall, in considering whether to grant a gaming machine licence, take into consideration whether the granting of the licence will result in the maintaining in the Province of an unduly large number of premises where gaming machines may be played, having regard to the number of inhabitants of the Province and their financial means.

(3) No person shall, without a route operator licence, granted by the Executive Council on the recommendation of the board, -

- (a) make available, for use in premises contemplated in subsection (1), a gaming machine in terms of a lease, sale on credit or in instalments, or transaction providing assistance whether financial or otherwise;
- (b) undertake the regular maintenance or the repair, replacement or upgrading of a gaming machine in such premises; or
- (c) conduct any other prescribed activities of a route operator.

**Activities authorised by gaming machine licence and route operator licence**

49.(1) A gaming machine licence shall, subject to any condition imposed under section 32, authorise the keeping of a maximum of five gaming machines on the licensed premises concerned.

(2) The maximum amount -

- (a) that may be charged to enable a person to play on a gaming machine shall not exceed the prescribed amount; and
- (b) of any money, or the value of any other prize, which may be paid out in respect of a game played on, or the operation of, a gaming machine -
  - (i) shall not exceed the prescribed amount or value; and

(ii) shall be displayed on each gaming machine concerned in the prescribed manner.

(3) A route operator licence shall, subject to any condition imposed under section 32, authorise any of the activities contemplated in section 48(3) specified in the licence.

## Chapter 7

### Lotteries

#### Licence required to conduct lottery

50.(1) Subject to the provisions of subsection (3), no person shall conduct a lottery without a lottery licence.

(2) A lottery licence shall not be granted to any person other than a society, company or other association of persons, including a trust, which is authorised to collect contributions from the public in terms of section 4 of the Fund-raising Act, 1978 (Act No. 107 of 1978), and which has the main object of promoting arts, sciences, education, charity, recreation or any other cultural or social activity, or communal or group interests.

(3) The provisions of subsection (1) shall not apply in relation to a lottery which is conducted -

(a) by the State, or a statutory body or any person at the instance or on behalf of the State in accordance with the provisions of any law;

- (b) by a social or sporting club or similar association of persons as long as it complies with the provisions of subsections (4) and (6); or
- (c) at a school fete, church bazaar, dance or similar social function as long as the provisions of subsections (5) and (6) are complied with.

(4) A club or association contemplated in subsection (3)(b) shall -

- (a) apply the entire proceeds of the lottery concerned, less any amount expended on prizes or the administration of the lottery, for the purposes of the club or association;
- (b) not employ any person for reward in connection with the promotion or conducting of the lottery; and
- (c) not publicise or advertise the lottery to any person other than its members.

(5) A person who conducts a lottery contemplated in subsection (3)(c) shall -

- (a) not apply any portion of the proceeds for the private profit or gain of any person; and
- (b) not award a prize in the form of money or anything which may by right be redeemed for money.

(6) Any person who conducts a lottery referred to in subsection (4) or (5) shall not award a prize which exceed the prescribed amount or value.

(7) Any person who contravenes a provision of subsection (4), (5) or (6) shall be guilty of an offence.

### Activities authorised by lottery licence

51.(1) A lottery licence shall, subject to any condition imposed under section 32 and the provisions of this section, authorise the conducting of the lottery specified in the licence.

(2) The holder of a lottery licence shall -

- (a) apply the proceeds of the lottery concerned, including any unclaimed prizes, but excluding any amounts expended on prizes or the administration of the lottery, solely towards the promotion of the main object contemplated in section 50(2) of the society, company or association concerned within a period specified in the licence;
- (b) not expend administration expenses in excess of a determined or determinable amount specified in the licence;
- (c) conduct the lottery concerned in accordance with rules and conditions approved by the board; and
- (d) inform the board in writing within the period specified in the licence of the number and value of any unclaimed prizes.

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

## **Chapter 8**

### **Totalizators and pools**

#### **Licence required to conduct totalizator or pool**

52. No person shall conduct the business of a totalizator or betting pool without a totalizator licence.

#### **Activities authorised by totalizator licence**

53.(1) A totalizator licence shall, subject to any condition imposed under section 32, authorise the conducting of the categories of totalizators and betting pools specified in the licence.

(2) The holder of a totalizator licence shall conduct totalizators and betting pools in accordance with rules made by such holder and which have been approved by the board.



## Chapter 9

### Bookmakers

#### Licence required to conduct business of bookmaker

54. No person shall conduct the business of a bookmaker without a bookmaker's licence.

#### Number of bookmakers at stand or cubicle

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

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

- (a) each at a separate stand or cubicle at a Tattersalls, betting exchange or other similar premises, or at a race-course or other premises where sporting events are held; or
- (b) in partnership subject to authorisation in terms of section 57(2).

#### Period of validity of bookmaker's licence

56.(1) The period of validity of a bookmaker's licence shall not exceed one year.

(2) A bookmaker who desires to renew his or her licence shall, not later than three months before the expiry thereof, apply to the board for the renewal of the licence.

(3) The provisions of sections 19 and 20, and 22 to 24 and 26 to 32 inclusive, shall *mutatis mutandis* apply in relation to an application contemplated in subsection (2).

#### **Interest in bookmaker's business**

57.(1) The board may on application authorise a licensed bookmaker to become a partner in -

- (a) not more than one bookmaker's business on a race-course or other premises where sporting events are held; or
- (b) not more than three bookmakers' businesses in a Tattersalls, betting exchange or other similar premises.

(2) The provisions of subsection (1) shall not derogate from the obligation of each bookmaker to provide a separate guarantee as contemplated in section 32(1)(b).

#### **Bookmaker to be member of approved association of bookmakers**

58.(1) No bookmaker shall carry on business as such unless he or she is a member of an association of bookmakers approved by the board.

(2) The provisions of subsection (1) shall not prevent a bookmaker from carrying

(2) The provisions of subsection (1) shall not prevent a bookmaker from carrying on business for a period of 14 days from the issue to him or her of a bookmaker's licence, in order to obtain membership of such an association.

(3) Where a bookmaker ceases to be a member of such an association for any reason -

- (a) his or her bookmaker's licence shall lapse with effect from the date on which he or she ceases to be such a member; and
- (b) the bookmaker and the association concerned shall inform the board of such cessation of membership and the date thereof, within 14 days after such date.

(4) The constitution and rules of any such association shall be approved by the board, and no amendment to such constitution or rules shall have any force until the board has approved such amendment.

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

#### **Registration of bookmaker's managers and clerks**

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

- (a) is employed by such a holder; and
- (b) is registered as -

(i) a bookmaker's manager in terms of section 68, as applied by subsection (3); or

(ii) a bookmaker's clerk by an association of bookmakers approved by the board.

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

(3) The provisions of sections 68 to 70 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (2).

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

(5) Where a bookmaker's clerk ceases to be a member of an association referred to in subsection (1)(b)(ii) for any reason -

(a) the bookmaker's clerk and the association concerned shall inform the board of such cessation of membership; and

(b) the bookmaker's clerk shall inform the bookmaker, if any, employing such clerk of such cessation and the reasons therefor,

in writing within 14 days of the cessation of membership.

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

#### **Standup fee to be approved by board**

60. Where a bookmaker carries on business on a race-course or other premises where sporting events are held, the amount charged by the owner or occupier of those premises to a bookmaker for the right to carry on business at such premises shall not exceed the amount determined in the rules of the board or approved by the board.

### **Chapter 10**

#### **Fees and taxes**

#### **Licence holders and gamblers to pay prescribed licence fees and taxes**

61.(1) The holder of a licence shall at or before the time or times prescribed therefor pay to the board for the benefit of the Provincial Revenue Account -

- (a) the prescribed fee for the granting of a licence in terms of this Act;
- (b) the prescribed licence fees contemplated in section 62(1) in respect of such licence;
- (c) the prescribed taxes contemplated in section 62(1); and

(d) on failure to pay any such fee or tax or part thereof on due date, the prescribed penalty, subject to section 62(2).

(2)(a) A person who has made a winning bet shall pay the prescribed tax contemplated in section 62(3) in respect of the amount of the winnings payable to such person.

(b) Such tax shall be deducted from such winnings by the licence holder with whom the bet was made.

(3) A fee or tax contemplated in this section shall be collected by the board and paid into the Provincial Revenue Account at the times and in the manner prescribed.

#### **Calculation of fees, taxes and penalties**

62.(1) The licence fees and taxes contemplated in section 61(1)(b) and (c) shall be the prescribed percentage of the amount remaining of the total revenue received by the holder of the licence as gambling winnings from punters (including consideration received to permit any person to play a casino game in which such licence holder is not a party to a wager, and such undistributed and unclaimed moneys held or retained by the licence holder as may be prescribed), after deducting gambling losses paid out by the holder of the licence to punters and such other prescribed amounts as may be deducted from such total revenue for the purposes of this section.

(2) The penalty contemplated in section 61(1)(d) shall not exceed the amount which is twice the fee or tax in respect of which such penalty is payable.

(3) The tax contemplated in section 61(2)(a) shall be the prescribed percentage of the amount of the winnings payable in respect of such bet to the person concerned, excluding the amount staked.

## **Chapter 11**

### **Gaming machines and gaming devices in general**

#### **Gaming machines and devices to be registered**

63.(1) Subject to subsection (2), no holder of a licence shall keep or maintain -

- (a) any gaming machine, roulette wheel or other gaming device or apparatus which has not on application been separately registered by the board, subject to section 65; or
- (b) any card used in connection with the playing of bingo or of any casino game which is not identical to a card which has on application been registered by the board, subject to section 65.

(2) The provisions of subsection (1) shall not apply to playing-cards or dice.

(3) Any holder of a licence who contravenes a provision of subsection (1) shall be guilty of an offence.

**Provision of machines and devices**

64.(1) No person shall carry on the business of the manufacture, sale, lease, making available, distribution, import, marketing, maintenance or repair of any gaming machine, roulette wheel or other gaming device or apparatus, unless such person has on application been registered by the board.

(2) The provisions of subsection (1) shall not apply to the holder of a route operator licence.

(3) No person shall supply a gaming machine to any person other than a person registered as contemplated in subsection (1), the holder of a casino licence or gaming machine licence.

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

**National requirements**

65. If in terms of an Act of Parliament -

- (a) the make, model or type of any gaming machine, roulette wheel, gaming device, other apparatus or card contemplated in section 63(1) is required to be approved or licensed or otherwise authorised in terms of such Act, the board shall not register any machine, wheel, device, apparatus or card in terms of that section which is not of a make, model or type which has been so approved, licensed or authorised; and



- (b) the manufacture, sale, lease, making available, distribution, import, marketing, maintenance or repair of any machine, wheel, device or apparatus contemplated in section 64(1) is restricted to persons who are approved, licensed or otherwise authorised in terms of such Act, the board shall not register any person in terms of that section who has not been so approved, licensed or otherwise authorised.

#### **Electronic monitoring system for gaming machines**

66.(1) The board may approve and register any electronic, computer or communications system or device which is designed so that it may be used or adapted to send or receive data relating to the functioning of any machine or apparatus contemplated in subsection (1), as a monitoring system for the purposes of this section.

(2) Where a monitoring system has been approved and registered under subsection (1) there shall be imposed, in addition to any other conditions imposed under section 32, as a condition of a casino licence, bingo licence, gaming machine licence or lottery licence that the holder of the licence shall link any gaming machine or other machine or apparatus used on the licensed premises, to such an electronic monitoring system.

(3) Where monitoring system has not been approved or registered under subsection (2), and there is reason to believe that a particular licence holder -

- (a) without his or her gaming machine being linked to such a monitoring system, will be unable -

(i) to render to the board the prescribed returns regarding the licensed activity concerned; or

(ii) to comply with any of the provisions of this Act or of the terms and conditions of the licence; or

(b) by reason of any other sufficient exceptional circumstances, should be prohibited from using such machine or carrying on the licensed activity,

the board may, with the concurrence of the responsible Member, prohibit that holder from using such machine or carrying on the licensed activity, until such time as such a monitoring system has been so approved and registered, and such machine has been linked to it.

(4) No person shall link to any system or device which has not on application been approved and registered as a monitoring system under subsection (2).

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

## Chapter 12

### Registration of certain personnel

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

67. (1) No person shall -

- (a) perform any act pertaining to any casino occupation; or
- (b) be engaged in the manufacture, sale, lease, making available, distribution, importing, marketing, maintenance or repair of any gaming machine, roulette wheel or other gaming device,

unless such person is registered with the board.

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

(3) A holder of a casino licence, or a person registered in terms of section 64(1), who employs any person to perform any act or be engaged in any activity contemplated in subsection (1)(a) or (b), shall inform the board in writing of such employment and of the cessation of such employment, as the case may be, within 14 days thereof.

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

#### **Disqualified persons not to be registered**

68.(1) No application for registration contemplated in section 67(2) shall be granted if the applicant is subject to any disqualification contemplated in section 30, which shall apply *mutatis mutandis*.

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

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

### Registration

69.(1) Where the board grants an application for registration contemplated in section 67(2), the chief executive officer shall issue to the applicant a certificate of registration in the prescribed form.

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

(b) The board may determine that any particular applicant shall be registered for a specified period only, but then -

(i) the chief executive officer shall on request furnish the applicant in writing with the reasons for such determination; and

(ii) the period so specified shall be stated in the certificate of registration issued in terms of subsection (1).

(c) A person who has been registered for a specified period may apply for the extension of such period or the substitution for such registration of registration for an indefinite period, and if the board grants such extension or substitution, the chief executive officer shall make the necessary alteration on the certificate of registration.

(3) The chief executive officer shall keep and maintain a register in which he or she shall enter the name and prescribed particulars of each person to whom a certificate of registration has been issued in terms of this section.

#### **Suspension and revocation of registration**

70. The board may at any time suspend for a specified period or revoke the registration of any person in terms of this Chapter after giving the person concerned an opportunity of being heard -

- (a) if any information contained in the application for registration was false in any material respect or was subject to any material omission;
- (b) if the person registered has become subject to a disqualification contemplated in section 30, as applied *mutatis mutandis* by section 68(1); or
- (c) if the person registered has been convicted of an offence in terms of this Act.

**Chapter 13****Provisions relating to gambling and betting in general****Restriction on advertisements of gambling or betting**

**71.(1) No person shall -**

- (a) display any advertisement with regard to gambling or betting within sight of, or within the prescribed distance from -
  - (i) any school or place of worship; or
  - (ii) any other institution frequented predominantly by persons under the age of 18 years and which has been prescribed for the purposes of this section;
- (b) publish any such advertisement in any newspaper, magazine or other periodical which is published mainly for persons under the age of 18 years; or
- (c) broadcast any such advertisement on a radio or television service at any prescribed time during which such service presents programmes mainly for persons under the age of 18 years.

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

### **Prohibition of extending of credit in connection with gambling or betting**

72.(1) The holder of a licence shall not extend credit to any person in connection with or for the purpose of gambling or betting, except to such extent and subject to such conditions as may be prescribed.

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

### **Persons under 18 years not to be admitted to gambling or betting areas**

73.(1) The holder of a licence shall not allow a person under the age of 18 years to be in any such part of the licensed premises as may be defined for the purposes of this section in any condition of the licence imposed under this Act.

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

### **Improper modification or use of certain devices and machines**

74.(1) No person shall -

- (a) alter, mark, tamper with, adjust or otherwise modify in any manner any playing-cards, dice, roulette wheel or other gaming device, gaming machine or any other apparatus for the purpose of deceiving the players or improperly altering the normal or random results or chances of the casino game or gaming machine concerned;

- (b) use or make available for the purpose of deceiving players any such playing-cards, dice, wheel, device, machine or apparatus which has been so altered, marked, tampered with, adjusted or otherwise modified; or
- (c) use any other device or apparatus for the purpose of deceiving players.

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

#### **Gambling debts enforceable**

75. Notwithstanding the provisions of any law, including the common law, any gambling debt lawfully incurred after the commencement of this Act shall be enforceable in a court of law.

#### **Events and contingencies on which gambling may take place and bets may be made**

76.(1) No person may gamble or bet on the result of any event or contingency other than -

- (a) a casino game;
- (b) a bingo game;



- (c) the operation of a gaming machine;
- (d) a lottery; or
- (e) a sporting event.

(2) No person may gamble or make a bet on the result of an event or contingency contemplated in subsection (1) with any person other than the holder of a licence who is authorised by such licence to gamble or take bets on the event or contingency concerned.

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

#### **Place of gambling and settling gambling debts**

77.(1) Subject to subsection (3), no person shall gamble or make a bet at any place other than the licenced premises.

(2) Subject to subsection (3), no gambling debt may be settled except at -

- (a) the licenced premises;
- (b) a place authorised by the board on application by the holder of the licence concerned; or

- (c) in circumstances when the debt is paid pursuant to a court order or the terms of settlement of legal proceedings instituted for its recovery, any place where a debt is ordinarily paid in such circumstances.

(3) The provisions of this section shall not apply in relation to a lottery.

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

#### **No gambling or betting with persons under age of 18 years**

78.(1) No person shall gamble or make a bet if he or she is under the age of 18 years.

(2) No person shall gamble with or take a bet from a person under that age.

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

#### **Restriction on gambling through agent, and unlawful inducement to gamble**

79.(1) Subject to subsection (3)(a), no person shall -

- (a) act as an agent for the holder of a licence for the purpose of gambling, whether or not for gain; or

- (b) for gain act as an intermediary between any holder of a licence and any other person for the purpose of gambling.

(2) Subject to subsection (3)(b), no person shall, directly or indirectly, give or undertake to give to any other person money or other valuable consideration, other than the amount of a wager won by such other person, to induce that person to gamble.

(3) The provisions of -

- (a) subsection (1) shall not apply to a person who performs any act in connection with an excursion of any group of persons who are not public servants or members of Parliament, any provincial legislature or local authority, to the premises of the holder of a licence for the purpose of gambling; and
- (b) subsection (2) shall not apply to a holder of a licence who gives or undertakes to give accommodation, meals or similar facilities to persons who may gamble on the licensed premises concerned.

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

**Chapter 14****Inspections and enquiries****Appointment of inspectors**

80.(1) The board may appoint any person in its service or any other suitable person as an inspector for the purposes of this Act.

(2) If in terms of an Act of Parliament no person shall perform any inspection function in relation to gambling without being registered in terms of that Act, no inspector shall be appointed in terms of subsection (1) unless he or she has been so registered.

(3) No person shall be appointed as an inspector if he or she is subject to any disqualification contemplated in section 30 or 40 which shall apply *mutatis mutandis*.

(4) A person who is not in the full-time service of the State or the board and who is appointed as an inspector shall be appointed on such conditions and at such remuneration as the board, with the concurrence of the responsible Member, may determine.

(5) An inspector shall be provided with a certificate of appointment signed by or on behalf of the chairperson of the board and in which it is stated that he or she has been appointed as an inspector under this Act.

(6) When an inspector performs any function in terms of this Act, he or she shall have such certificate of appointment in his or her possession and show it at the request of any person affected by the performance of that function.

(7) An inspector shall not accept any donation, reward or other benefit in connection with the performance of his or her functions from any person, and no person shall give or offer such donation, reward or benefit to an inspector.

(8) Any person who contravenes a provision of subsection (7) shall be guilty of an offence.

#### **Powers of inspectors**

81.(1) An inspector may at any time enter any licensed premises, and may -

- (a) inspect or search those premises;
- (b) examine, or make copies of or take extracts from, any document found in or upon those premises and which refers or is suspected to refer to any gambling or betting activity, and request from the owner or person in charge of those premises or from any person in whose possession or charge that document is, an explanation of any entry therein;
- (c) examine any article or other object found in or upon those premises and which refers or is suspected to refer to any such activity, and request from the owner or person in charge of those premises or from any person in whose

possession or charge that article or object is, information in regard thereto;  
and

- (d) seize, against the issue of a receipt, any such article, document or object, if it appears to provide proof of a contravention of a provision of this Act, or if he or she wishes to retain it for further examination or for safe custody: Provided that a person from whose possession or charge any such document has been taken shall, as long as it is in the possession or charge of the inspector concerned, at such person's request be allowed, at his or her own expense and under the supervision of such inspector, to make copies thereof or to take extracts therefrom at any reasonable time.

(2) An inspector may, in the company of an officer of the South African Police Service authorised by a warrant and subject to the provisions of any other law -

- (a) enter any premises on or in which any article, document or other object connected with gambling or betting is or is suspected to be or which are occupied or used or suspected to be occupied or used for the purposes of any gambling or betting activity;
- (b) in respect of such premises, do everything set out in subsection (1)(a), (b), (c) and (d), which shall apply *mutatis mutandis*; and
- (c) inspect any account of any person at any bank or other financial institution which may afford evidence of the commission of an offence in terms of this Act,

(3) Any person who -

- (a) obstructs or hinders an inspector in the performance of his or her functions under this section;
- (b) when asked by an inspector for an explanation or information relating to a matter within his or her knowledge, gives an explanation or information which is false or misleading, knowing it to be false or misleading; or
- (c) falsely represents himself or herself to be an inspector,

shall be guilty of an offence.

#### **Duty to produce licence or certificate of registration**

82.(1) The holder of a licence, or a certificate of registration contemplated in section 69(1) or that section as applied by section 59(3), shall on demand produce such licence or certificate to an inspector or officer of the South African Police Service.

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

#### **Enquiries by board**

83.(1) The board may from time to time conduct an enquiry into -

- (a) the amendment, substitution or repeal of the Abolition of Dog Race Meetings and the Prohibition of Betting on Dog Races Ordinance, 1949 (Ordinance No. 4 of 1949), or the Horse-racing Ordinance, 1978 (Ordinance No. 24 of 1978), including any regulations and rules thereunder, in so far as they are of force in the Province; or
- (b) any matter falling within the scope of its functions.

(2) The provisions of section 29 shall *mutatis mutandis* apply in relation to any enquiry contemplated in subsection (1).

## Chapter 15

### Miscellaneous provisions

#### Regulations

84.(1) The responsible Member shall -

- (a) after consultation with the Standing Committee of the Provincial Legislature responsible for economic affairs, make regulations prescribing the form of the oath or affirmation to be made and subscribed by members of the board in terms of section 5(5); and
- (b) with the concurrence of the Standing Committee of the Provincial Legislature responsible for financial matters, make regulations prescribing -



- (i) the fees payable in respect of an application contemplated in sections 19, 34, 35, 36 and 56, respectively;
- (ii) the fees for copies or extracts contemplated in section 24(1);
- (iii) the amount of lump sum payments contemplated in section 39(2)(b)(iv);
- (iv) the charges payable by applicants for costs incurred by the board in the conducting of hearings and inspections;
- (v) the fees payable in respect of any registration applied for in terms of section 59(2), 67(2) or 69(2)(c); and
- (vi) any matter which in terms of section 61 or 62 is required or permitted to be prescribed.

(2) The responsible Member may, on the recommendation or with the concurrence of the board and after consultation with the Standing Committee of the Provincial Legislature responsible for economic affairs, make regulations relating to -

- (a) the manner and form in which any application, representations or response contemplated in section 19, 20, 21 or 22, as the case may be, shall be made;
- (b) the stakes for which any casino game shall be played;

- (c) the take-out, commission or other charges which the holder of a licence may charge;
- (d) the books of account and records to be kept, and returns to be furnished to the board by holders of licences;
- (e) the prohibited activities of route operators contemplated in section 48(3)(c);
- (f) any matter other than those mentioned in subsection (1) which in terms of this Act is required or permitted to be prescribed; and
- (g) in general, any matter which is considered necessary or expedient to be prescribed for achieving the objects of this Act.

(3) Different regulations may be made under this subsection in respect of different licences, areas or casino games.

(4) Not less than one month before any regulation is made under this section, the responsible Member shall cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish any comments thereon or any representations which they may wish to make in regard thereto -

- (a) to the responsible Member, in the case of a regulation contemplated in subsection (1); and
- (b) to the board, in the case of a regulation contemplated in subsection (2).

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

- (a) any regulation which, after the provisions of that subsection have been complied with, has been amended by the responsible Member, after consultation with or with the concurrence or recommendation of the competent bodies concerned referred to in subsection (1) or (2), in consequence of comments or representations received in pursuance of such compliance; or
- (b) any regulation in respect of which the public interest requires it to be made without delay.

(6) Any regulation made under this section may prescribe penalties for any contravention thereof of failure to comply therewith, of a fine or imprisonment for a period not exceeding two years.

#### **Rules of the board**

85.(1) The board may make rules determining -

- (a) the information regarding casino games to be displayed in terms of section 44(1)(a);
- (b) the manner in which any casino game shall be played; and
- (c) the maximum amount which may be charged in terms of section 60.

(2) Different rules may be made in respect of different areas or casino games.

(3) A rule of the board may prescribe penalties for any contravention thereof or failure to comply therewith, of a fine or imprisonment for a period not exceeding two years.

#### **Annual report and publication of information on gambling activities**

86.(1) The board shall as soon as practicable after 31 March in each year submit to the responsible Member a report on its functions and finances during the year ending on that date:

(2) The responsible Member shall lay a copy of the annual report submitted to him or her in terms of subsection (1) upon the table in the Provincial Legislature within 14 days after its receipt if the Legislature is then sitting or, if the Legislature is not then sitting, within 14 days after the commencement of its next ensuing ordinary sitting.

(3) The board may publish general information or statistics on gambling and betting activities in the province.

#### **Offences relating to licensable activities**

87.(1) Any person who carries on any activity for which a licence is required in terms of this Act, without such a licence, shall be guilty of an offence.

(2) Any holder of a licence who contravenes, or fails to comply with, a condition of the licence shall be guilty of an offence.

### **Penalties**

88.(1) Any person convicted of conducting a casino without a licence in contravention of section 87(1) read with section 39(1) shall on conviction be liable to imprisonment for a period not exceeding 10 years without the option of a fine.

(2) Any person convicted of any other offence in terms of this Act shall on conviction be liable to a fine not exceeding R2 million or to imprisonment for a period not exceeding 10 years.

### **Vicarious responsibility**

89.(1) When the manager of the business to which a licence relates, or the agent or employee of the holder of a licence, does or omits to do any act which would be an offence in terms of this Act for the holder concerned to do or omit to do, that holder shall be deemed himself or herself to have done or omitted to do that act, unless he or she satisfies the court that -

- (a) he or she neither connived at nor permitted the act or omission by the manager, agent or employee concerned;
- (b) he or she took all reasonable steps to prevent the act or omission; and

- (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition and under no circumstances fell within the scope of the authority or employment of the manager, agent or employee concerned.

(2) For the purposes of subsection (1)(b), the fact that a holder issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he or she took all reasonable steps to prevent the act or omission.

## Chapter 16

### Transitional provisions

**Amendment of section 1 of Ordinance 24 of 1978, as amended by section 1 of Ordinance 11 of 1986, section 1 of Proclamation 30 of 1992 and section 1 of Proclamation 117 of 1993 (Transvaal) and Proclamation R37 of 1995 (Republic)**

90. Section 1 of the Horse-racing and Betting Ordinance, 1978, in so far as it is of force in the Province (hereinafter referred to as the Ordinance), is hereby amended -

- (a) by the deletion in subsection (1) of the definitions of "Account for Provincial Services: Transvaal" and "Administrator";
- (b) by the substitution in subsection (1) for the definition of "authorised officer" of the following definition:

"(iii) 'authorised officer' -

[(a) in so far as a provision of this Ordinance is applied in or with reference to the province Eastern Transvaal, Northern Transvaal or North-West, as the case may be, means an authorised officer referred to in section 9C; or

(b) in so far as a provision of this Ordinance is applied in or with reference to the province Pretoria-Witwatersrand-Vereeniging,] means an authorised officer referred to in section 9B(12)(b); (vii);

(c) by the deletion in subsection (1) of the definitions of "bookmaker's clerk" and "bookmaker's manager";

(d) by the substitution in subsection (1) for the definition of "Director-General" of the following definition:

"(vB) 'Director-General' -

[(a) in so far as a provision of this Ordinance, excluding sections 9B and 43A, is applied in or with reference to a particular province, means the Director-General of the provincial administration of that province; and

(b) for the purposes of sections 9B and 43A,] means the Director-General of the provincial administration of the province Pretoria-Witwatersrand-Vereeniging] Province; (ivB)";

(e) by the deletion in subsection (1) of the definition of "licensed bookmaker";

- (f) by the substitution in subsection (1) for the definition of "province" of the following definition:

"(xiA) [~~'province'~~] 'Province' means the [~~province~~ Eastern Transvaal, Northern Transvaal, North-West or Pretoria-Witwatersrand-Vereeniging, as the case may be,] Province of Gauteng established in terms of section 124 of the Constitution of the Republic of South Africa, 1993; (xB)";

- (g) by the substitution in subsection (1) for the definition of "provincial administration" of the following definition:

"(xiB) 'provincial administration' means the provincial administration established for [~~a province~~]. the Province by the Public Service Act, 1994 (Proclamation No. 103 of 1994); (xA)";

- (h) by the insertion in subsection (1) after the definition of "provincial administration" of the following definition:

"(xiC) 'Provincial Revenue Account' means the Provincial Revenue Account as defined in section 1 of the Provincial Exchequer Act, 1994 (Act No. 1 of 1994); (xC)"

- (i) by the substitution in subsection (1) for the definition of "Racing and Betting Board" of the following definition:

"(xiiA) 'Racing [~~and Betting~~] Board' -



[(a) in so far as a provision of this Ordinance is applied in or with reference to the province Eastern Transvaal, Northern Transvaal or North-West, as the case may be, means the competent authority within the government of the province concerned to whom the administration of this Ordinance has under section 235(8) of the Constitution of the Republic of South Africa, 1993, been assigned; or

(b) in so far as a provision of this Ordinance is applied in or with reference to the province Pretoria-Witwatersrand-Vereeniging,] means the [Highveld] Gauteng Horse-racing [and Betting] Board referred to in section 9B(1); (xiA)";

(j) by the insertion in subsection (1) after the definition of "regulation" of the following definition:

"(xvA) 'responsible Member' means the member of the Executive Council of the Province responsible for finance and economic affairs; (xviiA)";

(k) by the deletion in subsection (1) of the definition of "Tattersalls"; and

(l) by the deletion in subsection (1) of the definition of "totalizator permit".

**Amendment of section 4 of Ordinance 24 of 1978, as amended by section 3 of Proclamation 30 of 1992 (Transvaal)**

91. Section 4 of the Ordinance is hereby amended by the deletion of paragraph

(a) of subsection (2).

**Amendment of section 9 of Ordinance 24 of 1978, as amended by section 3 of Proclamation 117 of 1993 (Transvaal)**

92. Section 9 of the Ordinance is hereby amended by the deletion of the proviso to paragraph (a) of subsection (1).

**Amendment of section 9A of Ordinance 24 of 1978, as inserted by section 6 of Proclamation 30 of 1992 and amended by section 4 of Proclamation 117 of 1993 (Transvaal) and Proclamation R 37 of 1995 (Republic)**

93. Section 9A of the Ordinance is hereby amended -

- (a) by the substitution in subsection (6), for the expression "the province", wherever it occurs, of the expression "the Province"; and
- (b) by the deletion of subparagraph (vii) of paragraph (c) of subsection (8).

**Substitution of section 9B of Ordinance 24 of 1978, as inserted by section 6 of Proclamation 30 of 1992 and amended by section 4 of Proclamation 117 of 1993 (Transvaal) and Proclamation R37 of 1995 (Republic)**

94. The following section is hereby substituted for section 9B of the Ordinance:

"Gauteng Horse-racing Board.

9B.(1) There is hereby established a board, to be known as the Gauteng Horse-racing Board.

(2) The Racing Board shall be a body corporate.

(3) The Racing Board shall consist of the following members -

- (a) the responsible Member or his or her nominee;
- (b) the Director-General or his or her nominee;
- (c) three persons who shall, subject to subsections (4) and (5), be designated and appointed by the members of the said Board;
- (d) one person nominated by the Jockey Club of South Africa;
- (e) three persons who shall, subject to subsections (4) and (5), be nominated by the Racing Authority and be appointed by the responsible Member as members of the said Board: Provided that if a person so nominated is not acceptable to the responsible Member he or she may, after consultation with the Racing Authority and subject to subsection (4), appoint any person as a member; and
- (f) the chief executive officer contemplated in paragraph (a) of subsection (13), who shall *ex officio* be a member of the said Board.

(4) A person shall not be designated, nominated or appointed as contemplated in paragraph (c), (d) or (e) of subsection (3) -

(a) unless he or she -

(i) is a natural person; and

(ii) is above the age of 21 years; and

(b) if he or she -

(i) is subject to legal disability;

(ii) is an unrehabilitated insolvent;

(iii) has been removed from any office of trust on account of any misconduct;

(iv) has been convicted of theft, fraud, forgery or the uttering of a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R100, and a person shall further not be nominated or appointed as contemplated in paragraph (e) of subsection (3) if he or she holds any office in the horse-racing industry in the Province other than that of -

(i) an office bearer of the Racing Authority, of any body contemplated in section 9A(8)(c) or of any association of racing-clubs; or

(ii) a steward or employee of a racing-club.

(5)(a) A member contemplated in paragraph (c), (d), or (e) of subsection (3), shall hold office for a period of three years from the date of his or her appointment: Provided that a member who is appointed to fill a vacancy which arose in terms of paragraph (d), shall hold office for the unexpired portion of the period for which the member whom he or she replaces, was appointed.

(b) Any person whose term of office contemplated in paragraph (a) has expired, may again be appointed as a member referred to in paragraph (c), (d) or (e) of subsection (3).

(c) The responsible Member may at any time terminate the appointment of a member -

(i) on his or her own, in the case of a member contemplated in paragraph (c) of subsection (3);

(ii) at the request of or after consultation with the Jockey Club of South Africa, in the case of a member contemplated in paragraph (d) of subsection (3); and

(iii) at the request of or after consultation with the Racing Authority, in the case of a member contemplated in paragraph (e) of subsection (3).

(d) A member contemplated in paragraph (c), (d) or (e) of subsection (3), shall vacate his or her office -

- (i) if his or her appointment is terminated under paragraph (c);
- (ii) if he or she holds an office contrary to subsection (4); or
- (iii) if he or she hands in his or her resignation in writing to the responsible Member.

(e) Any vacancy in the Racing Board which arises on account of the vacating of office in terms of paragraph (d) shall be filled forthwith with due regard to subsections (3) and (4).

(6) In addition to the other functions assigned to it by or under this Ordinance, the functions of the Racing Board shall be -

- (a) to exercise such powers and to perform such duties as the responsible Member under subsection (7) may delegate or assign to it, as the case may be;
- (c) to calculate, to recover and to deposit in the Provincial Revenue Account taxes levied in terms of the provisions of this Ordinance;
- (d) to collect on behalf of the Racing Authority all levies payable to that Authority in terms of the provisions of this Ordinance;

- (e) to ascertain the correctness of all returns and sworn statements to be kept and furnished to it in terms of the provisions of this Ordinance;
- (f) to monitor the functions of the Racing Authority and advise the responsible Member thereon;
- (g) to see to it that all laws in connection with horse-racing are complied with; and
- (h) to exercise such further powers and to perform such further duties as the responsible Member may determine.

(7) The responsible Member may at any time -

- (a) delegate any power conferred upon him or her by this Ordinance, excluding the power to make regulations; and
- (b) assign any duty so imposed upon him or her,  
to the Racing Board.

(8) The Racing Board may enter into an agreement with a body in any other province performing functions similar to that of the Racing Board, or in the absence of such a body, with the competent authority of such other province, to exercise or perform for and on behalf of such body or authority any power conferred or any function or duty imposed upon such body or authority by any ordinance or proclamation of the province concerned and which relates to horse-racing.

(9)(a) The funds of the Racing Board shall consist of -

- (i) such moneys payable to it for services rendered as may be determined by it;
- (ii) such grants from the Fund as may be authorized by the responsible Member under section 43(A); and
- (iii) such moneys as may be derived by it from any other source.

(b) All the accounts of the Racing Board shall be audited annually by the Auditor-General.

(10)(a) A meeting of the Racing Board shall be held at least once in every three months.

(b) The responsible Member, or in his or her absence, his or her nominee shall be the chairperson of the Racing Board, and in the event of an equality of votes he or she shall, in addition to his or her deliberative vote, have a casting vote.

(c) Subject to subparagraph (b), the Racing Board itself shall determine the quorum and procedure for the holding of its meetings.

(11) The Racing Board may, from its funds, pay to a member contemplated in paragraph (c), (d) or (e) of subsection (3) such remuneration and travelling expenses for attending meetings and for other services rendered as a member, as that Board may determine.



(12)(a) The Racing Board may appoint committees.

(b) The Racing Board may delegate any of its powers, and assign any of its duties, to any of its committees, a member of a committee or an officer or employee of the Racing Board:

(13)(a) In order to exercise its powers and to perform its duties, the Racing Board may appoint a chief executive officer and such other officers and employees as it may deem necessary, on such conditions and at such remuneration, including allowances, as the Racing Board may determine with the concurrence of the responsible Member.

(b) The chairperson of the Racing Board may in writing designate a person in the employment of the said Board as an authorized officer.

(14) The provisions of this section shall not be construed so as to detract from the powers of the Jockey Club of South Africa or the Racing Authority under this Ordinance."

#### **Repeal of sections 10 to 10B of Ordinance 24 of 1978**

95. Sections 10 to 10B of the Ordinance are hereby repealed.

#### **Repeal of sections 12 and 13 of Ordinance 24 of 1978**

96. Sections 12 and 13 of the Ordinance are hereby repealed.

**Amendment of section 13A of Ordinance 24 of 1978, as inserted by section 11 of Proclamation 30 of 1992 (Transvaal) and amended by Proclamation R37 of 1995 (Republic)**

97. Section 13A of the Ordinance is hereby amended by the substitution in subsection (1) for the words following upon paragraph (b) of the following words:

"less any tax which shall be payable in terms of section ~~[45]~~ 62 of the Gambling and Betting Act, 1995, by the Board on such undistributed net takings or unclaimed dividends."

**Repeal of sections 14 to 43 of Ordinance 24 of 1978**

98. Sections 14 to 43 of the Ordinance are hereby repealed.

**Amendment of section 44 of Ordinance 24 of 1978, as amended by section 32 of Proclamation 77 of 1992 and section 17 of Proclamation 117 of 1993 (Transvaal)**

99. Section 44 of the Ordinance is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A racing-club shall pay to the Racing [and Betting] Board for the benefit of the [Account for Provincial Services: Transvaal] Provincial Revenue Account a tax calculated at the rate of thirty-three and one third per cent of the gross amount received by that racing-club in respect of admission fees to its ~~[licenced]~~ licensed race-course."

**Repeal of sections 45 to 49 of Ordinance 24 of 1978**

100. Sections 45 to 49 of the Ordinance are hereby repealed.

**Substitution of section 50 of Ordinance 24 of 1978, as substituted by Proclamation R37 of 1995 (Republic)**

101. The following section is hereby substituted for section 50 of the Ordinance:

**"Recovery of tax**

50. Any tax payable in terms of the provisions of this Ordinance shall be a debt due to the provincial administration and may be recovered in a competent court by the provincial administration or by the Racing Board on behalf of the provincial administration."

**Substitution of section 51 of Ordinance 24 of 1978, as amended by section 20 of Proclamation 117 of 1993 (Transvaal) and Proclamation R37 of 1995 (Republic)**

102. The following section is hereby substituted for section 51 of the Ordinance:

**"Levy by Highveld Racing Authority**

51. (1)(a) The Racing Authority may impose on every person, including a licensed bookmaker, who has made a bet with a licensed bookmaker, a levy on the amount

which is payable to such person by the licensed bookmaker in respect of such bet, excluding the amount staked.

(b) The levy contemplated in paragraph (a) together with the tax payable in terms of the Gambling and Betting Act, 1995, by such person and the levy payable in terms of section 51A(1), shall not exceed the prescribed percentage of the gross amount which is payable to such person.

(c) The Racing Authority may at any time withdraw or alter the imposition of such levy or part thereof.

(d) The imposition of a levy, a subsequent alteration thereof or a withdrawal of such levy or part thereof shall come into operation on a date determined by the Racing Board.

(2) A levy imposed under subsection (1), shall be deducted by the licensed bookmaker from the amount payable to the punter and be paid over to the Racing Board on behalf of the Racing Authority not later than Tuesday in each week or, if Tuesday is a public holiday, not later than the next working day.

(3) The Racing Authority may distribute any levy collected on its behalf in terms of subsection (2) among the racing-clubs in the Province on such basis as that Authority may determine.

(4)(a) If the levy which is payable in terms of subsection (1) is not paid to the Racing Board on or before the Tuesday or working day referred to in subsection (2), the licensed bookmaker shall pay a penalty on the amount of any outstanding levy at a rate of ten per cent of the levy for each month or part of a month during which the

levy remains unpaid.

(b) A penalty contemplated in paragraph (a) shall not exceed the total amount of the levy payable."

**Substitution of section 51A of Ordinance 24 of 1978, as amended by section 40 of Proclamation 30 of 1992 (Transvaal)**

103. The following section is hereby substituted for section 51A of the Ordinance:

**"Levy on certain bets for benefit of Horse-racing Development Fund**

**51A. (1) In addition to any tax, fee or levy payable in terms of the provisions of this Ordinance, there shall be paid to the Racing Board for the benefit of the Horse-racing Development Fund established in terms of section 43A -**

**(a) by the Board on the gross earnings of a totalizator conducted by it in relation to a horse-race; and**

**(b) by a person who has made a bet with a bookmaker on the result of a horse-race on the amount payable to such person by such bookmaker, excluding the amount staked,**

**a levy calculated at such percentage and in respect of such bets as the responsible Member may prescribe.**

**(2) Within 21 days from the date on which a race-meeting was held the Board**

shall -

- (a) in the form and in the manner required by the Racing Board, submit a sworn statement to the last-mentioned Board showing the gross takings of the totalizator concerned which the Board conducted; and
- (b) simultaneously pay the amount of the levy on those takings as contemplated in subsection (1)(a) to the Racing Board.

(3) A bookmaker who is liable to pay to any person who has made a bet on the result of a horse-race with such bookmaker an amount shall deduct the levy payable thereon in terms of subsection (1)(b) from the said amount, and shall pay over the levy to the Racing Board not later than the Tuesday or working day referred to in section 51(2).

(4) If the levy which is payable in terms of subsection (1) is not paid to the Racing Board before or on the Tuesday or working day referred to in section 51(2), the Board shall pay a penalty on the amount of any outstanding levy at a rate of ten per cent of the levy for each month or part of a month during which the levy remains unpaid: Provided that such a penalty shall not exceed the total amount of the levy payable.

(5) Where a bookmaker fails to pay over the levy in accordance with subsection (3), he or she shall not carry on the business of a bookmaker until that levy and the penalty referred to in subsection (4) have been paid.

(6) A licensed bookmaker who contravenes a provision of subsection (3) or (5),

or fails to comply therewith, shall be guilty of an offence."

**Substitution of section 52 of Ordinance 24 of 1978, as amended by section 41 of Proclamation (Administrator's) 30 of 1992**

104. The following section is hereby substituted for section 52 of the Ordinance:

**"Fines, penalties and fees**

52. Subject to the provisions of this Ordinance, all fines, penalties and fees paid in terms of this Ordinance shall be paid into the Provincial Revenue Account."

**Amendment of section 54 of Ordinance 24 of 1978, as substituted by section 2 of Proclamation 117 of 1993 (Transvaal)**

105. Section 54 of the Ordinance is hereby amended -

- (a) by the deletion of paragraph (a); and
- (b) by the deletion of the word "other" in paragraph (b).

**Amendment of section 55 of Ordinance 24 of 1978, as amended by section 44 of Proclamation (Administrator's) 30 of 1992 and section 23 of Proclamation 117 of 1994**

106. Section 55 of the Ordinance is hereby amended by the deletion of paragraph

- (c) of subsection (1).

**Repeal of section 55A of Ordinance 24 of 1978, as inserted by section 24 of Proclamation 117 of 1993 (Transvaal)**

107. Section 55A of the Ordinance is hereby repealed.

**Substitution of certain expressions in Ordinance 24 of 1978**

108. The Ordinance is hereby amended by the substitution, wherever they occur -

- (a) for the expression "Administrator" of the expression "responsible Member";
- (b) for the expression "Racing and Betting Board" of the expression "Racing Board"; and
- (c) for the expression "Account for Provincial Services: Transvaal" of the expression "Provincial Revenue Account".

**Substitution of long title of Ordinance 24 of 1978**

109. The following long title is hereby substituted for the long title of the Ordinance:

"To provide for the restriction, regulation and control of horse-racing [and betting] and for licences, taxes and fees in connection therewith; and to provide for matters incidental thereto."



**Amendment of section 57 of Ordinance 24 of 1978**

110. Section 57 of the Ordinance is hereby amended by the deletion of the words "and Betting".

**Savings**

111.(1) Notwithstanding the repeal of any provision of the Ordinance 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 shall be continued with and disposed of as if that provision were not so repealed: Provided that the competent authority considering such application may in its discretion refer the application to the board for disposal.

(2) Any rules in respect of totalizators contemplated in section 11(8)(d) of the Ordinance and in force immediately before the commencement of this Act shall be deemed to have been made and approved in terms of section 53 of this Act.

(3) A totalizator permit issued in terms of section 12(1) of the Ordinance and in force immediately before the repeal of that section by this Act shall be deemed to be a totalizator licence issued in terms of this Act, and any licence or other authority granted in terms of the Ordinance and which is capable of being granted in terms of this Act shall be deemed to have been granted in terms of this Act.

(4) The Association referred to in section 24(1) of the Ordinance immediately before the repeal of that section by this Act, and the constitution and rules of that Association, shall be deemed to have been approved in terms of section 58(1) and (4) of this Act, respectively.

(5) Any regulation or rule made under a provision of the Ordinance which is repealed by this Act and which may be made under section 84 or 85 of this Act, respectively, shall be deemed to have been made under this Act.

(6) Anything done in terms of a provision of the Ordinance 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.

#### **Short title and commencement**

**112.** This Act shall be called the Gambling and Betting Act, 1995, and shall come into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

**MEMORANDUM IN TERMS OF RULE 132 OF THE STANDING RULES  
OF THE PROVINCIAL LEGISLATURE  
ON THE GAMBLING AND BETTING BILL, 1995**

**(i) Introduction and reasons for the Bill**

Section 126 of, and Schedule 6 to, the Constitution state that a provincial legislature shall be competent to make laws for the province with regard to all matters which fall within the functional areas of casinos, racing, gambling and wagering.

Section 156(1B) of the Constitution states that a provincial legislature shall have exclusive competence within its province to impose taxes, levies and duties (excluding income tax or value-added or other sales tax) on casinos, gambling, wagering and lotteries, and betting.

The intention of the Bill is to provide for the licensing, regulation and control of gambling and betting in the public interest. The Bill has been compiled within the broad framework which has been established at national level.

**(ii) Social impact of the Bill**

The major innovation of the Bill is that it provides for the licensing of persons conducting casinos, bingo games and betting pools, and of gaming machine keepers. The Bill also deals with the registration of casino employees, and employees of manufacturers, suppliers and maintainers of gaming machines and devices.

Beside these innovations, the Bill also provides for the licensing of totalizators and bookmakers and for the registration of bookmakers' employees. The Bill repeals the provisions dealing with these matters which are contained at present in the Horse-racing and Betting Ordinance, 1978. The Bill amends the Ordinance so that in future it will govern horse-racing only. All aspects relating to betting which are contained in the Ordinance will in future be governed in terms of the Bill.

The Bill also amends the Ordinance to effect certain amendments which are necessary in consequence of the introduction of the Constitution.

The Bill repeals the provisions of the Ordinance prohibiting race-meetings on a Sunday or certain public holidays.

### (iii) Financial implications of the Bill

The most important financial implication of the Bill is that it provides for the levying, for the benefit of the Provincial Revenue Fund, of taxes on casinos, bingo halls, gaming machine keepers and lotteries.

The Bill also provides for the payment of penalties for failure to pay the prescribed taxes on due date.

Provision is also made for the payment of licence application fees, and for the payment of fees for the registration of employees of manufacturers and suppliers of gambling machines and gaming devices.

The Bill also brings forward from the Horse-racing Ordinance similar provisions in relation to bookmakers, totalizators and bookmakers' employees.

### (iv) Clause-by-clause explanation

#### Chapter 1: Interpretation and application of Bill

s 1: Most of the definitions are self-explanatory.

s 2: This section sets out the application of the Act and other laws.

The Bill provides that the prohibitions in the Gambling Act, 1965, shall not apply in relation to anything authorised by the Bill. This necessary provision follows from the provincial power to make laws on gambling.

This section also makes it clear that the prohibitions against the holding of dog-races and betting thereon in terms of the Abolition of Dog Race Meetings and the Prohibition of Betting on Dog Races Ordinance, 1949, are not affected by the Bill.

## Chapter 2: Gambling and Betting Board

- s 3: This section establishes a Gambling and Betting Board for the province.
- s 4: The functions of the board are, among other things, to oversee gambling and betting in the Province.
- s 5: The board consists of eleven members representing different areas of expertise, namely law, accountancy, tourism, welfare, development, labour, gaming and horse-racing. Provision is also made for board membership from the broad public. The Bill requires public notice inviting interested persons to submit nominations for appointment of board members. Members are appointed by the MEC for finance and economic affairs.
- s 6: This section sets out various disqualifications which will prevent a person from being appointed or remaining as a member of the board. A person may not be appointed as a board member if he or she, or a close family member as defined, is or was within the previous twelve months a member of a legislature, a public servant or an employee of a political party, or has a interest in gambling. The intention is that the board should be independent and impartial. Conviction for offences involving dishonesty and various other disqualifications are also set out.
- s 7: This section provides that a board member with conflicting interests must recuse himself or herself from the board proceedings in question.
- s 8: A board member will vacate office if he or she becomes disqualified from remaining a board member, or if he or she is absent without leave of the board.
- s 9: This section provides that a member of the board shall hold office for five years. A casual vacancy can be filled for the remainder of this term of office.
- s 10: Board members will be paid remuneration determined by the MEC after consultation with the Finance Standing Committee of the Provincial Legislature.
- s 11: This section sets out the procedure for meetings and the decisions of the board. The person presiding has a casting vote on matters other than decisions on licences or registrations.
- s 12: This section provides for the employment of the chief executive officer and other staff of the board. Staff members may not have an interest in gambling.
- s 13: This section provides that no member of the board or its staff may participate in gambling in the province except in the course of duty, or accept employment in the gambling industry within one year after leaving service with the board.
- s 14: This section provides that the board may appoint advisory committees.
- s 15: This section provides that the board may engage experts and other persons to assist it.

- s 16: This section states that the board must function in a transparent manner. But board members and staff and other persons engaged to assist the board must not, except on order of a court, disclose certain confidential information specified in the Bill. The aim is to balance the fundamental rights of access to information held by state organs and to be furnished with reasons for administrative action, with the right to privacy.
- s 17: This section deals with the funds of the boards. It is intended that the board's funds will consist primarily of money appropriated by the provincial legislature.
- s 18: This section states that the chief executive officer of the board shall be its accounting officer, and defines his or her duties.

### Chapter 3: Licence applications in general

- s 19: This section deals with the procedure for making application for a licence.
- s 20: This section requires notice of an application to be published in the *Provincial Gazette* and in a newspaper circulating in the district where the premises are situated to which the application relates. The notice must invite interested persons to lodge representations concerning the application.
- s 21: The local authority is given the right to make representations.
- s 22: This section states that the applicant may respond to any such representations.
- s 23: This section states that an applicant, or a person who or local authority which lodged representations may be required to furnish further information. The board may permit a person who or local authority which lodged written representations to make oral representations as well, provided these representations would not amount only to objections regarding gambling in general.
- s 24: The application and all representations will be open for public inspection, but the board may exclude from public inspection the identity of any person who lodged representations or any confidential information of a nature specified in this section.
- s 25: This section provides for an inspection of the premises by the board in relation to their suitability, and by the local authority in relation to health, safety and town planning.
- s 26: This section contemplates the furnishing by the South African Police Service of a report on the previous convictions of, and other matters relating to, the applicant and other persons who will be in control of the business to which the application relates.
- s 27: The board must hold a hearing in respect of every application.
- s 28: Hearings must be open to the public. Persons may however be excluded from a hearing in certain circumstances defined in this section.

s 29: This section provides for the summoning of witnesses to give evidence and produce documents at the hearing.

s 30: This section sets out general disqualifications for the holding of a licence.

No application will be granted if the applicant or person in control of the business is in the opinion of the board not a fit and proper person to be involved in the business concerned. To determine this, the board must have regard to previous convictions, other improper or discreditable practices and the general probity of the person.

Nor will a licence be issued if the applicant has a controlling interest or financial interest of five percent or more in a business or premises which were the subject of an application which was refused, or a licence which was revoked, within the previous twelve months, or more than once within the previous three years.

In the case of an application for a casino licence there are other disqualifications contained in section 40, which is dealt with later in this memorandum.

A licence will also be refused if the applicant is a close family member as defined of any person who is not fit and proper, or has a controlling interest or five percent financial interest as just described, or is subject to a casino licence disqualification.

A licence will also be refused if the applicant, manager or person in control has been convicted of an offence involving dishonesty or is subject to certain other disqualifications mentioned in this section.

A licence will not be granted to organs of government, statutory bodies or government-controlled entities.

s 31: This section requires the board to grant or refuse the application. In the case of an application for a casino licence a different procedure applies in terms of section 42, which is dealt with later in this memorandum.

s 32: Provision is made for the imposing of licence conditions. These may include conditions relating to hours of business. Conditions may also be imposed requiring the furnishing of guarantees for the payment of taxes and gambling debts. In the case of certain licences, the period of validity of the licence will be stated, and various other conditions may be imposed which impose special obligations on the licensee in relation to matters contemplated in section 41, which is referred to later in this memorandum. Structural alterations to premises to which a licence application relates may be required to make them suitable for the purpose of the business concerned.

s 33: This section deals with the issue of a licence. A temporary licence may also be issued.

s 34: This section states that a licence may be amended on application, and the procedure set out in the Bill for licence applications will apply also to such an application for the amendment of a licence.

- s 35: A licence may be transferred to another person on application, and the procedure for licence applications will apply also to such an application for the transfer of a licence.
- s 36: This section provides that application may be made for the removal of the licensed business to other premises, and the same procedure must be followed as in the case of an application for a licence.
- s 37: A licence may, after the licensee has been given an opportunity to be heard, be suspended or revoked if false information was furnished when the licence was applied for, or if the licensee is convicted of an offence under the Act, or if the licensee becomes subject to any disqualification which would have prevented the granting of the licence, or if the licensee has contravened the conditions of the licence.
- s 38: No person may procure a controlling interest as defined in the Bill, or a financial interest of five percent or more in the business of a licensee, without consent of the board.

#### Chapter 4: Casino licences

- s 39: No person shall conduct a casino without a casino licence. The board can determine that an application for a casino licence will be entertained only when the board invites applications. Such an invitation can specify the facilities to be developed in conjunction with the casino, and that the board invites the applicant to offer payment of a lump-sum in consideration for the exclusive right to conduct a casino in the area concerned.
- s 40: In addition to the disqualifications which apply to all licences in terms of section 30, an applicant for a casino licence is also subject to further disqualifications. He or she may not be, or during the previous twelve months have been, a member of a legislature, a government servant or an employee of a political party, or be a close family member as defined of such a person. Nor may a casino licence be granted if the applicant does not have access to sufficient experience and knowledge of the operation and management of a casino or to sufficient capital resources, or if the granting of the licence may create or aggravate a monopoly situation.
- s 41: In considering an application, the board must take various factors into consideration. These are the extent to which the casino will promote tourism and sustainable employment, the extent to which the applicant will provide training and skills to employees and procure local supplies and labour, any provision by the applicant for participation in the ownership or profits of the casino by disadvantaged persons, any facilities which the applicant will make available to needy communities or the disadvantaged, the extent to which granting the licence will promote the Reconstruction and Development Programme and whether granting the licence will result in an unduly large number of casinos in the province. Licence conditions may be imposed in relation to any of these matters, as mentioned above in relation to section 32.



- s 42: As mentioned above in relation to section 31, the procedure for making a decision on a casino licence differs from that for other licences. After the board has considered a casino licence application, it must prepare and furnish to the MEC for finance and economic affairs its report and recommendation for submission to the Executive Council, which then grant or refuse the application. The Executive Council shall not grant an application or impose any condition contrary to the recommendation of the board.
- s 43: A casino licence authorises the playing of casino games and the keeping of the number of gaming machines specified in the licence. Where a lump-sum has been paid for exclusive casino rights in any area, no other casino licence will be granted in that area while the first licence is in force.
- s 44: This section states that a casino licensee must display certain information to be prescribed regarding casino games, and make available on request by any customer the rules of the games.
- s 45: A licensee must include the word "casino" in its name. No person may carry on business under a name which includes the word "casino" without being a licensee in terms of the Bill.

#### Chapter 5: Bingo licences

- s 46: This states that no person shall conduct bingo games without holding a casino licence, or a bingo licence. And no person may, without a bingo licence, provide bingo games to any other premises by any electronic or similar method of linking.
- s 47: Regulations will be made prescribing the maximum amount which may be charged to enable a person to play bingo, and the maximum value of prizes which may be awarded.

#### Chapter 6: Gaming machine licences

- s 48: No person may maintain premises where gaming machines are played unless he or she holds a casino licence, or a gaming machine licence.

The Bill also deals with persons known as route operators, who lease to, or undertake the regular maintenance of gaming machines for, persons who hold gaming machine licences. Any such route operator licences will be granted by the Executive Council on the recommendation of the board, in the same way as casino licences.

- s 49: This section states that a gaming machine licence authorises the keeping of up to five gambling machines. The maximum payout of a gaming machine will be prescribed by regulation.

#### Chapter 7: Lotteries

- s 50: This section states that a licence is required to conduct a lottery. But this licensing requirement does not apply to a lottery conducted at the instance of the State, nor is a licence

required by social and sporting clubs, and persons conducting small lotteries or raffles at school fetes or church bazaars or similar functions, but such lotteries must comply with certain requirements laid down in this section.

Lottery licences will not be granted to any persons other than societies which promote good causes.

The Bill does not provide for the conducting of lotteries by the provincial government.

- s 51: This section defines certain restrictions which will apply to lotteries conducted by societies which promote good causes and which are licensed under section 50.

#### Chapter 8: Totalizators and pools

- s 52: This section states that no person shall conduct a totalizator or betting pool without a totalizator licence. The main forms of totalizator or pool betting are betting on horse-racing and on football results.
- s 53: The holder of a totalizator licence must conduct totalizators or betting pools in accordance with rules approved by the board.

#### Chapter 9: Bookmakers

This chapter was taken from the Horse-racing and Betting Ordinance, 1978. As already mentioned, the provisions in the Ordinance relating to bookmakers will be repealed by the Bill, in terms of sections of the Bill dealt with later in this memorandum. The Bill brings forward the most important provisions of the Ordinance relating to bookmakers, and leaves matters of detail to be dealt with in regulations under the Bill.

- s 54: No person may conduct business as a bookmaker without a licence.
- s 55: Only one bookmaker may carry on business at a stand or cubicle, as a rule.
- s 56: The period of validity of a bookmaker's licence shall not exceed one year.
- s 57: The board may authorise a licensed bookmaker to become a partner in not more than one bookmaker's business on a race-course or other premises where sporting events are held, or in not more than three bookmaker's businesses in a tattersalls or similar premises.
- s 58: A bookmaker must be a member of an approved association of bookmakers.
- s 59: A bookmaker's manager must be registered with the board, and other employees of a bookmaker must be registered as bookmaker's clerks with an approved association of bookmakers.

- s 60: The amount charged by the occupier of a racecourse or other sports ground to a bookmaker to carry on business at such course or ground may not exceed the amount determined or approved by the board.

#### Chapter 10: Fees and taxes

- s 61: This section authorises the prescribing of licence application fees, licence fees, taxes in the case of holders of licences and penalties for late payment. Provision is also made for the paying of taxes by persons who place winning bets. Fees and taxes are to be collected by the board in a manner to be prescribed.
- s 62: This section states that licence fees and taxes must be a percentage of total revenue less certain amounts. The penalty cannot exceed twice the amount of the fee or tax payable. A tax payable by a gambler is calculated on his or her winnings.

#### Chapter 11: Gaming machines and gaming devices in general

- s 63: Each separate gaming machine, roulette wheel and other gaming device must be separately registered with the board. Bingo cards used by licensees must be of a type registered by the board. This does not apply to playing-cards or dice.
- s 64: No person shall carry on the business of the manufacture, sale, lease, making available, distribution, maintenance or repair of gaming machines or roulette wheels unless he or she has been registered by the board. This does not apply to holders of route operator licences.
- Gaming machines may not be supplied to any person other than such registered person or the holder of a casino licence or gaming machine licence.
- s 65: National requirements must be complied with before the registration of gaming machines and devices and of persons who manufacture, supply or maintain these machines and devices.
- s 66: The board may require machines to be linked to approved electronic monitoring systems. If the board has not yet approved such a system, but there is reason to believe that a licensee will not be able to report regularly to the board or to comply with the Act or the licence conditions unless his or her machines are linked to an approved electronic monitoring system, the board may with the concurrence of the MEC prohibit the licensee from using that machine or from carrying on the licensed activity until no linked.

#### Chapter 12: Registration of certain personnel

- s 67: This section provides that no person shall be engaged in a casino occupation or in the manufacture, supply or maintenance of gaming machines or devices, without being registered with the board.

- s 68: A person shall not be registered if he or she is subject to a disqualification which would prevent him or her from being granted a licence. The board shall not refuse an application for registration without giving the applicant an opportunity to be heard.
- s 69: This section makes provision for certificates of registration and the keeping of a register of the names and prescribed particulars of each registered person.
- s 70: This makes provision for the suspension and revocation of registration in certain circumstances.

### **Chapter 13: Provisions relating to gaming and gambling in general**

- s 71: This section imposes restrictions on advertisements of gambling and betting. No such advertisement may be displayed within sight of, or the prescribed distance from, a school or similar prescribed institution or a place of worship. Nor may an advertisement be published or broadcast in any medium aimed mainly for persons under the age of 18 years.
- s 72: Gambling operators may not give credit to gamblers, except to such extent and subject to such conditions as may be prescribed.
- s 73: No person under the age of 18 may be admitted to any part of the licensed premises which is defined for this purpose in the licence conditions.
- s 74: This section prohibits a person from improperly tampering with any playing-cards, dice, gaming device or gambling machine, or using or making available any such equipment which has been improperly tampered with.
- s 75: This provides that gambling debts shall be enforceable in a court.
- s 76: This section states that no person may gamble except on casino and bingo games, gambling machines, lotteries and sporting events. A person who places a bet with a person who is not a licence holder commits an offence.
- s 77: Bets may be placed at licensed premises only, and may be settled at licensed premises only or other places authorised by the board or pursuant to court proceedings.
- s 78: No person shall gamble if he or she is under 18 years old.
- s 79: This section prohibits a person acting as an agent or intermediary for certain purposes in relation to gambling, or to pay inducements to gamble.

### **Chapter 14: Inspections and enquiries**

- s 80: This section provides for the appointment of inspectors by the board. It states that if national legislation requires inspectors to be registered in terms of such national legislation, then board inspectors must be so registered.

- s 81: This section sets out the powers of inspectors in relation to the entry of premises and the examination and seizure of documents and articles.
- s 82: This section states that the holder of a licence or certificate of registration must on demand produce the licence to an inspector or police officer.
- s 83: The board may from time to time conduct enquiries into amendment or repeal of the Horse-racing Ordinance and of the Abolition of Dog Race Meetings and the Prohibition of Betting of Dog Races Ordinance, and into any other matter falling within its functions.

#### Chapter 15: Miscellaneous provisions

- s 84: This states that the MEC may, with the concurrence of the Finance Standing Committee, make regulations prescribing the fees, taxes and penalties payable by licensees and applicants. The MEC may, on the recommendation of or with the concurrence of the board and after consulting the Economic Affairs Standing Committee, make regulations relating to various matters, including matters which in terms of the Bill are required or permitted to be prescribed. Notice of proposed regulations must be published beforehand with an invitation to interested persons to furnish comments thereon, but this does not apply to regulations which are required to be made without delay.
- s 85: The board may make rules determining the information regarding casino games to be displayed in casinos, the rules of casino games, and the standup fee which may be charged by the owner of a race-course or sports ground to a bookmaker for the right to carry on business at those premises.
- s 86: The board must furnish an annual report to the MEC for tabling in the provincial legislature. The board may publish statistics and general information on gambling in the Province.
- s 87: This section lays down certain offences relating to licensable activities.
- s 88: This section lays down a maximum penalty of a R2 million fine or ten years imprisonment. A person who conducts a casino without a licence can be imprisoned without the option of a fine.
- s 89: This section deals with vicarious responsibility for the commission of offences.

#### Chapter 16: Transitional provisions

As mentioned, the provisions of the Horse-racing and Betting Ordinance, 1978, which relate to betting are repealed by the Bill. The following sections of the Bill delete the relevant provisions, and effect consequential amendments to the remaining provisions of the Ordinance which deal with horse-racing.

- s 90: This amends the section of the Ordinance which creates definitions. In particular, the name of the Highveld Horse-racing and Betting Board is changed to the Gauteng Horse-racing Board.

- s 91: This repeals a provision of the Ordinance prohibiting race-meetings on a Sunday or certain public holidays.
- s 92: This section repeals a provision of the Ordinance prohibiting the issue of a special licence to hold a race-meeting on a Sunday or certain public holidays.
- s 93: This section amends section 9A of the Ordinance so as to delete a subparagraph which gives the Highveld Racing Authority the function of managing and controlling bodies concerned with the fixing of stakes.
- s 94: This section of the Bill substitutes section 9B of the Ordinance which establishes the Horse-racing Board, also called the Racing Board.
- s 95: This section of the Bill repeals sections 10 to 10B of the Ordinance, which deal with betting.
- s 96: This section of the Bill repeals sections 12 and 13 of the Ordinance, which deal with totalizator permits. The Bill does not repeal or amend the provisions of the Ordinance which deal with the continued existence and functioning of the Totalizator Agency Board (Transvaal).
- s 97: This section of the Bill effects a consequential amendment to section 13A of the Ordinance.
- s 98: This section of the Bill repeals sections 14 to 43 of the Ordinance, which deal with bookmakers, betting offences, general restrictions on betting and the settlement of debts. These matters are now dealt with in terms of the Bill.
- s 99: This section of the Bill effects certain consequential amendments to section 44 of the Ordinance.
- s 100: This section of the Bill repeals sections 45 to 49 of the Ordinance, which deal with the payment of certain taxes on betting transactions, which will now be governed by the Bill.
- s 101: This section of the Bill substitutes section 50 of the Ordinance.
- s 102: This section of the Bill substitutes section 51 of the Ordinance.
- s 103: This section substitutes section 51A of the Ordinance.
- s 104: This section substitutes section 52 of the Ordinance.
- s 105: Consequential amendments are made to section 54 of the Ordinance.
- s 106: This section effects a consequential amendment to section 55 of the Ordinance.
- s 107: Section 55A of the Ordinance, dealing with the making of rules by the Racing Board in relation to bookmakers and other matters dealing with gambling, is repealed.
- s 108: This section replaces various expressions in the Ordinance.

- s 109:** This substitutes the long title of the Ordinance.
- s 110:** This replaces the existing short title of the Ordinance, the "Horse-racing and Betting Ordinance, 1978" by a new short title: the "Horse-racing Ordinance, 1978".
- s 111:** This section states that pending applications in terms of the Ordinance must be completed, and deems various licences issued and other things done in terms of the Ordinance to have been issued or done in terms of the Bill.
- s 112:** This contains the short title of the Bill. The Act will come into operation on a date determined by the Premier by proclamation.

