

**THE PROVINCE OF
GAUTENG**



**DIE PROVINSIE
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PREMIER'S NOTICE

OFFICE OF THE PREMIER

No. 30

3 April 1998

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:

No. 1 of 1998: Gauteng Gambling and Betting Amendment Act

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Gauteng Gambling and Betting Act, 1995 so as to insert, define or further define certain expressions; to provide for the responsible Member, on the recommendation of the board, to declare certain games of skill not to be gambling; to further regulate the possession and operation of gaming machines and amusement machines; to provide for the board to condone immaterial non-compliance with the provisions of the Act; to further regulate persons disqualified from being members of the board; to amend provisions relating to appointment of the staff and members of the board; to further regulate information that may be determined as confidential by the board; to provide for the board to allow an applicant to conduct the business of the licence holder pending the outcome of the applicant's application for the transfer of a licence; to provide for the Totalisator Agency Board (Transvaal) and the Highveld Racing Authority to dispose of their businesses as going concerns; to provide for the placing of telephone bets; to provide for an association not constituted principally for the holding of horse racing to hold a race meeting licence and a totalisator licence; to amend the provisions relating to the levies payable by the holder of a totalisator licence, bookmaker's licence and race-meeting licence; and to provide for matters connected therewith.

(English text signed by the Premier)
(Assented to 23 March 1998)

BE IT ENACTED by the Provincial Legislature of Gauteng as follows:—

AMENDMENT OF SECTION 1 OF ACT 4 OF 1995

1. Section 1 of the Gambling and Betting Act, 1995 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of "board" in subsection (1) of the following definition:
" 'board' means the Gauteng Gambling [and Betting] Board established by Section 3;";

- (b) by the substitution for the definition of "gambling" in subsection (1) of the following definition:
 " 'gambling' means the wagering of a stake of money or [an object representing money that can be reduced or converted to money] anything of value on the unknown result of a future event at the risk of losing all or a portion thereof for the sake of a return, irrespective of whether any measure of skill is involved or not and encompasses all forms of gaming and betting, [and gaming or betting has a corresponding meaning] but excludes the operation of a machine contemplated in subsection (3) or (4): Provided that the responsible Member may, on the recommendation of the board, declare certain games of skill not to be gambling;";
- (c) By the substitution for the definition of "responsible member" in subsection (1) of the following definition:
 " 'responsible member' means the Member of the Executive Council responsible for [the administration of this Act] gambling in the Province of Gauteng;
- (d) by the insertion in subsection (1) after the definition of "this Act" of the following definition:
 "'totalisator' means a system of betting on a sporting event in which the aggregate amount staked on such event or combination of events, after deduction from such aggregate amount of any amounts which may lawfully be deducted therefrom, whether under this Act or by agreement, is divided amongst those persons who have made winning bets on that event or combination of events in proportion to the amounts staked by such persons in respect of such winning bets, and includes any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles."; and
- (e) by the insertion in subsection (1) after the definition of "family member" or "member of the family" of the following definition:
 "'fixed odds bet' means a bet taken by a licensed bookmaker on one or more events or contingencies where odds are agreed upon when such bet is laid, but excludes a totalisator bet or any bet for which the dividend is to be calculated or otherwise determined by reference to, or any other basis which depends upon, a totalisator bet of any kind;
- (f) by the amendment of subsection (3):
- (i) by the deletion of the word "or" after paragraph (a);
 - (ii) by the addition of the word "or" after paragraph (b);
 - (iii) by the addition of the following paragraph:
 "(c) a non-redeemable for cash prize, with a monetary value not greater than the amount initially paid to play the game;"; and
 - (iv) by the substitution for the proviso to subsection (3) of the following proviso:
 "Provided that the responsible Member may from time to time on the recommendation of the board, by notice in the Provincial Gazette declare any [such] machine, apparatus or device to be a gaming machine."; and
- (g) by the addition to subsection (4) of the following proviso:
 "Provided that the responsible Member may from time to time on the recommendation of the board, by notice in Provincial Gazette declare any machine, apparatus or device to be an amusement machine."

SUBSTITUTION OF HEADING TO CHAPTER 2 AND SECTION 3 OF ACT 4 OF 1995

2. The following chapter heading and section are hereby substituted for the chapter heading to Chapter 2 and section 3 of the principal Act:

“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.”

AMENDMENT OF SECTION 4 OF ACT 4 OF 1995

3. Section 4 of the principal Act is hereby amended by the addition of the following subsection:

“(5) Notwithstanding anything to the contrary contained in this Act, the Board may on good cause shown, condone any immaterial non-compliance with the provisions of this Act.”;

AMENDMENT OF SECTION 5 OF ACT 4 OF 1995

4. Section 5 of the principal Act is hereby amended by the addition of the following subsection:

“(6) Notwithstanding anything to the contrary contained in this Act, the responsible Member may on good cause shown, and in consultation with the Standing Committee on Finance and Economic Affairs, dispense with compliance of any of the provisions of this Section.”

AMENDMENT OF SECTION 6 OF ACT 4 OF 1995

5. Section 6 of the principal Act is hereby amended by the substitution for paragraph (k) of the following paragraph:

“(k) is a member of the family of a person contemplated in paragraph (b), (c), (d), (e) or (f) if, in the opinion of the responsible Member in concurrence with the Standing Committee on Finance and Economic Affairs, such family relationship may give rise to a real or perceived conflict of interest; or”

AMENDMENT OF SECTION 12 OF ACT 4 OF 1995

6. Section 12 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) a chief executive officer appointed by the [responsible Member after consultation with the board] board with the concurrence of the responsible Member;”

AMENDMENT OF SECTION 24 OF ACT 4 OF 1995

7. Section 24 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(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 or to any other matter which is, in the opinion of the board, of a confidential nature, 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”

AMENDMENT OF SECTION 35 OF ACT 4 OF 1995

8. Section 35 of the principal Act is hereby amended by the addition of the following subsection:

"(4) The board may, subject to such conditions as it shall determine, authorise an applicant contemplated in subsection (1) to conduct the business of the licence holder pending the outcome of the applicant's application for the transfer of the licence."

AMENDMENT OF SECTION 38A OF ACT 4 OF 1995

9. Section 38A of the principal Act is hereby amended by the addition of the following subsection:

"(3) The board may, after giving the holder of a certificate of suitability an opportunity to be heard, suspend for a specified time or revoke a certificate—

- (a) if any information in the application for such certificate was false in any material respect or was subject to any material omission;
- (b) if the holder of the certificate has failed to comply with or has contravened any term or condition of the certificate; or
- (c) if there are good reasons for doing so and it is in the best interest of the proper control and regulation of gambling."

AMENDMENT OF SECTION 40 OF ACT 4 OF 1995

10. Section 40 of the principal Act is hereby amended by the substitution for subparagraph (iii) of paragraph (b) of the following paragraph:

"(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)] 19(1)(c)."

11. Substitution of heading to section 49 of Act 4 of 1995

The following heading is hereby substituted for the heading to section 49 of the principal Act:

"Activities authorised by gaming machine licence, additional gaming machine and route operator licence."

AMENDMENT OF SECTION 53 OF ACT 4 OF 1995

12. Section 53 of the principal Act is hereby amended by the addition of the following subsection:

"(3) the aggregate of the returns by the holder of a totalisator licence to those persons who have made winning bets on any event or combination of events shall not be less than the prescribed percentage of the total amount pooled in respect of that event or combination of events"

REPEAL OF SECTION 53 (A) OF ACT 4 OF 1995

13. Section 53 A of the principal Act is hereby repealed.

AMENDMENT OF SECTION 53 (B) OF ACT 4 OF 1995

14. Section 53 B of the principal Act is hereby amended by adding the following subsections:

"(24) the TAB may transfer its assets and liabilities, rights and obligations as a going concern to any person approved of by the responsible Member, after consultation with the board, and on such basis and on terms and conditions as approved by him or her;"

"(25) the responsible Member shall give notice in the Gazette of any approval given in terms of subsection (24) and in which notice the responsible Member shall state the name of the person to whom the assets and liabilities, rights and obligations of the TAB are to be transferred."

"(26) the person to whom the assets and liabilities, rights and obligations of the TAB are to be transferred as contemplated in subsections (24) and (25) shall be entitled to apply for the transfer of the totalisator licence issued to the TAB and after the provisions of sections 19, 20, 22, 23, 24, 26, 27, 28 and 29 have been complied with, the board may grant the application."

REPEAL OF SECTION 53 C OF ACT 4 OF 1995

15. Section 53 C of the principal Act is hereby repealed.

AMENDMENT TO SECTION 61 OF ACT 4 OF 1995

16. Section 61 of the principal Act is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"(3) Every holder of a totalisator licence, bookmaker's licence or race-meeting licence shall pay in the prescribed manner for the benefit of prescribed beneficiaries—"

AMENDMENT OF SECTION 64 OF ACT 4 OF 1995

17. Section 64 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(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, without a manufacturer licence."

AMENDMENT OF SECTION 77 OF ACT 4 OF 1995

18. Section 77 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) no person shall gamble at any place other than the licensed premises: Provided that gambling by means of the placing of telephone bets on all sporting events where the holder of a licence accepts and records the bet at the licensed premises shall be deemed to have occurred at the licensed premises."

AMENDMENT OF SECTION 81 OF ACT 4 OF 1995

19. Section 81 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"(2) An inspector may, in the company of a member of the South Africa Police Service [authorised by a warrant] and subject to the provisions of any other law—"

AMENDMENT OF SECTION 84 OF ACT 4 OF 1995

20. Section 84 of the principal Act is hereby amended

(a) by the substitution for subparagraph (1) of the following subparagraph:

(b) "(1) the fees payable in respect of an application contemplated in sections 1(14), 19, 34, 35 [and] 38, 38A and 38B respectively;"

AMENDMENT OF SECTION 91 OF ACT 4 OF 1995

21. Section 91 of the principal Act is hereby amended by the substitution of subsection (1)(b) of the following subsection:

"(1)(b) For the purposes of paragraph (a) racing-club means any association of persons, whether incorporated or unincorporated."

22. Subsection (3) and subsection (8) of section 91 are repealed.

AMENDMENT OF SECTION 98 OF ACT 4 OF 1995

23. Section 98 of the principal Act is hereby amended by the addition of the following subsections:

"(21) the Racing Authority may transfer its assets and liabilities, rights and obligations as a going concern to any person or persons approved of by the responsible Member, after consultation with the board, and on such basis and on terms and conditions which are approved by him or her."

"(22) the responsible Member shall give notice in the Gazette of any approval given in terms of subsection (21) and in which notice the responsible Member shall state the name of the person to whom the assets and liabilities, rights and obligations of the Racing Authority are to be transferred."

Substitution of Section 112 of Act 4 of 1995

24. The following section is hereby substituted for section 112 of the principal Act:

"Short title and commencement

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

Short title

25. This Act shall be called Gauteng Gambling and Betting Amendment Act, 1998.

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