

LIMPOPO PROVINCE  
LIMPOPO PROVINSIE  
XIFUNDZANKULU XA LIMPOPO  
PROFENSE YA LIMPOPO  
VUNDU LA LIMPOPO  
IPHROVINSI YELIMPOPO

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## GENERAL NOTICE

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### NOTICE 516 OF 2007

#### DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

#### LIMPOPO GAMBLING BILL, 2007

In terms of rule 113 of the Standing Rules and Orders of the Limpopo Legislature the Limpopo Gambling Bill, 2007 is hereby advertised for comments.

Any person or organization wishing to comment on the Bill may do so in writing, before 09<sup>TH</sup> November 2007, with:

**The Head  
Department of Economic Development,  
Environment and Tourism  
Private Bag X9484  
POLOKWANE  
0700**

**FOR ATTENTION: Mr Simon Mbedzi  
[Mbedziks@ledet.gov.za](mailto:Mbedziks@ledet.gov.za)**

**OR  
Mr Serobi Maja  
[Adel@lgb.co.za](mailto:Adel@lgb.co.za)**

**LIMPOPO GAMBLING BILL, 2007****BILL****MEMBER OF THE EXECUTIVE COUNCIL'S  
NOTICE****DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT  
AND TOURISM****LIMPOPO GAMBLING BILL, 2007**

It is hereby notified that I, Ohm Collins Chabane in my capacity as the Member of Executive Council, responsible for Department of Economic Development, Environment and Tourism, hereby publish the Limpopo Gambling Bill, 2007 for comments.

O.C CHABANE

MEC; Department of Economic Development Environment and Tourism

**To provide for the licensing and regulation of gambling activities; to retain the Limpopo Province Gambling Board; to repeal the Limpopo Province Gambling Act No. 4 of 1996, as amended; and to provide for matters incidental thereto.**

**Preamble**

**WHEREAS** gambling has the potential to make a substantial and lasting contribution to the growth and development of tourism and the economy in the Limpopo, and to the prosperity of its people;

**AND WHEREAS** it is recognised that gambling should be aimed at 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 can be a significant source of public revenue for the Province, and so contribute to the general well-being and interest of its entire people;

**AND WHEREAS** the special risks and dangers inherent in gambling justify the promotion of responsible gambling programmes through the imposition of appropriate restrictions, regulations and controls.

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

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**CHAPTER 1****Definitions**

1. In this Act, unless the context otherwise indicates –

**“amusement game”** means a game, other than bingo or a game similar to or derived from a game played in a casino or on a slot machine, played with or by means of an amusement machine which, upon payment of money, a token or a similar object, is available to be played and which enables the player to win a prize; provided that such prize shall comply with the regulations framed under this Act and the National Act;

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

**“associate”** means—

- (a) an employer;
- (b) a partner in terms of a partnership agreement;
- (c) a co-shareholder of a private company contemplated in section 20 of the Companies Act, 1973 (Act No. 61 of 1973);
- (d) a co-Member of a Close Corporation contemplated in section 2 of the Close Corporations Act, 1984 (Act No. 69 of 1984); and
- (e) a person to whom another person has granted or from whom another person has received a general power of attorney;

**“a bet or wager”** means—

- (a) being a player, staking money or anything of value on a fixed-odds bet, or an open bet, with a bookmaker on any contingency; or
- (b) being a bookmaker -
  - (i) accepting a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency;
  - (ii) staking money or anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency;
- (c) staking or accepting a stake of money or anything of value with one or more other persons on any contingency; or
- (d) expressly or implicitly undertaking, promising or agreeing to do as contemplated in paragraphs (a), (b) or (c)

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

- (a) that is played for consideration, using cards or other devices—
  - (i) that are divided into spaces each of which bears a different number, picture or symbol; and
  - (ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols;
- (b) in which an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match each such number, picture or symbol on the card or device as it is called or displayed; and
- (c) in which the player who is first to match all the spaces on the card or device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize, or any other substantially similar game declared to be bingo in terms of section 6(4)(b) of the National Act;



**"Board "** means the Limpopo Gambling Board;

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

**"casino"** means premises where gambling games are played, or are available to be played, but does not include premises in which—

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

**"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 this Act;

**"central securities depository"** means central securities depository as defined in the Custody and Administration of Securities Act, 1992 (Act No. 85 of 1992);

**"cheat"** means to manipulate the result of a game or to unlawfully alter the elements of chance, method of selection or criteria which determine-

- (a) the result of a game; or
- (b) the amount or frequency of payment in a game;

**"Chief Executive Officer"** means the person appointed in terms of section 11(1)(a);

**"conduct"** means to carry on the business, to control, to direct, to keep, to manage, to oversee or to own, and "maintain" has a corresponding meaning;

**"consideration"** means—

- (a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar object; or
- (b) any other thing, undertaking, promise, agreement or assurance, regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

**"Constitution"** means Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996);

**"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;

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

**"depository institution"** means an institution defined in section 1 of the Custody and Administration of Securities Act, 1992 (Act No. 85 of 1992);

**"designated area"** —

- (a) in relation to a site, means an area at that site in which any limited payout machine is authorised to be placed;
- (b) in any other case, means an area within licensed premises where any gambling game is available to be played; and

(c) shall include any area designated as such by the Board in the conditions of any licence issued by it;

**"Executive Council"** means the Executive Council of Limpopo;

**"family member"** means a person's

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

**"financial interest"** means—

- (a) a right or entitlement to share in profits or revenue;
- (b) a real right in respect of property of a company, corporation or business;
- (c) a real or personal right in property used by a company, corporation or business; or
- (d) a direct or indirect interest in the voting shares, or voting rights attached to shares, of a company or an interest in a close corporation;

**"fixed-odds bet"** means a bet on one or more contingencies in which odds are agreed at the time the bet is placed;

**"gambling activity"** means

- (a) placing or accepting of a bet or wager;
- (b) placing or accepting of a totalisator bet; or
- (c) making available for play, or playing bingo or a gambling game;

**"gambling device"** means equipment or any other thing that is used, or at the time of its manufacture was designed to be used, in determining the result of a gambling activity;

**"gambling game"** means an activity if it meets the following criteria—

- (a) it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to, or receive a payout; and
  - (ii) the result might be determined by the skill of the player, the element of chance, or both; or
- (b) it is a bet or wager placed in a casino in relation to an activity that meets the criteria in paragraph (a);

**"gambling machine"** means any mechanical, electrical, video, electronic, electro-mechanical or other device, contrivance, machine or software, other than an amusement machine, that—

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

**"independent site operator"** means a site operator, who is not linked to a route operator and is licensed to own and operate limited payout machines on a single site and is responsible to maintain the machines, effect the collection of money and pay taxes and levies due to the Board;

**"institutional investor"** means a mutual fund, unit trust fund, pension fund, merchant bank or insurance company, registered as such in terms of applicable law and which trades securities in large volumes on behalf of large numbers of investors;

**"inspector"** means an inspector appointed in terms of section 75;

**"interactive game"** means a gambling game played or available to be played through the mechanism of an electronic agent accessed over the internet other than a game that can be accessed for play only in licensed premises, and only if the licensee of any such premises is authorised to make such a game available for play;

**"internet"** has the meaning set out in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

**"licence"** includes registration, approval and certification by the Board;

**"licensed premises"** means specific premises that are named or described in a licence issued in terms of this Act;

**"licensed race-course"** means a licensed race-course referred to in section 53;

**"limited payout machine" ("LPM")** means a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited, and other matters are regulated, as prescribed by regulations made in terms of the National Act and this Act;

**"local authority"** means any local government body contemplated in Chapter 7 of the Constitution;

**"National Act"** means the National Gambling Act, 2004 (Act No. 7 of 2004);

**"national licence"** means a licence issued in terms of section 38 of the National Act,

**"open bet"** means –

- (a) a bet, other than a totalisator bet, taken by a bookmaker on one or more contingencies, in which no fixed-odds are agreed at the time the bet is placed; or
- (b) a bet in respect of which the payout is determined after the outcome of the contingency on which such a bet is struck became known, with reference to dividends generated by a totalisator;

**"organ of state"** has the meaning set out in section 239 of the Constitution;

**"pay out"** means–

- (a) subject to paragraph (b) any money, merchandise, property, a cheque, credit, electronic credit, a debit, a token, a ticket or anything else representing value won by a player–
  - (i) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and
  - (ii) regardless how the payout is made.
- (b) neither of the following is a pay out–
  - (i) an opportunity to play a further game; or
  - (ii) a prize given to a participant or team of participants in a sporting event in respect of the participant's or team's performance in that event;
- (c) the result of a gambling game—
  - (i) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game—
    - (aa) in respect of which the opportunity was won; and
    - (bb) on the machine on which the opportunity was won; but
  - (ii) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be –
    - (aa) distributed or transferred to the person who has won such an opportunity or to any other person, or
    - (bb) converted into money, property, a cheque, credit or any other thing representing value; or

- (cc) converted in terms of any scheme, arrangement, system, plan or device prescribed in terms of the National Act;

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

**"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;

**"political office-bearer"** means –

- (a) a Member of the National Assembly, the National Council of Provinces or the Cabinet;
- (b) a Member of a provincial legislature;
- (c) a Member of a municipal council or local authority;
- (d) a diplomatic representative of the Republic who is not a Member of the public service;
- (e) a Member of a local or provincial or national house of traditional leaders; or
- (f) a national or provincial office-bearer of a political party;

**"premises"** includes land and any building, structure, vehicle, ship, boat, vessel, aircraft or container;

**"prescribed"** means prescribed by regulation in terms of this Act;

**"Province"** means Limpopo and Provincial has a corresponding meaning;

**"Public Finance Management Act"** means the Public Finance Management Act, 1999 (Act No 1 of 1999);

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

**"race-meeting"** means any gathering of persons attending an animal race, whether or not such race is run, if the date and place of such race have been made known by public advertisement or private invitation;

**"race-meeting licence"** means a licence referred to in section 53;

**"regulation"** means a regulation made in terms of section 78 of this Act;

**"Responsible Member"** means the Member of the Executive Council responsible for the administration of this Act;

**"route operator"** means a person who carries on an activity contemplated in section 46;

**"rules of the Board "** means rules made in terms of section 79 of this Act;

**"site"** means premises licensed for the placement of one or more limited payout gambling machines contemplated in National Act;

**"sporting event"** means any football, rugby, cricket, golf or tennis match, any boxing, wrestling, shooting or swimming contest, any foot, cycle, motor, boat or horse race and any other lawful contest, competition, tournament or game usually attended or viewed by the public;

**"spouse"** means a person's—

- (a) partner in a marriage;
- (b) partner in a customary union according to indigenous law; or
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

**"this Act"** includes the regulations and the rules of the Board;

**"totalisator bet"** means staking or accepting of money or anything of value on the outcome of an event or combination of events by means of –

- (a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or
- (b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles.

#### **Continuation of the Limpopo Gambling Board**

- 2. The Limpopo Province Gambling Board, as established by the Limpopo Province Gambling Act, 1996 (Act No. 4 of 1996, as amended) is, notwithstanding the repeal of the Limpopo Province Gambling Act, 1996 in Schedule I, retained under this Act, subject to Item 3 of Schedule II to this Act, and shall be known as the Limpopo Gambling Board which shall be a juristic person.

### **CHAPTER 2**

#### **GAMBLING BOARD**

##### **Powers and functions of the Board**

- 3. (1) The Board shall
  - (a) exercise such powers and perform such functions-
    - (i) assigned to it in terms of this Act;
    - (ii) assigned to it in terms of any other Act;
  - (b) advise the Responsible Member or furnish a report or recommendations to the Responsible Member on any matter referred to the Board by the Responsible Member for consideration and arising from the application of this Act relating to the control over gambling and racing in the Province.
- (2) The Board may, with the approval of the Responsible Member exercise such powers and perform such functions and duties in terms of this Act in respect of matters in the province.
- (3) The Board may, notwithstanding anything to the contrary in any other Act contained, pay a reward to any person who has furnished information relating to an alleged contravention of a provision of this Act.

##### **Composition of the Board**

- 4.(1) The Members of the Board shall be appointed by the Responsible Member in consultation with the Executive Council, and shall consist of –
  - (a) one Member who is qualified and admitted to practice as a legal practitioner in the Republic and has, for a cumulative period of at least five years after having so qualified, practised as a legal practitioner or performed services related to the application or administration of the law;
  - (b) one Member who is qualified as a chartered accountant in the Republic and has for a cumulative period of at least five years after having so qualified, practised as a chartered accountant;
  - (c) a person representing the Responsible Member responsible for the administration of this Act in the Province; and
  - (d) no less than three and no more than five Members who shall have proven business acumen or knowledge of the gambling industry and who are suitable for appointment to the Board
- (2) The Responsible Member shall appoint a Member as the Chairperson and another Member as the Deputy Chairperson of the Board.
- (3) The Chief Executive Officer of the Board shall ex officio be a Member 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.

**Eligibility to be appointed as Member of the Board**

5. (1) A person shall not be appointed or remain a Member of the Board-

(a) unless he or she-

(i) is a natural person;

(ii) is a citizen of the Republic and ordinarily resident therein and is a fit and proper person;

(b) if he or she-

(i) has any direct or indirect interest in-

(aa) any gambling activity; or

(bb) any business or enterprise that may conflict with the proper performance of his or her duties as a Member of the Board;

(ii) is a political office-bearer;

(iii) is a Member of the Local/Provincial/National House of Traditional Leaders;

(iv) is a partner or associate of or related within the first degree by affinity or consanguinity to a person contemplated in paragraphs (b)(i) or (ii)

(v) is an unrehabilitated insolvent

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

(vii) has at any time been convicted, whether in the Republic or elsewhere-

(aa) of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004 or any offence involving dishonesty;

(bb) of an offence under this Act or any other similar act; or

(viii) with the exception of a Member of the Board contemplated in section 4(1)(c) is a public servant.

(2) (a) If any Member of the Board during his or her term of office is disqualified in terms of subsection (1) or acquires, or whose family member acquires, an interest which is likely to be an interest as contemplated in subsection (1)(b)(i) he or she shall as soon as practicable after he or she has been disqualified or after the acquisition of such interest or after he or she has become aware of such information, in writing declare such information to the Responsible Member.

(b) If the Responsible Member, after receiving the information from a Member of the Board as contemplated in paragraph (a) is of the opinion that such Member is disqualified in terms of subsection (1) to remain a Member of the Board, he or she shall, subject to section 9(2) terminate the term of office of such Member in terms of section 9(1)(b).

**Procedure for appointment of Board**

6.(1) The Members of the Board referred to in section 4(1)(a), (b), (c) and (d) shall not be appointed unless the Responsible Member has invited interested parties through the media and by notice in the Provincial Gazette to nominate candidates, within twenty one days of the invitation in the media and the publication of such notice, for consideration by the Responsible Member: Provided that the invitation through the media shall include an invitation in at least one newspaper circulating in the Province.

- (2) A person shall, prior to his or her appointment as Member of the Board, submit to the Responsible Member a written sworn or confirmed statement in which he or she declares his or her financial interest and whether or not he or she has any interest as contemplated in section 5(1)(b)(i).
- (3) (a) The Member of the Board shall not be appointed unless the Responsible Member has at least thirty days prior to the appointment of the Members of the Board and in the manner envisaged in subsection (1) published the names of all the persons nominated for appointment to the Board and the names of the persons he or she intends to appoint as Members of the Board and the date on which such appointments are intended to be made.
- (b) Any person who wishes to object to the appointment of any person to the Board may, not later than 14 days before the date on which the appointment of the Members of the Board is intended to be made, lodge with the Responsible Member in writing an objection stating the grounds which, according to such a person, disqualifies the person to be appointed, from being appointed as a Member to the Board.

#### **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 or 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 reason of a conflict of interest; 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.

#### **Tenure of office**

- 8.(1) A Member of the Board shall, subject to section 9, hold office for such period, not exceeding five years, as the Responsible Member may determine at the time of his or her appointment and a Member of the Board shall be eligible for reappointment at the termination of his or her term of office.
- (2) In case of re-appointment, the Responsible Member may not follow the procedure as set out in section 6.

#### **Termination of office and filling of vacancies**

- 9.(1) The Responsible Member shall after he or she has afforded a Member the opportunity to state his or her case at any time terminate the term of office of any Member if-
  - (a) there are good reasons for doing so in the best interest of the Board and the proper control and regulation of gambling;
  - (b) he or she is disqualified to remain a Member of the Board in terms of section 5(1);
  - (c) he or she has been absent for more than two consecutive meetings of the Board without prior leave of the chairperson;
- (2) If the Responsible Member terminates the office of a Member of the Board under subsection (1), he or she shall disclose such termination by way of notice in the Provincial Gazette within fourteen days after the date of such termination.

- (3) The Responsible Member shall, subject to sections 5, 6 and 9 fill a casual vacancy on the Board of such period, not exceeding the term of office of the current Board, as the Responsible Member may determine at the time of his or her appointment.

#### **Remuneration and allowances of Members of the Board**

- 10.(1) Members of the Board who are not in the full-time service of the State may in respect of their services, be paid such remuneration and allowances from the funds of the Board as may be determined by the Responsible Member in consultation with the Member of the Executive Council responsible for Finance.
- (2) The remuneration and allowances of the Members of the Board may differ according to the different offices held by them or the different functions performed by them.

#### **Staff of the Board**

11. (1) The Board shall, in the performance of its functions be assisted by-
- (a) a Chief Executive Officer, appointed by the Board in consultation with the Responsible Member ; and
  - (b) persons appointed by the Chief Executive Officer.
- (2) The Chief Executive Officer shall, subject to the control of the Board, perform the functions entrusted to him or her in terms of this Act and is accountable to the Board.
- (3) A Member of the staff of the Board shall, before assuming his or her duties, make and subscribe an oath or solemn affirmation in the prescribed form.
- (4) A person shall not be employed to the staff of the Board as contemplated in this section if such person or any family member of such person has a controlling interest or any financial or other such interest in any gambling activity.
- (5) A person shall not be employed to the staff of the Board if he or she 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 Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any offence involving dishonesty.
- (6) The persons appointed by the Board in terms of subsection(1) shall, from the funds of the Board, be paid such remuneration and allowances and shall receive such other employment benefits and be appointed on such terms and conditions and for such periods, as the Board may determine.

#### **Transparency and confidentiality**

12. (1) The Board shall, subject to subsection (2), function in a transparent and open manner.
- (2) A Member or staff of the Board, or person contemplated in sections 19 and 20 shall not, except on the order of a court of law or authorised in terms of the Promotion of Access to Information Act, (Act No. 2 of 2000), disclose-
- (a) any documentation 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 28(2);
  - (b) any document or information which has been furnished to the Board by any regulatory or law enforcement authority on condition of confidentiality.

#### **Position of public trust**

- 13 (1) In order to ensure the independence and integrity of the Board-
- (a) a member of the Board or staff of the Board shall not-
    - (i) apart from any remuneration received by virtue of the office he or she holds, directly or indirectly receive anything of value from any person that may conflict or interfere with the proper performance of his or her functions or benefit in any manner from the office he or she holds;
    - (ii) participate in any gambling in the Province provided that such a person may participate in such gambling if it is necessary for the performance of his or her functions under this Act;



- (b) a member or former member of the Board shall not solicit or accept employment from a licensee or an applicant for a licence in terms of this Act within one year after the termination of the term of office of such a member of the Board without the prior approval of the Board;
  - (c) a member of the Board or staff of the Board shall, before commencing to exercise the functions of his or her office, take the oath or make an affirmation as determined by the Responsible Member.
- (2) The provisions of subsection 1(a) and (b) shall mutatis mutandis apply in respect of the Responsible Member.
- (3) (a) A member of the Board shall not vote, attend or in any manner participate in the proceedings at any meeting or hearing of the Board if, in relation to any matter before the Board-
- (i) he or she or his or her immediate family member contemplated in section 5(1)(b)(iii), partner or business associate is a direct member or partner of, or has, a controlling interest or any financial or other interest in, the business of the applicant or any person who made representations in relation to the application of a licence; or
  - (ii) he or she has any interest which precludes him or her from performing his or her functions as a member of the Board in a fair, unbiased and proper manner.
- (b) If at any stage during the course of any proceedings before the Board it appears that a member of the Board has or may have any interest contemplated in paragraph (a)-
- (i) that member shall forthwith and fully disclose the nature of his or 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 interest; and
  - (ii) 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.
- (c) If any member of the Board fails to disclose any interest contemplated in paragraph (a) or if, having such an interest, he or she attends or in any manner whatsoever participates in the proceedings at the meeting or hearing concerned, the relevant proceedings shall be null and void: Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, suspension, revocation or withdrawal of a licence or registration, or the transfer of a licensed business to new premises, shall thereby be invalidated.
- (4) A member of the Board or of the staff of the Board or the spouse of any of the aforesaid persons shall not participate in any gambling or betting in the Province except in the performance of his or her duties in terms of this Act.

#### **Funds of the Board**

14. (1) The funds of the Board shall consist of-
- (a) money appropriated by the Provincial Legislature for that purpose;
  - (b) any amounts payable to the Board in terms of this Act; and
  - (c) other money lawfully paid to the Board.

#### **Accountability, audit and annual report**

- 15 (1) The Chief Executive Officer shall-
- (a) be charged with the responsibility of accounting for money received or paid out for or on account of the Board;
  - and
  - (b) cause the necessary accounting and other related records to be kept.
- (2) The records referred to in subsection (1) (b) shall be audited annually by the Auditor-General.
- (3) The Board shall-
- (a) report to the Responsible Member at least once every year on its activities, and the Responsible Member shall cause such report including the annual financial statements of the Board to be tabled promptly in the Provincial Legislature; and

- (b) submit the report referred to in paragraph (a) to the appropriate national gambling authority established in in terms of the national gambling legislation, under section 126(3) of the Constitution, within 14 days after it is submitted to the Responsible Member.
- (4) The Board and the Chief Executive Officer shall exercise fiduciary duties in accordance with the Public Finance Management Act and other applicable laws.

#### Meetings of the Board

- 16.(1) (a) The Board shall meet at such time and place as it may from time to time determine for the expeditious conduct of its business: Provided that the Board shall meet at least four times a year.
- (b) The Chairperson may, at any time on reasonable notice, convene an extraordinary meeting of the Board to be held at a time and place determined by him or her: Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, removal, suspension or revocation of a licence or certificate, shall be taken at an extraordinary meeting.
- (2) The proceedings at a meeting of the Board shall, in so far as has not been prescribed, be determined by the Board.
- (3) The quorum for a meeting of the Board shall be more than fifty percent of the total number of Members of the Board from time to time.
- (4) A decision of the Board shall be taken by a majority of the votes of the Members present at a meeting of the Board.
- (5) No decision of the Board shall be invalid merely by reason of a vacancy in the Board.
- (6) Any meeting of the Board convened for the purpose of-
  - (a) hearing representations or objections in relation to any application for a licence made in terms of this Act, shall be accessible to the public: Provided that the Chairperson may in his or her discretion or if the Board is of the opinion that any person whose presence is not desirable at the meeting concerned, direct that such a person may not attend the meeting or shall leave the meeting; and
  - (b) deliberations with a view to making decisions and to voting thereon in respect of any matter at a meeting, shall take place in camera.

#### Committees of the Board

- 17. (1) The Board may from time to time appoint a committee to exercise the powers and perform the functions delegated to it by the Board.
- (2) A committee shall consist of-
  - (a) such Members of the Board as the Board may designate; or
  - (b) such Members of the Board as the Board may designate and such other persons as the Board may co-opt in terms of section 20.
- (3) The Board shall designate the Chairperson of a committee.
- (4) (a) A committee shall perform its functions and exercise its powers subject to the provisions of this Act and such directives of the Board as are not in conflict with such provisions.
- (b) Any delegated power so exercised or delegated function so performed shall, subject to section 88(1) be deemed to have been exercised or performed by the Board.

#### Minutes

- 18.(1) (a) Minutes of the proceedings referred to in section 16 of every meeting of the Board shall be kept and be retained at the offices of the Board or any other suitable place.

- (b) Any person may subject to Promotion of Access to Information Act, No. 2 of 2000, obtain copies of the minutes contemplated in paragraph (a) or any part thereof against payment of a fee as may from time to time be determined by the Board.
- (2) (a) Separate minutes of the proceedings of every meeting of the Board shall be kept and retained in like manner.
- (b) The minutes contemplated in paragraph (a) or any document in which any advice, report or recommendation by the Board is contained shall not be disclosed, except to-
  - (i) the Responsible Member;
  - (ii) any person who requires it for the performance of his or her functions in terms of this Act or;
  - (iii) in terms of an order of a competent court or under any applicable law.

#### Consultation by the Board

- 19.(1) The Board may consult any person, organisation or institution with regard to any matter deemed necessary by the Board to enable the Board to exercise its powers and perform its functions.
- (2) The remuneration and allowances determined by the Board, if any, and the terms and conditions of a person so consulted shall be contained in a written agreement entered into for that purpose between the Board and the person so consulted.

#### Co-option of persons

- 20. (1) If the Board is of the opinion that a particular person is able to assist it in the consideration of a particular matter, it may co-opt that person for such purpose.
- (2) A person so co-opted shall not be entitled to vote at any meetings or committees of the Board.
- (3) The provisions of section 19(2) shall mutatis mutandis apply in respect of a person so co-opted.

#### Enquiries by the Board

- 21. (1) The Board may, subject to this section, conduct an enquiry into any matter falling within the scope of its functions.
- (2) For the purpose of any enquiry in terms of subsection (1), the Board may, by written notice, summon any person who may be affected by or is concerned in the consideration of a particular matter to appear before the Board-
  - (a) to give evidence; or
  - (b) to produce any book, document or thing which is in his or her possession or under his or her control and which in the opinion of the Board relates or may relate to a matter to be considered thereat:

Provided that at any enquiry held by the Board, the person applying for a licence or the transfer or removal of a licence in terms of this Act, or any person objecting to the granting of such an application, or the person who is the subject of the enquiry as the case may be, shall, if he or she so requests, be entitled to appear before the Board and to call witnesses.
- (3) A person who has received a notice in terms of subsection (2) shall personally appear before the Board on the date and time and place set out in the notice.
- (4) The provisions of subsection (3) shall apply mutatis mutandis to any corporate body, organisation or institution.
- (5) The Board may call and examine any person present at the enquiry, whether or not he or she has been summoned to attend an enquiry under subsection (2), and may inspect and retain for a reasonable period any book, document or thing, the production of which was required under that subsection.
- (6) The Board may require from any person appearing before the Board at any enquiry in terms of subsection (1) to give his or her evidence on oath or affirmation, and a Member of the Board presiding at the enquiry may administer the oath or accept an affirmation from any such person.

- (7) The law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, document or thing before a court of law shall apply in relation to the examination of any such person or the production of any book, document or thing under subsection (2) or (5).
- (8) Any person who appears before the Board at an enquiry shall be entitled to be represented by his or her legal representative.

**CHAPTER 3****LICENSING****National licences**

22. (1) The Board may issue national licences as contemplated in section 39 of the National Act.
- (2) Except as otherwise provided in the National Act, the provisions of this Act shall apply in respect of any national licence issued in terms of the National Act.
- (3) Notwithstanding the provisions of this Act, the holder of a national licence shall be entitled to conduct the activities authorised thereby in the province, as if such licence had been issued in terms of this Act.

**Disqualification for licences in general**

23. (1) This section does not apply to an employment licence.
- (2) A person must not hold a licence referred to in this section, or a financial interest in the holder of such a licence, if that person –
- (a) is not a fit and proper person;
  - (b) is an unrehabilitated insolvent;
  - (c) is a family member, other than a brother or sister, of a person who is a Member or employee, of a regulatory authority exercising oversight over that licensee;
  - (d) is under the age of eighteen years old;
  - (e) is a public servant or political office bearer;
  - (f) is subject to an order of a competent court holding that person mentally unfit;
  - (g) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or
  - (h) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, or an offence in terms of this Act or the National Act, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence;
  - (i) is a legal entity in respect of which the State or any organ of the State or any organisation with which the State is concerned has any financial interest, except as far as taxes are concerned, in any gambling activity: Provided that the provisions of this paragraph shall not include an interest held by the State or any organ of the State or any organisation with which the State is concerned, arising out of an arms-length commercial transaction in respect of-
    - (i) a lease, in respect of which the rental payable is not determined by reference to the turnover of, or profit from, any gambling activity;
    - (ii) a sale of property; or
    - (iii) the granting of an offer to purchase.
- (3) The Board must refuse to issue a licence to a person who is disqualified from holding an interest in a licence holder, licensed premises, or the business to which a licence relates, in terms of subsection (2).
- (4) The Board must refuse to issue a licence to an applicant if, after conducting the prescribed investigations, it has reason to believe that –
- (a) the applicant, any person who holds a financial interest in the applicant, or any manager of the business concerned is a family member, other than a brother or sister, of a person who is a Member or employee of the licensing authority; or

- (b) the applicant or any person who holds a financial interest of five percent or more in the applicant is disqualified from holding an interest in a licence holder of the business to which a licence relates, in terms of subsection (1).
- (5) For the purposes of this section, a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment.

#### **Types of licences**

24. (1) The Board may, subject to the provisions of this Act, grant the following licences-

- (a) casino licences;
  - (b) route operator licences;
  - (c) site licences;
  - (d) bingo operator licences;
  - (e) manufacturer, maintenance or supplier licences;
  - (f) totalisators licences;
  - (g) bookmaker licences;
  - (h) race-meeting licences;
  - (i) race-course licences
  - (j) special licences;
  - (k) amusement machine licences;
  - (l) independent site operator licences;
  - (m) horseracing authority licences.
- (2) Any licence referred to in subsection (1) shall be in writing.
- (3) A licence grants the holder thereof such rights and privileges and subjects him or her to such obligations and liabilities as may by virtue of this Act be regulated thereby or issued from the holding thereof.
- (4) The maximum number of any kind of licences that may be granted by the Board, may, subject to the provisions of the National Act or any other law, be prescribed.

#### **Applications**

- 25.(1) A person shall not make an application for a licence, and no such application shall be entertained, unless the application is lodged pursuant to and in accordance with a notice which has been published by the Board in the *Provincial Gazette* and a newspaper circulating in the Province inviting applications and which notice may state -
- (a) the type and number of licences to be issued and any conditions that may apply;
  - (b) the area to which the licence will relate;
  - (c) an invitation to tender payment of a lump sum in consideration of the exclusive right to conduct a casino in the area concerned;
  - (d) any requirements that may be necessary or desirable; and
  - (e) the evaluation criteria to be applied.

- (2) (a) Subject to subsection (1), a person desiring to obtain a licence shall apply by submitting an application in the form prescribed or determined by the Board, to the Chief Executive Officer.
- (b) An application shall be accompanied by such application documents, approvals, and information as may be prescribed or determined by the Board.
- (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 28(2) that such document or information should not be open to public inspection.
- (4) Any licence, registration, certificate of suitability, authorisation or consent granted by the Board shall be deemed to be revocable contingent upon continuous suitability for licensing, registration, authorisation or consent and, without limiting the Board's right to conduct an investigation, the Board shall have the right at any time to call for such information, to be submitted to it within 14 days or such longer period as it may allow, as the Board may deem necessary to satisfy itself as to such continuous suitability.
- (5) Any person applying for a licence, registration, certificate of suitability, authorisation or consent will have to satisfy the Board that he or she is qualified to be granted such licence, registration, certificate, authorisation or consent, as the case may be and shall pay reasonable fees and expenses determined by the Board in respect of initial and subsequent investigations aimed at ensuring suitability of the applicant or the holder of the licence or permit.
- (6) The Board shall not be liable for any act or omission done or conduct carried out in good faith in the execution of its duties in terms of the Act.
- (7) Neither officials, employees nor agents of the Board shall be held liable for any act or omission done or conduct carried out in the execution of their duties in terms of the Act, or the terms of delegation granted to such officials, employees or agents by the Board.

#### **Application fees**

- 26. Any person who submits an application to the Board under section 25, shall-
  - (a) upon submission of such an application, pay to the Board the prescribed fee; and
  - (b) be liable for and pay to the Board all expenses incurred, if any, to conduct the investigation referred to in section 25: Provided that the Board may before or while conducting such investigations require from an applicant any security for the payment of such expenses.

#### **Representations and objections by interested persons**

- 27.(1) The applicant shall, within fourteen days before lodgement of the 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 and objections in relation thereto with the Chief Executive Officer within one month from the date specified in 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 form prescribed or determined by the Board.
- (3) A person lodging representations may show cause why the Board may determine that his or her identity should not be divulged.

- (4) The Chief Executive Officer shall, within fourteen days after lodgement of any representations pursuant to a notice in terms of subsection (1), forward subject to section 28, a copy of such representations to the applicant concerned.
- (5) The applicant shall lodge his or her written response, if any, to any representations lodged with the Chief Executive Officer within two months, and the provisions of section 28 shall *mutatis mutandis* apply in relation to any such response.
- (6) The Chief Executive Officer shall, within fourteen days after lodgement of any response contemplated in subsection (1), furnish a copy of such response to the person who made the representations concerned.
- (7) Any person who desires to object to any application made for any licence in terms of this Act, may, not later than 30 days after the date specified in the notice published in terms of section 27(1), lodge with the Chief Executive Officer in writing an objection in the prescribed manner or as determined by the Board.
- (8) The Chief Executive Officer shall within 7 days notify the applicant and supply the applicant with a copy or details, as the case may be, of-
  - (a) any objections lodged with the Board in terms of subsection(7); and
  - (b) any matter or fact whatsoever which may, in the opinion of the Board, constitute a ground for an objection against the application of the applicant, and invite the applicant to reply such objection, if he or she chooses, within a period of 14 days, or such longer period as the Board may determine of the date of such notification.
- (9) A person lodging any objection may show cause why the Board may determine under section 28(2)(b) that his or her identity should not be divulged.

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

- 28. (1) Any application, representations, objection, response and further information lodged in terms of section 27 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 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, 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; Provided 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 or objections in relation to an application shall not be divulged to any other person.
- (3) The Board shall, subject to subsection (2), 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 application, representations, responses or information contemplated in subsection (1).

#### **Inspection of premises to which application relates**

- 29.(1) The Chief Executive Officer shall, on lodgement of an application for a licence 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 application for a licence relates.
- (2) On completion of an inspection contemplated in subsection (1), the inspector shall furnish a report of such inspection to the Chief Executive Officer.

#### **Police report**

- 30.(1) The Chief Executive Officer shall, on receipt of an application for a licence and if the Board so requires, ask the South African Police Service for a report stating -
  - (a) particulars of any convictions recorded against the applicant and any other person who will be involved in the business concerned and in respect of whom the Board deems it necessary to obtain such a report;



- (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) For the purposes of a report contemplated in this section any Member of the South African Police Service may require the applicant or person concerned to furnish such information and particulars including any finger-print or palm-print.

**Hearing of an application**

- 31.(1) The Board may 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 25.
- (2) The provisions of section 16(3) to (6) 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 permitted to make oral representations shall be afforded an opportunity to be heard; and
  - (c) the applicant and each such person 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**

- 32.(1) Subject to subsection (2), any hearing contemplated in section 31 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 28(2)(a) or representations lodged by a person contemplated in section 28(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.

**Decision on application**

- 33.(1) The Board shall, subject to the provisions of section 23 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, further information furnished or obtained in terms of section 27, the inspection and police reports contemplated in sections 29 and 30, and any other evidence tendered to the Board in terms of section 31 or otherwise, 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 -
- (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.

**General conditions of licence**

- 34.(1) A licence may be issued on such conditions as the Board may deem necessary to give effect to the object of the Act, and shall include but not limited 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 sections 43;
  - (d) the erection, alteration, addition or reconstruction of any premises;

- (e) the place or places -
  - (i) where premises shall or shall not be situated; and
  - (ii) where gambling shall be permitted on such premises;
- (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.
- (3) A licence shall, subject to sections 39 and 43(3), be valid for a period as may be determined by the Board.
- (4) The Board may at any time amend, add, delete or vary the conditions of licence.
- (5) Where the Board proposes to amend, add, delete or vary any condition under subsections (4), the Board shall serve a written notice on the licensee stating—
  - (a) the proposal of the Board to amend, add, delete or vary, as the case may be, any condition under subsection (1);
  - (b) that the licensee may, within 30 days after the date of the written notice –
    - (i) make written representations about the matter to the Board; or
    - (ii) notify the Board in writing of the intention of the licensee to make oral representations; and
  - (c) the effect of subsection (6).
- (6) If, within the period mentioned in subsection (5)(b), the Board receives neither written representations nor written notification of the intention of the licence holder to make oral representations, such amendment, addition, deletion or variation of a condition, as the case may be, shall take effect at the end of that period.
- (7) Any condition imposed under subsection (1), or amended, added, deleted or varied under subsection (4) in respect of a casino licence, route operator licence or race-meeting licence—
  - (a) shall be effected after consultation with the responsible Member; and
  - (b) may not be effected retrospectively.

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

- 35.(1) Where an application has been granted as contemplated in section 33, the Chief Executive Officer shall, subject to the provisions of subsection (2), cause a licence to be issued in the form prescribed or determined by the Board setting out the conditions subject to which the application was granted.
- (2) (a) Where an application for a licence is granted, the Board may determine that a temporary licence be issued -
  - (i) where the premises concerned are not yet erected or require alteration, addition or reconstruction as contemplated in section 34(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 Board.
- (c) The Board may on application by the holder of a temporary licence at any time after the issue thereof, on good cause shown, 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 six years.
- (e) When the Board 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**

- 36.(1) The holder of a licence may at any time make application for the amendment of the licence.
- (2) The provisions of sections 22 to 27, in so far as they may be applicable, and sections 28 to 35 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1) for an amendment which the Board determines to be material.
- (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**

- 37.(1) A person desiring to obtain transfer of a licence may, with the consent of the holder of the licence at any time make application for the transfer thereof to such applicant.
- (2) The provisions of -
- (a) sections 22 to 35 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1); and
- (b) section 23 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.
- (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.

#### **Relocation of business to other premises**

- 38.(1) The holder of a licence may at any time make application for --
- (a) the relocation, whether permanently or temporarily, of the gambling business concerned to other premises;
- (b) in the case of the holder of a racecourse licence, totalisators licence or bookmaker licence --
- (i) additional premises to be added to the licence; or
- (ii) premises to be deleted from the licence.
- (2) Subject to subsection (3) the provisions of sections 22 to 35 shall *mutatis mutandis* apply in relation to an application contemplated in subsection 1(a) and (1)(b)(i): provided that in the case of a casino licence the provisions of section 43 shall likewise apply.
- (3) Notwithstanding the provisions of subsections (2), the Board may grant an application for the addition of premises to a totalisators licence or bookmaker licence without application of the provisions of sections 22 to 35 if-
- (a) in the case of addition of premises to the licence-
- (i) the application is brought by an existing licence holder or a totalisators licence or bookmaker licence; and
- (ii) the premises which the applicant seeks to add to its licence are, or in the previous 3 months were, licensed to the holder of a totalisators licence, race course licence or bookmaker licence; and
- (iii) the Board is of the opinion that the public interest does not require that the procedures contemplated in this Act are necessary in the specific circumstances;
- (b) in the case of deletion from the licence, the Board so sees fit.

**Suspension and revocation of licences and other penalties in relation to licensees**

- 39.(1) The Board may, after investigation, subject to subsection (3), by a disciplinary committee in terms of subsection (2) -
- (a) suspend a licence;
  - (b) revoke a licence;
  - (c) impose a fine; and / or
  - (d) impose any penalty deemed necessary.
- (2) (a) The Chief Executive Officer may charge any person or licensee suspected of contravening the Act or any condition of licence.
- (b) The disciplinary committee established under section 17 may investigate any person who has been charged or suspected of contravening the Act or any condition of licence.
- (c) For the purposes of such an investigation -
- (i) the disciplinary committee concerned may summon any person who may be able to give material information concerning the subject of the investigation 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 subject, to appear before it at a time and place specified in the summons, to be questioned or to produce that book, document or thing, and may retain for examination any book, document or thing so produced;
  - (ii) the provisions of section 21(2)(a) and (b) shall apply in relation to any such person, book, document, thing and summons.
- (d) The committee shall subject to the provisions of subsection 6 hereunder hold a hearing in respect of every such charge or investigation, and such hearing shall, subject to the provisions, *mutatis mutandis* of section 29(2) read with section 25(2), be accessible to the public.
- (e) At such hearing -
- (i) the licence holder concerned shall be afforded an opportunity to be heard;
  - (ii) such holder may be assisted or represented by any person of his or her choice.
- (f) The committee shall keep a record of the proceedings at the hearing.
- (g) After the hearing and the conclusion of the investigation, the committee -
- (i) shall notify the licence holder concerned of its intended recommendation to the Board, and afford such holder an opportunity to make representations in relation thereto;
  - (ii) may alter such recommendations in the light of such representations; and
  - (iii) shall submit its recommendations to the Board.
- (h) The Board may remit the matter to the Chief Executive Officer for further investigation in terms of this subsection.
- (3) Notwithstanding the provisions of subsection (2), the Board may, at any time before or during an investigation under subsection (2), suspend the licence concerned until completion of the investigation if the holder of the licence has failed to comply with or has contravened any term or condition of the licence or a provision of this Act and there is reason to believe that the non-compliance or contravention in question is of such a nature that the public interest requires the licence to be suspended without delay.
- (4) Failure by the holder of licence to pay a fine imposed under subsection (1)(c) shall be deemed to constitute non-compliance contemplated in that subsection.
- (5) Where a holder of a licence fails to pay the prescribed licence fees within three months of the prescribed date, such licence shall lapse.

- (6) The Board may at its discretion accept an offer of settlement from a holder of a licence who has breached his or her conditions of licence or has been charged in terms of subsection (2)(a).

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

- 40.(1) (a) Any person, other than an institutional investor, a publicly traded investor, a depository institution or a central securities depository, who, directly or indirectly, procures a financial interest of five percent or more in the business to which a licence relates shall, within the prescribed period and in a manner prescribed or determined by the Board, apply to the Board for approval to hold such interest;
- (b) Any publicly traded investor, other than an institutional investor, who directly or indirectly, procures a financial interest of ten percent or more in the business to which a licence relates shall, within the period and in a manner prescribed or determined by the Board, apply to the Board for approval to hold such interest.
- (2) Any institutional investor who, directly or indirectly, procures a financial interest of -
- (a) not less than five percent but less than fifteen percent in a business to which a licence relates shall within the prescribed period and in a manner prescribed or determined by the Board inform the Board of its acquisition of that interest and shall in such notice set out the grounds on which it asserts it is an institutional investor
- (b) fifteen percent or more in the business to which a licence relates shall, within the prescribed period and in a manner prescribed by the Board, apply to the Board for approval to hold such interest.
- (3) The provisions of sections 25 to 28 and 30 to 35 shall, *mutatis mutandis* apply in relation to an application contemplated in subsections (1) and (2).
- (4) The Board shall not grant approval under subsections (1), (2) or (3) where the person or institutional investor making the application is disqualified to hold a licence in terms of this Act.
- (5) Where approval is not granted, the person or institutional investor shall, within the prescribed period and in the manner prescribed by the Board, dispose of its financial interest in the licence holder concerned.
- (6) A person or institutional investor shall not procure an interest contemplated in subsections (1), (2) or (3) as nominee or agent of or otherwise on behalf of any principal or beneficiary if that person has not in writing informed the holder of the licence concerned and the Board of the identity of such principal or beneficiary.
- (7) The provisions of this section shall not apply to a depository institution or central securities depository in respect of a financial interest held by it on behalf of persons other than itself in securities listed on a stock exchange in South Africa registered as such in terms of the Stock Exchange Control Act, No. 1 of 1985;
- (8) Any person who contravenes subsections (1), (2), (3), (5) or (6) shall be guilty of an offence.

#### **Suitability of persons contracting with licence holders**

- 41.(1) The Board may prohibit the holder of a licence from contracting with any person for the acquisition by such holder of any goods or services or for the borrowing or lending of money or the letting or hiring of any movable or immovable property until the Board has issued to such person, on application in the manner prescribed or determined by the Board, a certificate of suitability.
- (2) The provisions of section 30 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1).

#### **Special licences**

- 42.(1) Notwithstanding any other provisions of this Act, the Board may, on application in the manner prescribed or determined by the Board, issue to any person, for specified dates, a special licence, subject to such conditions as the Board may determine: Provided that the Board may not issue a special licence in relation to a casino, route operator or a site licence.
- (2) The provisions of sections 27, 29, 31, 33, 34 and 35 shall not apply in respect of an application referred to in subsection (1).

## CHAPTER 4

## CASINO LICENCES

**Activities authorised by casino licence, lump sum exclusivity payments and period of validity of licence**

- 43.(1) The granting of a casino licence shall, subject to any condition imposed under section 33, authorise—
- (a) the conducting and carrying on gambling games;
  - (b) the keeping of such number of gambling devices; and
  - (c) the conducting of such games of bingo, as may be set out in such licence, on the licensed premises concerned.
- (2) Where the Board has accepted a lump sum payment contemplated in section 25(1)(c) 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, unless the first-mentioned licence has lapsed or been revoked: Provided that the Board may, after consultation with the responsible Member, and in the prescribed manner, extend such period of exclusivity against such further payment of a sum tendered by the licence holder and accepted by the Board;
  - (c) such payments shall be paid to the Board at the time and in the manner determined by the Board after consultation with the responsible Member;
  - (d) such payments shall be paid into the Provincial Revenue Fund by the Board.
- (3) A casino licence shall, subject to being renewed, be valid as from the date of the issue thereof until the date on which—
- (a) the holder thereof abandons it in writing;
  - (b) it is revoked by the Board under section (39).
- (4) Where—
- (a) the Responsible Member has—
    - (i) divided the Province into areas; and
    - (ii) has determined that only one casino licence may be granted in any such area, and
  - (b) the successful applicant has not tendered a lump sum payment in terms of section 25 (1) (c), the Board may require the successful applicant to tender a lump sum payment in respect of such exclusivity: Provided that such lump sum payment shall not exceed 5 percent of the estimated building costs of the proposed casino.

## CHAPTER 5

## BINGO LICENCES

## Licence required to conduct bingo games

44. A person shall not by any electronic or similar method of linking, link licensed premises to any other premises so as to provide for the game of bingo to be played at such other premises without a bingo licence in respect of each such premises.

## Activities authorised by bingo licence

- 45.(1) A bingo licence shall, subject to any condition imposed under section 34, authorise, in the case of a licence contemplated—
- (a) in section 44, the conducting or providing of the game of bingo on the licensed premises concerned; and
  - (b) in section 44, the conducting or providing of the game of bingo on any licensed premises referred to in paragraph (a), and on any such premises as may be licensed as contemplated in that subsection.
- (2) The maximum amount that may be charged to enable a person to play the game of bingo once, shall not exceed the prescribed amount, and the return to players in any game shall not be less than the prescribed percentage of the total amount staked in such game.

## CHAPTER 6

## ROUTE OPERATOR, SITE LICENCES AND INDEPENDENT SITE OPERATORS

## Route operator licence and site licence

- 46.(1) A limited payout machine shall not be operated without a route operator licence and an associated site licence.
- (2) Applications for a route operator licence shall only be made in response to a notice published in the *Provincial Gazette* and a newspaper circulating in the Province by the Board, after consultation with the Responsible Member, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements.
- (3) A route operator licence shall not be granted by the Board—
- (a) unless the Board is satisfied that the applicant—
    - (i) has an appropriate knowledge and experience, or is able to acquire such knowledge and experience, to operate limited payout machines; and
    - (ii) meets the prescribed requirements;
  - (b) for the operation of more than the prescribed number of limited payout machines.
- (4) A route operator licence shall authorise, subject to any conditions imposed under section 34, the operation of not more than five limited payout machines on the licensed premises of the holder of a gambling machine site licence, and for such purposes the holder of such a route operator licence may enter into an agreement with the holder of such a site licence for the placement of such limited payout machines on the premises concerned: Provided that in special circumstances as determined by the Board and subject to any limitations as may be prescribed under the National Act and furthermore subject to such conditions as may be prescribed, the abovementioned number of limited payout machines may be increased in respect of one or more limited gambling machine sites.
- (5) The holder of a route operator licence shall link all the limited payout machines in respect of which the licence has been granted to an electronic monitoring system as contemplated in section 64.
- (6) The provisions of section 47 shall apply *mutatis mutandis* to a site operator licence.
- (7) A route operator shall ensure that—
- (a) the maximum charge for playing on any such limited payout machine shall not exceed the prescribed amount;



- (b) the prize in respect of any one game played by means of any such limited payout machine does not in the aggregate exceed in value the prescribed amount;
  - (c) the return to players of any limited payout machine shall not be less than the prescribed percentage;
  - (d) there shall be displayed on the screen of any such limited payout machine the value of the maximum prize prescribed under paragraph (b) which can be won by playing a game once by means of such a limited payout machine; and
  - (e) fees and taxes in respect of the limited payout machines operated by it are paid.
- (8) A licensed route operator may not carry on a business contemplated in section 58 other than that of maintenance and repair of any limited payout machine, unless such operator has, on application been registered by the Board.
- (9) (1) A person shall not maintain premises in or on which limited payout machines are kept or operated as contemplated in this section without a site licence.
- (2) A site licence may, subject to section 46(4), only be granted by the Board—
- (a) to a person who meets the prescribed requirements;
  - (b) for the operation and keeping of limited payout machines not exceeding the prescribed number for every site licence;
  - (c) if the Board is satisfied that the premises in respect of which the licence is to be granted will not be primarily utilized for the operation of limited payout machines.
- (3) A site licence holder may only obtain limited payout machines from a licensed route operator.

#### **Independent site operator**

47. The procedure in section 46 shall apply *mutatis mutandis* to independent site operators.

### **CHAPTER 7**

#### **TOTALISATORS AND POOLS**

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

48. The business of a totalisator or betting pool shall not be conducted without a totalisators licence.

##### **Activities authorised by totalisators licence**

- 49.(1) A totalisators licence shall, subject to any condition which the Board may impose, authorise the conducting of the categories of totalisators specified in the licence and at premises specified in the licence.
- (2) The holder of a totalisators licence shall conduct totalisators in accordance with rules made by such holder and which have been approved by the Board.
- (3) The return to players shall not be less than the prescribed percentage.

**CHAPTER 8****BOOKMAKERS****Licence required to conduct business of a bookmaker.**

50. The business of a bookmaker shall not be conducted without a bookmaker licence issued by the Board.

**Activities authorised by a bookmaker licence.**

- 51.(1) A bookmaker licence shall authorise, subject to any conditions which the Board may impose, the conducting of the business of a bookmaker in or on the premises by laying fixed odds and open bets.
- (2) A bookmaker licence shall attach to the premises specified in the licence and shall be valid for the period as prescribed by the Board.

**CHAPTER 9****RACE MEETINGS****Prohibition of unauthorised race meetings**

- 52.(1) A person shall not—
- (a) hold, organise, arrange, attend or in any manner take part in or assist at a horse race; or
  - (b) print, publish, possess, sell or offer for sale or in any manner circulate or distribute a race card,
- unless the relevant horse race takes place at a licensed race course.
- (2) Any person who contravenes subsection (1) or any of the conditions of a race course licence shall be guilty of an offence.
- (3) In any prosecution for an offence referred to in subsection (2), any person who without lawful reason was present at the race course concerned shall be deemed to have attended such horse race.

**Race meeting licence**

53. A race course licence—
- (a) is required for the conducting of horse racing on any premises in the Province;
  - (b) shall attach to the premises specified in the licence; and
  - (c) shall authorise the holding of race meetings on the premises specified in the licence, subject to any conditions which the Board may impose.

**CHAPTER 10****FEES, TAXATION AND FINANCIAL ARRANGEMENTS****Obligation to pay prescribed fees and taxes**

- 54.(1) An applicant for a licence shall pay in the prescribed manner -
- (a) for the benefit of the Board -
    - (i) the prescribed fees; and
    - (ii) the prescribed fees for the recovery of costs incurred by the Board in connection with the application; and

- (b) for the benefit of the Provincial Revenue Fund, any lump sum payment contemplated in section 25(1)(c) or section 43(4).
- (2) The holder of a licence shall pay in the prescribed manner for the benefit of -
  - (a) The Provincial Revenue Fund;
    - (i) the prescribed tax on amounts as prescribed;
    - (ii) the prescribed penalty on the late payment of any such tax, which penalty shall not exceed twice the amount of the tax in respect of which the penalty is payable;
  - (b) the Board -
    - (i) the prescribed licence fees;
    - (ii) the prescribed penalty on late payment of amounts referred to in (i).
- (3) Every holder of a totalisator licence or bookmaker's licence shall pay to the Board in the prescribed manner for the benefit of the Provincial Revenue Fund-
  - (a) the levies as prescribed on the betting amounts as prescribed; and
  - (b) the prescribed penalty on late payment of amounts referred to in (a).
- (4) Every person who has placed a winning bet with a bookmaker shall pay the prescribed tax and levies on the prescribed amounts in the prescribed manner.

#### **Licence fees**

- 55.(1) There shall be charged and payable, in respect of any licence granted or renewed under this Act, the prescribed licence fees which shall be in addition to any other amounts or levies payable under this Act.
- (2) The licence fees prescribed in terms of subsection (1) may differ in relation to different types of licences
- (3) Any licence holder who fails to pay any licence fees referred to in subsection (1) on or before the date on which he or she becomes liable to pay such licence fees, shall, in addition to such licence fee pay the prescribed penalty: Provided that the amount of the penalty shall not exceed twice the amount of the licence fee applicable.
- (4) A licence shall, subject to the provisions of the Act and the conditions under which it was granted, remain in force and shall on application by the licence holder be renewed by the Board annually on production of the licence for the preceding year and on payment of a licence fee provided for in section 60.
- (5) An application for the renewal of a licence in terms of subsection (1) shall be in prescribed form and be submitted to the Board not later than 90 days prior to the date on which the licence becomes renewable.

### **CHAPTER 11**

#### **GENERAL PROVISIONS RELATING TO GAMBLING AND GAMBLING DEVICES**

##### **Rules of gambling games or betting**

- 56.(1) A gambling game shall not be played, or betting conducted, otherwise than in accordance with the rules approved therefore.
- (2) The holder of any licence shall in respect of any gambling game or betting authorised by such licence for which no rules have been made by the Board make rules relating to the playing of such gambling game or the conducting of such betting and submit such rules to the Board for approval.
- (3) The rules of each gambling game or betting shall be displayed as prescribed, and a licence holder shall at the request of any player make available for examination a copy of the approved rules of any gambling game or betting.

**Prohibition in respect of gambling and presumptions relating thereto**

57.(1) A person shall not without an appropriate licence—

- (a) conduct or permit the playing of any gambling game or conduct or permit any gambling in or on any premises under his or her control or in his or her charge; either directly or indirectly; or
  - (b) be directly or indirectly involved in the operation of any gambling business; or
  - (c) participate in, conduct, facilitate, promote or derive any benefit from a scheme or game of chance, or gambling game or betting unless that scheme or game of chance or gambling game or betting has been authorised by or under this Act or any other Law.
- (2) A person shall not without the approval of the Board have any direct or indirect financial interest of five per cent or more, or such percentage as may be prescribed in section 40, in any gambling business or establishment within the Province: Provided that the provisions of this subsection shall not apply to any person who acquires an interest in a licence holder in the province and-
- (a) the time contemplated in section 40 within which such person must apply to the Board for consent to hold such interest has not yet elapsed; or
  - (b) such application has been submitted to the Board and the Board has not granted or refused to grant such consent; or
  - (c) the Board has refused to grant the consent and the time contemplated in section 40 within which such person must dispose of such interest has not yet elapsed.
- (3) A person shall not, without the appropriate licence or without the prior approval of the Board, in any manner share directly or indirectly in the profits of any gambling.
- (4) Any person other than a Member or an authorised officer of the Board or a police officer, acting in the performance of his or her duties under this Act, or any person specifically authorised thereto by the Chief Executive Officer shall not play any gambling game or take part in any betting in or on, or visit, with the object of playing any gambling game or taking part in any betting, any premises which are not appropriately licensed under this Act.
- (5) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding two million Rand or imprisonment for a period of not more than ten years or to both such fine and such imprisonment.
- (6) Any person supervising or directing or assisting at or acting as a banker, dealer, croupier or in any like capacity at the playing of any gambling game or the conducting of any betting in or on any premises, other than licensed premises, and any person acting as porter, doorkeeper or servant or holding any other office in or on any such premises where any gambling game is played or betting is conducted shall be deemed to be in control or in charge of such premises.

**Manufacture, assembly, sale, distribution, importation, acquisition, marketing, alteration and modification of gambling devices**

58.(1) A person shall not, without being appropriately registered and having paid the fee as prescribed for such purpose-

- (a) manufacture, assemble, maintain, repair, sell, distribute, import, acquire, market, rent, lease or possess any—
  - (i) gambling device other than playing cards or dice;
  - (ii) amusement machine which contains reels or a video depiction of reels similar to those in a gambling machine;
  - (iii) device which was manufactured as a gambling machine, and which has been converted any time, whether a player is capable of using such device to win a prize or not;
  - (iv) device which, but for the removal of certain of its parts or the reprogramming thereof, would constitute a gambling machine;
  - (v) amusement machine on which a player is able to play roulette, bingo, twenty-one, blackjack, chemin de fer, baccarat, poker, Chinese roulette, keno or games of similar type usually played on gambling machines or variations thereof;

- (vi) computer software used in connection with gambling or betting;
- (b) alter or otherwise modify any gambling device or any associated equipment in a manner that—
  - (i) affects the result by determining win or loss; or
  - (ii) alters or affects the normal criteria of random selection which determines the outcome of a gambling game.
- (2) No application for registration shall be granted if the applicant is subject to any disqualification contemplated in section 23 which shall apply *mutatis mutandis*.
- (3) An application for registration shall be made to the Board in the prescribed form which shall state the purpose for which registration is required and shall be accompanied by—
  - (a) a complete set of fingerprints of the applicant taken in the prescribed manner;
  - (b) such documents, particulars or information as may be prescribed; and
  - (c) the prescribed application fees.
- (4) If the Board is satisfied that the applicant is a suitable person to be so employed, the Board shall grant the application subject to such conditions as the Board may determine.
- (5) The Board shall when considering an application for registration have due regard to—
  - (a) the age, character, reputation and financial and employment background of the applicant;
  - (b) any offences for which the applicant or any director or other key person associated with the applicant has been convicted and of which dishonesty is an element; and
  - (c) any other matter which may be relevant to establish whether the applicant is a suitable person to be so employed.
- (6) The Board shall not refuse an application for registration without giving the applicant the opportunity of being heard.
- (7) 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.
- (8) Where the Board grants an application for registration, the Board shall issue to the applicant a certificate of registration for the respective purpose in the prescribed form.
- (9)
  - (a) Registration in terms of this section shall, subject to the provisions of this subsection endure indefinitely.
  - (b) The Board may determine that any particular applicant shall be registered for a specified period only, but then—
    - (i) the Board 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 (8).
  - (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 or registration for an indefinite period, and if the Board grants such extension or substitution, the Board shall make the necessary alteration on the certificate of registration.
- (10) The Board shall keep and maintain a register of the names and prescribed particulars of each person to whom a certificate of registration has been issued in terms of this section.
- (11) A person who holds a certificate of registration contemplated in subsection (8) and a key person or gambling employee of such person shall not in a casino or a bingo hall, as the case may be, with which he or she is associated—
  - (a) participate in or play any gambling game in the Republic: Provided that such a person may participate in such gambling if it is necessary for the performance of his or her functions as such an employee; or

- (b) solicit any tip, gratuity, consideration or other benefit from any player or customer in that casino or bingo hall, otherwise than as prescribed.
- (12) The Board may at any time suspend for a specified period or revoke the registration of any person concerned after affording such person an opportunity of being heard if—
  - (a) any information contained in the application for registration was false in any material respect or was subject to any material omission;
  - (b) the person registered has become subject to a disqualification contemplated in section 23;
  - (c) the person registered has been convicted of an offence in terms of this Act.
- (13) Notwithstanding the provisions of subsection (1)—
  - (a) the holder of a licence, any person whose licence has been suspended or revoked or the trustee, liquidator or judicial manager of such licence holder or person may—
    - (i) with the prior written approval of the Board dispose of all or any of the devices contemplated in subsection (1) for which such licence holder holds or has held an appropriate licence in a manner approved by the Board; and
    - (ii) with the prior written approval of the Board and subject to such conditions as the Board may impose, possess such devices pending disposal or destruction;
  - (b) the holder of a licence may maintain or repair, to the extent prescribed or determined by the Board, all or any of such gambling devices or computer software lawfully in the possession of such licence holder.
- (14) A person registered in terms of this section shall not—
  - (a) possess more gambling devices than the Board has, on application approved to be in the possession of such person;
  - (b) supply or lease a gambling machine to or repair or modify a gambling machine for any person within the Province who does not hold an appropriate licence or is not registered in terms of section 24 : Provided that the provisions of this section shall not apply to a gambling machine being exported to a place outside the Province or which shall be removed from the Province immediately after such repairs or modifications;
  - (c) subject to paragraph (b), supply a gambling device other than a gambling machine or playing cards or dice to or repair or modify such gambling device for any person other than a licence holder holding an appropriate licence, a person registered in terms of section 66 or a person authorised by the Board to conduct social gambling;
  - (d) allow or permit any person to use any gambling device or amusement machine in his or her possession to gamble while such gambling device or amusement machine is not on appropriately licensed premises;
  - (e) repair or modify any gambling device which is required to be registered and is not so registered.
- (15) The provisions of sections 27 to 29 shall apply *mutatas mutandis* to any application contemplated in this section.
- (16) Any person who contravenes a provision of this section shall be guilty of an offence.

**Cheating and cheating devices**

59.(1) A person shall not—

- (a) allow anyone to conduct cheating or to operate any cheating device or provide any person with information or with a device to cheat in any gambling game or betting;
- (b) conduct, allow or expose for play any gambling game played with cards which have, or with any gambling device which has, been marked, tampered with, placed in a condition or operated in a manner that tends to deceive the licensee, the players or the public, or to alter the normal random chance of the gambling game, or to determine or alter the result of the gambling game;
- (c) make use of any counterfeit chip or token or contravene the rules of any gambling game or interfere in any way with any gambling device or any other device used for gambling with the intention of obtaining any direct or indirect pecuniary advantage, whether for himself or herself or any other person;
- (d) alter or misrepresent the outcome of a casino game or other event on which wagers have been made after the outcome is determined but before it is revealed to the players;
- (e) place, increase or decrease a bet or determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet, or aid anyone in acquiring such knowledge, for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;
- (f) generally, cheat at any gambling game;
- (g) claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from any gambling activity, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
- (h) place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet;
- (i) reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet;
- (j) manipulate, with the intent to cheat, any component of a gambling device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game or the amounts won or lost;
- (k) administer or cause to be administered to any horse which is in training for the purpose of participating in a horse race, by invasive or non-invasive routes, including oral, rectal, transdermal, intradermal, subcutaneous, intramuscular, intravenous or any other route whatsoever—
  - (i) any endocrine or hormonal substance, whether natural or synthetic;
  - (ii) any medicinal substance, chemical or drug; or
  - (iii) any other substance which may act as a stimulant or depressant thus affecting the speed, stamina, courage, conduct or performance of a horse during an horse race or prior to such race; or
- (l) use or cause to be used in or on any horse which is in training for the purpose of participating in any horse race any electronic, electric, galvanic, reflective, fluorescent or laser equipment or apparatus that may cause injury or affect the performance of such horse during the course of an horse race or prior to such race;

Provided that the provisions of paragraphs (k) and (l) shall not prevent the administration of any such substance, chemical or drug to any horse or the use of any such equipment or apparatus in or on any horse for the treatment of such animal for therapeutic reasons.

(2) For the purposes of this section "cheating" also means—

- (a) the alteration of the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game; and
- (b) the use of any scheme, arrangement, system or plan which the Responsible Member may from time to time by notice in the *Provincial Gazette* declare to be cheating, and "cheat" has a corresponding meaning.

**Prohibition of gambling by certain persons**

- 60.(1) A person who is in any way concerned with the management, supervision, control or administration of a casino or any gambling game played at the casino shall not directly or indirectly participate in such gambling game or in gambling at that casino or at any other casino operated by the same licence holder in the Province, save in so far as he or she may be required to do so by the nature of his or her employment in the operation of such gambling game so as to enable other persons to participate in the gambling game.
- (2) Persons under the age of 18 years shall not—
- (a) enter any area where gambling takes place;
  - (b) take part in any gambling or betting or handle or operate a gambling machine; or
  - (c) be entitled to enforce any gambling debt, notwithstanding the provisions of section 84
- (3) A licence holder or employee of a licence holder shall not permit any person who is—
- (a) under the age of 18 years; or
  - (b) subject to an order in terms of subsection (4) and which has been served on such licence holder in terms of subsection (5) or included in a list issued in terms of subsection (7) which has been delivered to the licence holder in the manner prescribed;
- to enter or remain in any area where gambling takes place or to take part in any gambling or betting or to handle or operate a gambling machine.
- (4) Where the court which has convicted a person of any offence is of the opinion that, by reason of the nature of the offence or the circumstances under which it was committed, it is desirable in the public interest that such person should not be permitted to enter any or specific premises licensed under this Act or to make a bet or wager by way of teletransmission, the court may issue a written order prohibiting him or her from entering any such premises or making such bet or wager specified in the order for a period to be stated in the order.
- (5) Where a court makes an order under subsection (4), the clerk of the court shall submit a copy thereof to the Chief Executive Officer who shall cause a copy thereof to be delivered to the licence holder or licence holders named in the order.
- (6) The holder of a licence or an employee of such a licence holder may—
- (a) refuse to admit any person to the licensed premises;
  - (b) request any person who is in the licensed premises, to leave the premises;
  - (c) request proof of age;
  - (d) request any police officer or inspector to remove or assist in removing from the licensed premises any person contemplated in paragraph (a) or (b) or remove from the licensed premises any person who refuses or fails to comply with a request contemplated in paragraph (a) or (b).
- (7) The Board may, in the prescribed manner, compile a list of persons who are to be excluded or ejected from such licensed premises specified in the list or prohibited from participating in such gambling specified in the list where the Board is of the opinion that it is in the public interest or the interest of that person that he or she be included on the list.
- (8) A person may be included on the list contemplated in subsection (7) if he or she—
- (a) has contravened the gambling laws of any country;
  - (b) has contravened or conspired to contravene the provisions of this or any similar Act;
  - (c) is prohibited by a court order from entering any or specific licensed premises;
  - (d) has requested the Board to place his or her name on such list;
  - (e) has had his or her name placed on a similar list contemplated in the similar legislation of another province of the Republic;



- (f) is considered by the Board, after application by an interested person, to suffer from a gambling problem, in that he or she regularly—
    - (i) gambles more than he or she can afford to lose; and
    - (ii) uses household funds to gamble to the serious detriment of his or her dependants;
  - (g) in the opinion of the Board -
    - (i) is unable to appreciate that he or she has a gambling addiction; or
    - (ii) appreciates that he or she has a gambling addiction but is unable to act in accordance with such appreciation; or
  - (h) whilst gambling leaves a child under the age of ten years unattended for a period which is, in the circumstances, unreasonable taking into account—
    - (i) the age of the child;
    - (ii) the period the child was left unattended;
    - (iii) the weather and time of day;
    - (iv) the location at which the child was left;
    - (v) any provision for the entertainment of the child.
- (9) A licence holder shall not allow a person whose name is included on the list contemplated in subsection (7) to enter any gambling area or licensed premises from which he or she is excluded or to participate in any gambling from which he or she is excluded.
- (10) The holder of a licence or any key person in the employ of such licence holder may, for any justifiable reason—
- (a) refuse to admit any person other than a Member of the Board, inspector, police officer or person specifically authorised thereto by the Board to the licensed premises;
  - (b) request any person other than a Member of the Board, inspector, police officer or person specifically authorised thereto by the Board who is on any part of the licensed premises to leave that part; and
  - (c) request any police officer to remove or assist in removing from the licensed premises any person other than a Member of the Board, inspector police officer, person authorised by the Board to be in such premises.
- (11) Any person who contravenes the provisions of subsections (1), (2), (3) or (9) or the terms of an order granted in terms of subsection (4) shall be guilty of an offence.
- (12) Any money won by a minor or person whose name has been included on the list contemplated in subsection (8) shall be forfeited to the Provincial Revenue Fund.

#### **Liability for activities in relation to gambling games and betting**

61. No person shall be exempt from liability under any provision of this Act in respect of any act or thing done by him or her, or authorised or permitted by him or her to be done, in the Province in connection with any gambling game or betting merely by reason of the fact that the management or conducting thereof is in whole or in part carried on at some place outside the Province.

**Gambling machines and devices to be registered**

62.(1) Subject to subsection (3), a holder of a licence shall not keep or maintain—

- (a)
  - (i) roulette table;
  - (ii) roulette wheel;
  - (iii) blackjack table;
  - (iv) craps table;
  - (v) baccarat table;
  - (vi) punto banco table;
  - (vii) poker table;
  - (viii) a table used for playing a gambling game similar to or derived from a game contemplated in paragraphs (i) to (vii);
  - (ix) gambling machine; or
  - (x) gambling device which the Board determines must be registered which has not been separately registered by the Board;
- (b) any card used in connection with the playing of bingo or of any casino game which is not identical in form to a card which has on application been approved, registered or otherwise authorised by the Board; or
- (c) game E —Prom not approved, registered or otherwise authorised by the Board.

(2) Any holder of a licence who acquires or intends to obtain possession of a gambling device contemplated in subsection (1)(a) shall, before taking delivery of such device—

- (a) where such device is unregistered, obtain registration thereof;
- (b) where such device is registered, obtain transfer of the registration thereof.

(3) A person shall not expose for play by the public or any part thereof a gambling device contemplated in subsection (1)(a) which has not been separately registered by the Board.

(4) An application for registration or transfer of registration shall be made in the manner determined by the Board.

(5) A person shall not remove a registered gambling device from the licensed premises of the licence holder to whom such device is registered unless—

- (a) such device is seized or attached in terms of this Act or any other law;
- (b) such device is permanently removed from the Province;
- (c) such device is removed to the premises of a person registered in terms of section 63 or the apposite legislation of another province for repair purposes;
- (d) the registration of the gambling device has been transferred in terms of subsection (2);
- (e) such device is inoperative to the satisfaction of the Board and the registration thereof is cancelled;
- (f) such device is removed for temporary operation in terms of a temporary licence; or
- (g) the Board has upon application in the manner determined by the Board, granted approval for such removal.

(6) A gambling device which does not meet the prescribed standards shall be not—

- (a) registered; or

- (b) exposed for play.
- (7) (a) The provisions of this section shall not apply to playing cards or dice.
- (b) The provisions of subsection (2) shall not apply to—
- (i) gambling devices being returned to such licence holder after being temporarily removed for repairs;
- (ii) gambling devices other than gambling machines which are removed for the purposes of social gambling for which the Board has issued a temporary licence or permission.
- (8) For the purposes of this section, "gambling machine" shall include a limited payout machine.
- (9) Notwithstanding the provisions of this section, a limited payout machine shall be registered to the route operator concerned and may be removed—
- (a) from a licensed site or the premises of such licensed route operator to a licensed site; or
- (b) from a licensed site to the premises of such licensed route operator,
- if the route operator concerned informs the Board of such removal prior to such removal.
- (10) Any holder of a licence who contravenes a provision of subsection (1) or (2) and any person who contravenes a provision of subsection (3), (5) or (6)(b) shall be guilty of an offence.

#### National requirements

63. If in terms of an Act of Parliament or regulations promulgated—
- (a) the make, model or type of any gambling machine, roulette wheel, gambling device, other apparatus or card contemplated in section 58 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 58 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 systems

- 64.(1) The Board shall subject to the provisions of section 58, approve and register any electronic monitoring system which has been certified in terms of the National Act.
- (2) All gambling machines shall be linked to a central monitoring system referred to in subsection (1).
- (3) A person shall not link to any central electronic monitoring system a device which has not on application been approved and registered in terms of subsection (1).
- (4) Any person who contravenes subsection (2) or subsection (3) shall be guilty of an offence.

## CHAPTER 12

## REGISTRATION OF CERTAIN PERSONNEL

**Disqualification for employment licences**

- 65.(1) A person must not hold an employment licence issued in terms of this Act, if that person-
- (a) is not a fit and proper person, in that such person's character, integrity, honesty, prior conduct, regard for the law, reputation, habits and association may reasonably pose a threat to the health, safety, morals, good order and general welfare of the inhabitants of the Province or to the provisions and policy of this Act;
  - (b) is an unrehabilitated insolvent or is subject to any legal disability;
  - (c) is a Member of a Board, or a Member of Executive Council or is a family member of such a person;
  - (d) is an employee of the Board, or a family member of such person provided that the Board may condone such disqualification, where it exists in respect of a family member, if it is satisfied that no material conflict of interests will arise by reason of such employment;
  - (e) is under the age of eighteen years old;
  - (f) is a public servant or political office bearer;
  - (g) is listed on the register of excluded persons contemplated in the National Act;
  - (h) is subject to an order of a competent court holding that person mentally unfit;
  - (i) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or
  - (j) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or an offence in terms of this Act or the National Act and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence.

**Key personnel to be registered**

- 66.(1) Every executive and agent, including a junket agent associated with a gambling business or any person in the employ of a holder of a licence issued under this Act who may exercise control over gambling operations in or on any premises where gambling is conducted in the Province and, in the case of a person registered in terms of section 58, a person contemplated in subsection (2)(f) of this section is required to be registered in terms of this section.
- (2) Persons employed in any of the following or substantially similar positions shall be registered as key persons for the purposes of the section-
- (a) managers;
  - (b) supervisors;
  - (c) pit bosses;
  - (d) in house inspectors;
  - (e) surveillance personnel;
  - (f) in the case of a company or close corporation registered in terms of section 63, the directors or Members thereof respectively; and
  - (g) any other position considered by the Board to be that of a key person generally or in relation to any gambling business in particular.
- (3) Any person desiring to be registered as contemplated in subsection (1) shall make application for such registration to the Board.

- (4) An application for registration shall be not granted if the applicant is subject to any disqualification contemplated in section 23
- (5) The Board shall not refuse an application for registration without giving the applicant the opportunity of being heard.
- (6) When the Board refuses an application for registration the Board shall, on request, furnish the applicant concerned in writing with the reasons for such refusal.
- (7) Where the Board grants an application for registration, the Board shall, on payment of the respective fees set out in the regulation issue to the applicant a certificate of registration.
- (8) Registration shall endure for such period as determined by the Board: Provided that such period may, on request, be extended in the discretion of the Board.
- (9) The Chief Executive Officer shall keep and maintain a register in which are entered the name and required particulars of each person to whom a certificate of registration has been issued in terms of this section.
- (10) The provisions of this chapter shall come into operation ninety days after the coming into operation of the Act in respect of any gambling business conducted under the licences contemplated in Item 2(5) of the Schedule II to this Act.
- (11) In determining whether or not a person is a key person the Board shall not be restricted by the job title or designation of such person, but may consider the functions and responsibilities of such person in making its decision.
- (12) A licensee shall, within fourteen days of termination of the employment of a key person, notify the Board in writing of such termination and the reasons therefore.
- (13) If the Board considers that an employee of any licence holder is a key person, it shall serve written notice to that effect on the licence holder by whom such employee is employed.
- (14) The holder of a licence shall within thirty days of receipt of such written notice present to the Board an application in the form required by the Board for the registration of such employee as a key person or provide proof that such person is no longer employed by him or her.
- (15) An employee who is subject to disqualification for registration as a key person in terms of this section may make written representation to the Board to reconsider his or her status within the business concerned, and if the Board thereupon determines that the employee is not a key person, such employee shall be allowed to withdraw his or her application and, if so, the application fee shall be refunded.

#### **Gambling employees to be registered**

67.(1) Every person who, in the Province, is employed—

- (a) at or by a gambling business; or
  - (b) by a business registered in terms of section 58(1), and who is directly involved in the operation of such a business or the activities performed thereafter, is required to be registered in terms of this section.
- (2) Persons employed in any of the following or substantially similar positions shall be regarded as gambling employees for the purposes of this section-
- (a) cashiers and ticket-sellers;
  - (b) count room personnel;
  - (c) dealers and croupiers;
  - (d) machine mechanics;
  - (e) bookmaker managers;
  - (f) security personnel; and
  - (g) any other position considered by the Board to be that of a gambling employee generally or in relation to any gambling business in particular:

Provided that if the Board is of the opinion that an employee of any licence holder is a gambling employee, it shall serve written notice to that effect upon the licence holder by whom such employee is employed whereupon the provisions of section 66 (11), (13), (14) and (15) shall *mutatis mutandis* apply.

- (3) A person required to be registered as a gambling employee shall not be employed by or assist any licence holder before he or she has been so registered, and in respect of such registration the provisions of section 66(3) to (10) inclusive shall *mutatis mutandis* apply.
- (4) Persons registered as key personnel shall not be required to register as gambling employees.
- (5) A licence holder shall within fourteen days of the termination of the employment of a gambling employee, notify the Board in writing of such termination and the reasons therefore.

#### Casual gambling employees

- 68.(1) Notwithstanding the provisions of section 67 no gambling employee registration shall be required in respect of any person performing any activity contemplated in section 67 in the employ of the holder of a totalisators licence or bookmaker licence, if that person performs those activities on less than nine days or part thereof, of which no more than two such days shall be consecutive, per calendar year.
- (2) Every licence holder who employs an employee on the basis contemplated in subsection (1) shall, no less than forty-eight hours prior to each performance by that employee of any activity referred to in section 67, enter into or cause to be entered into a register specifically kept on an annual basis for that purpose
  - (a) the full names and identity number of such an employee;
  - (b) the date on which the activity or service to be performed by that employee will be performed;
  - (c) the nature of the activity or service to be performed;
  - (d) the location at which that activity or service will be performed;
  - (e) the amount of remuneration to be paid to such an employee;
  - (f) the number of occasions in the calendar year to which the register relates, upon which that employee has performed any activity or service in terms of this section for the licence holder; and
  - (g) the date of entry of the particulars required in terms of this section into the register, and shall simultaneously advise the Board of such an employment by telefax transmission.
- (3) A register kept by a licence holder in terms of subsection (2) shall at all times be available for inspection by the Board or any of its authorised officers, and shall be kept by the licence holder for a period of two calendar years from the date on which it was opened.
- (4) Any person who contravenes the provisions of this section shall be guilty of an offence.

#### Temporary gambling employee registration

- 69.(1) Notwithstanding the provisions of section 66 and 67 of the Act, the Board may issue a temporary gambling employee registration for purposes of section 66 and 67-
  - (a) where a person has applied for permanent registration in terms of sections 66 and 67 for temporary registration pending the outcome of such application for permanent registration; or
  - (b) where such person is to be employed at a casino on a temporary period of no more than two weeks for training purposes or such other purposes as the Board may approve.
- (2) The temporary registration contemplated in subsection (1) shall be subject to-
  - (a) conditions prescribed or determined by the Board; and
  - (b) payment of the prescribed application, registration and Board administration fees.

## CHAPTER 13

## RESTRICTIONS, LIMITATIONS AND PROHIBITIONS

**Advertising**

- 70.(1) A person may only advertise the business of a licence holder in the manner prescribed, and in accordance with this Act and National Act.
- (2) A person shall not within the Province advertise gambling or gambling business to Members of the public or any part thereof unless-
- (a) the gambling business concerned is a licence holder;
  - (b) the gambling business concerned is licensed to conduct gambling in terms of the law of another province of the Republic of South Africa; or
  - (c) the gambling business concerned is licensed to conduct gambling in terms of the law of a jurisdiction outside of South Africa and-
    - (i) the advertisement is published, or transmitted, from outside the Republic of South Africa and persons resident in South Africa are not the sole or main audience for whom the advertisement is intended; or
    - (ii) the advertisement complies with the prescribed requirements and persons responding to the advertisement will have to travel out of the Province to participate in the gambling contemplated in the advertisement.
- (3) Any person who contravenes the provisions of subsections (1) or (2) shall be guilty of an offence.

**Prohibition on gambling credit**

- 71.(1) A holder of a licence shall not extend credit to any persons for the purposes of gambling unless otherwise prescribed by the Board or by regulation under this Act.
- (2) Any person who contravenes the provisions of this section shall be guilty of an offence.

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

- 72.(1) Subject to provisions contained in any Act of Parliament and the provisions of this Act or any other law a person may only gamble or bet on the result of-
- (a) a gambling game;
  - (b) a bingo game;
  - (c) the operation of a gambling machine;
  - (d) a horse race; or
  - (e) a lawful sporting event.
- (2) A person may only gamble or make a bet on the result of an event or contingency contemplated in subsection (1), or any other event or contingency as contemplated in section 24(1) of this Act, with 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.

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

- 73.(1) Subject to subsection (3)(a), a person shall not—
- (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, subject to the provisions of section 40, not apply to—
    - (i) a junket agent registered in terms of section 66 in respect of a particular casino;
    - (ii) any agent for the holder of a totalisators licence which takes totalisators bets on behalf of such licence holder on premises specified in such licence if the agent is the holder of a licence issued in terms of the Act or has obtained a certificate of suitability in terms of section 84 and the natural person taking such bet on behalf of that agent is registered in terms of section 66 or 67; and
    - (iii) any holder of a totalisators licence issued in terms of the laws of another province who operates a totalisators on behalf of the holder of a totalisators licence issued by the Board where such operator has obtained a certificate of suitability in terms of section 84;
  - (b) subsection (2) shall not apply to
    - (i) 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;
    - (ii) a junket agent in respect of a junket to a casino.
- (4) Any person who contravenes a provision of subsection (1) or (2) shall be guilty of an offence.

#### Place of gambling and settling gambling debts

- 74.(1) A person shall not gamble or make or place a bet at any place other than on appropriately licensed premises: Provided that gambling by means of the placing of a voice or data telephone bet on a lawful sporting event 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.
- (2) A gambling debt may only be settled at—
- (a) licensed premises;
  - (b) a place authorised by the Board on application by the holder of the licence concerned;
  - (c) a place where a debt is ordinarily paid in such circumstances when the debt is paid pursuant to a court order or the terms of settlement of legal proceedings instituted for its recovery;
  - (d) in the case of a debt owed by a holder of a totalisators licence or bookmaker licence or a Member of the public to the holder of a totalisators licence or bookmaker licence—
    - (i) at a place contemplated in paragraph (a), (b) or (c); or
    - (ii) by crossed cheque marked not transferable sent by post to the holder of the totalisator or bookmaker licence concerned, or by way of electronic funds transfer.
  - (e) in the case of a debt owed by the holder of a totalisators licence or a bookmaker licence to a Member of the public—
    - (i) in a manner contemplated in paragraph (a), (b) of (c); or
    - (ii) by crossed cheque marked not transferable sent by post to the physical address of the winning person concerned.
- (3) A licence holder contemplated in this section shall not accept a bet from—
- (a) a person under the age of 18 years;
  - (b) any person whose name is included on the list of excluded persons contemplated in section 60 which has been delivered to such licence holder in the manner prescribed; or



- (c) any person by way of voice or data telephone transmission if the placing of such bet by such person will constitute a crime by such person in the jurisdiction from which the bet is so placed.
- (4) (a) A person physically present in the Province shall not participate in a gambling game by way of telephone, telefax, interactive television, electronic mail or internet transmission or any such communications medium.
- (b) A person shall not, in relation to any person who he or she knows to be physically present in the Province or should reasonable suspect is so present, invite such person to participate in a gambling game or enter into a gambling game with such person if the gambling game concerned is conducted wholly or partially by way of telephone, telefax, interactive television, electronic mail or internet transmission or any such communications medium.
- (c) The provisions of paragraphs (a) and (b) shall not apply-
  - (i) to a bet taken with or by a bookmaker or totalisator licensed in a province of the Republic who is licensed to accept such bet; or
  - (ii) where the person playing the gambling game is physically present on the licensed premises of the licensee offering the game when the game is played.
- (5) Any person who contravenes a provision of subsection (1), (2), (3) or (4) shall be guilty of an offence.

## CHAPTER 14

### INSPECTIONS AND ENQUIRIES

#### Appointment of inspectors

- 75.(1) The Chief Executive Officer may on behalf of the Board appoint a person as an inspector for the purposes of this Act.
- (2) A person shall not be appointed as an inspector if he or she is subject to any disqualification contemplated in section 11, which shall apply *mutatis mutandis*.
- (3) 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 may determine.
- (4) An inspector shall be provided with a certificate of appointment signed by the Chief Executive Officer of the Board and in which it is stated that he or she has been appointed as an inspector under this Act.
- (5) 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.
- (6) 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.
- (7) Any person who contravenes a provision of subsection (6) shall be guilty of an offence.

#### Powers of inspectors

- 76.(1) For the purposes of this Act an inspector may at any time enter any licensed or unlicensed premises, where, in the opinion of the inspector, gambling is taking place, 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) to obtain any information, programme or data which refers to or is suspected to refer to gambling or betting or any activities incidental thereto stored on a computer by-
    - (i) personally operating or instructing a computer; or
    - (ii) requesting a competent person on the premises to operate or instruct the computer

to produce a printout or electronic copy of any such information, programme or data;

- (d) examine any article or other object found in or upon those premises 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;
  - (e) seize, against the issue of a receipt, any document or object referred to in paragraphs (a), (b) or (c) if it appears to provide proof of a contravention of this Act, or if he or she wishes to retain it for further custody or for safe custody: Provided that a person from whose possession or charge any such document is 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 supervision of such inspector, to make copies thereof or take extracts there from at any reasonable time.
- (2) An inspector may, if so authorised by a warrant or in the company of an officer of the South African Police Service so authorised or acting in terms of section 22 of the Criminal Procedure Act, 1996 (Act No. 51 of 1977), 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*;
  - (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; and
  - (d) seize any document or object referred to in subsection (1)(b), (c) and (d) 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 there from at any reasonable time.
- (3) An inspector may, in accordance with the uniform rules of court, at any time deliver such summonses as the Board is authorised to issue in terms of this Act or its rules and regulations.
- (4) 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.
- (5) For the purpose of this Act or any other national or provincial law in respect of gambling and associated activities, an inspector is deemed to have been appointed a peace officer for the purposes of the relevant sections of the Criminal Procedure Act, 1997 (Act No. 51 of 1977).

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

- 77.(1) The holder of a licence, a certificate of registration or other written authority issued in terms of this Act, shall on demand produce such licence, certificate or authority to an inspector or officer of the South African Police Service.
- (2) A licence issued in terms of this Act shall be prominently displayed in a conspicuous place in the licensed premises.
- (3) Every key person and gambling employee shall have his or her registration card or certificate available for inspection in such manner as the Board may determine at all times when such person is on duty.
- (4) Any person who contravenes a provision of this section shall be guilty of an offence.
- (5) A licensee shall in respect of every employee required to be registered in terms of this Act, keep a copy of such employee's registration card or certificate on the employment record of that employee.

## CHAPTER 15

## MISCELLANEOUS PROVISIONS

## Regulations

78.(1) The Responsible Member may, after consultation with the Board, by notice in the *Provincial Gazette* make regulations regarding—

- (a) any matter pertaining to gambling;
- (b) any matter pertaining to an application for a licence;
- (c) the management and control of licensed premises;
- (d) the take-out, commissions or other charges which the holder of the licence may charge;
- (e) the stakes for which any gambling game may be played;
- (f) the management and control of horse racing;
- (g) registration in terms of this Act;
- (h) gambling areas;
- (i) any matter which in terms of this Act is required to or may be prescribed;
- (j) any matter which is requiring to be limited or controlled in terms of the National Act;
- (k) the specifications relating to gambling devices including chips and tokens;
- (l) monitoring and surveillance systems and the operation thereof;
- (m) the keeping of records;
- (n) the number, distribution and location of limited payout machines;
- (o) factors the Board must take into account in considering applications for licences;
- (p) in general, any matter in respect of which it is necessary or expedient to make regulations for achieving the objects of this Act;

Provided that any regulation with financial implications shall be in line with the Public Finance Management Act or any related legislation.

- (2) A regulation made under this section may for a contravention thereof or failure to comply therewith, prescribe a fine not exceeding one million Rand or imprisonment for a period not exceeding two years or both such fine and imprisonment.
- (3) Different regulations may be made under this section in respect of different kinds of licence, licences of the same kind having different characteristics, different categories of persons or different areas.
- (4) Not less than two months 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, to the Responsible Member.
- (5) The provisions of subsection (4) shall not apply in respect of—
  - (a) any regulation which has been amended by the Responsible Member in consequence of comments or representations received in response to the invitation there mentioned; or
  - (b) any regulation in respect of which the public interest requires it to be made without delay.

**Rules of the Board**

- 79.(1) The Board may, in consultation with the Responsible Member, and by notice in the *Provincial Gazette* make rules not inconsistent with the provisions of this Act relating to the exercise of its powers and the performance of its functions, including—
- (a) any matter pertaining to an application for a licence or registration;
  - (b) the management and control of licensed premises and gambling operations;
  - (c) rules for playing of any gambling game or betting;
  - (d) internal control measures for licence holders;
  - (d) the books, accounts and records to be kept and furnished;
  - (e) any matter which, in terms of this Act is required or permitted to be determined; and
  - (f) any other matter pertaining to the functions of the Board.

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

- 80.(1) The Board shall as soon as practicable after 31 March in each year but not later than five months thereafter submit to the Responsible Member and the Provincial Treasury a report on its activities during the year ending on that date together with the audited financial statements referred to in section 18 and the reports of the Auditor-General on those statements.
- (2) The Responsible Member shall lay a copy of the annual report, audited financial statements and the report of the Auditor-General submitted to him or her in terms of subsection (1) in the Provincial Legislature within one month after its receipt.
- (3) The Board may publish general information or statistics on gambling and betting activities in the Province.

**Patron disputes**

81. If a licence holder refuses payment of alleged winnings to a player and the licence holder and the player are unable to resolve the dispute to the satisfaction of the parties, the dispute shall be resolved in accordance with the prescribed procedure in the Act including the Regulations and Rules.

**Reward for informers**

82. The Board may, notwithstanding anything to the contrary in any other law contained, from its funds pay, to any person who has furnished information leading to the conviction of any other person for a contravention of any provisions of this Act, a reward in such amount as the Board may decide or is prescribed.

**Vicarious responsibility**

- 83.(1) When the manager of the business to which the 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 purpose 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.
- (3) For the purpose of this section the term "agent" shall include a junket agent.

**Suitability of third parties****84.(1) The Board may-**

- (a) prohibit a licensee from contracting with any person for the acquisition by such licensee of any goods or services or for the borrowing or lending of money or the letting or hiring of any movable or immovable property until; or
  - (b) require any person acquiring, or holding a financial interest of five percent or more in the holder of a certificate of suitability to alienate such financial interest unless such supplier, lender, lessor or person has obtained a certificate of suitability from the Board and paid the fees and expenses of the Board relative thereto.
- (2) The Board may at any time, after affording a supplier or lender an opportunity of being heard, revoke the certificate of suitability granted in terms of subsection (1), if in the opinion of the Board, such supplier or lender is deemed to be no longer suitable.
- (3) The provisions of sections 21 to 35 shall *mutatis mutandis* apply to an application contemplated in subsection (1) or a revocation in terms of subsection (2).
- (4) When considering an application contemplated in subsection (1) or revocation in terms of subsection (2), the Board shall have regard to the grounds of disqualification contemplated in section 23.

**Gambling debts enforceable**

- 84A Any gambling debt lawfully incurred by a person in the course of a gambling activity regulated by law and which is not in any respect in conflict with such law shall, notwithstanding the provisions of the common law or any other law, be enforceable in law.

**Offences and penalties****85.(1) Any person who—**

- (a) makes any false statement in any application or return under this Act;
- (b) contravenes any condition of a licence;
- (c) in or on any licensed premises conducts any gambling game or betting or keeps any gambling device which is not approved under this Act or conducts any gambling game or betting otherwise than in accordance with the approved rules of such gambling game or betting;
- (d) hinders or obstructs any Member of the Board, authorised officer or police officer whilst taking steps for the prevention or investigation of an offence under this Act;
- (e) fails to comply with an order made under section 60(4) or knowingly permits such person to enter the premises or part thereof;
- (f) having been summoned to give evidence at a hearing or an enquiry, without sufficient cause fails to attend such hearing or investigation at the time and place specified in the summons, or to remain in attendance until the conclusion of the hearing or investigation at the time and place specified in the summons, or to remain in attendance until the conclusion of the hearing or investigation or until excused by the Board from further attendance, or to produce any book, document or thing in his or her possession or custody or under his or her control, which he or she has been summoned to produce;
- (g) having been summoned under section 21 or any section in respect to which the provisions of section 21 apply—
  - (i) without sufficient cause refuses to take the oath or to make an affirmation as a witness after he or she has been directed by the Member of the Board presiding at the enquiry to do so, or refuses to testify or, subject to the law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law, refuses or fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her; or
  - (ii) after having taken the oath or having made an affirmation, gives false evidence before the Board at any enquiry on any matter, knowing such evidence to be false or not knowing or not believing it to be true;
- (h) is in possession of any gambling device, other than playing cards or dice, which is used without an appropriate licence or registration or not in accordance with the provisions of this Act;

- (f) is in possession of—
- (i) a gambling machine;
  - (ii) a reel tape designed for use in a gambling machine;
  - (iii) any device which would be a gambling machine but for the removal of any of its parts or the reprogramming thereof;
  - (iv) any device which is capable of electronically representing the reels used in a gambling machine;
  - (v) any device which was manufactured as a gambling machine and which has been converted at any time so that is unable to pay out cash or tokens, whether such device enables a player to win a prize or not;
  - (vi) any computer software which enables a player to download any credits won on a gambling game to another computer or to an external data storage device; or
  - (vii) any computer hardware which is primarily designed or constructed for use in playing of games contemplated in subparagraph (v) on a computer;
  - (viii) document, book, record, contrivance or instrument or thing used for the purpose of or in connection with the commission of an offence under this Act,
- without an appropriate licence, without being registered in terms of section 58 and without being authorised by the Board to transport such device in or through the Province;
- (g) is in possession of any gambling device contemplated in section 62 or a table layout for a game contemplated in section 62(1)(a)(i) to (viii) and who is not either—
- (i) the holder of an appropriate licence;
  - (ii) registered in terms of section 58;
  - (iii) authorised by the Board to use such device for social gambling; or
  - (ix) authorised by the Board to transport such device in or through the Province;
- (k) uses a gambling device or amusement machine otherwise than in accordance with the provisions of the Act;
- (l) exposes a gambling machine for play by Members of the public without being the holder of an appropriate licence;
- (m) is the holder of a route operator licence or gambling machine site licence and exposes for play or allows to be exposed for play—
- (ii) a gambling machine which does not comply with the provisions of section 46; or
  - (iii) more limited payout machines than such licence holder is licensed for;
- (n) otherwise than in accordance with the provisions of this Act, in the case of a computer—
- (ii) uses such computer to play a gambling game; or
  - (iii) exposes such computer for play by Members of the public or any section thereof and allows such computer to be used for the playing of gambling games,
- whether on such premises or by way of internet or intranet transmission;
- (o) transports any device contemplated in paragraph (i) or (j) within or through the Province without—
- (i) the prior written permission of the Board; and
  - (ii) an appropriate licence; or

- (iii) being registered in terms of section 58 of the Act;
- (p) by way of a scheme or arrangement directly or indirectly converts into cash, tokens, credit, debits, cheques or other value instruments any—
  - (i) object or ticket contemplated in the definition of "amusement game" in section 1 which was received by any person as a prize won on such amusement game; or
  - (ii) non-cash object or ticket received by a person in return for attending any premises on which any electronic, mechanical or electro-mechanical device, whether a gambling device, an amusement machine or otherwise, is exposed for play by Members of the public or any section thereof or in return for playing such device :

Provided that the provisions of this paragraph shall not apply to any family member of any person who received such prize, object or ticket or to any person related to such person within the third degree of consanguinity where the prize or object is not a ticket contemplated in subparagraph (i) and is not exchanged for more than its retail value;

- (q) exposes for play an amusement machine which, in terms of a rule of the Board is required to be registered, which is not so registered;
- (r) in terms of the rules of the Board required to be licensed or to hold an appropriate category of amusement licence and who—
  - (i) is not so licensed; or
  - (ii) holds an inappropriate category of amusement licence;
- (s) directly or indirectly provides credit to any person for the playing of an amusement game: Provided that this paragraph shall not apply to persons who provide such credit to their family members;
- (t) without an appropriate licence utilises one or more machines of a kind contemplated in paragraph (i) to distribute one or more prizes (other than an opportunity to play a single further game) to persons who have paid a subscription to play such machine;
- (u) utilises the results of more than one game played on one or more amusement machines or limited payout machines to pay a player a prize additional to that which would have been won by that player if such player had only played such machines: Provided that this subparagraph shall not apply to a prize provided for in paragraph (iii) of the definition of "amusement game" where all the requirements of that paragraph are complied with;
- (v) possesses or exposes for play by Members of the public or any section thereof an amusement machine capable of playing games such as roulette, bingo, twenty-one, blackjack, chermin de fer, baccarat, poker, Chinese roulette, keno and other games of similar type usually played on gambling machines or derived from such games;
- (w) exposes for play by Members of the public or any section thereof a computer and uses such computer as an amusement machine to play amusement games of the kind contemplated in paragraph (y);
- (x) distributes or makes available computer software in the Province which is intended to be used by persons in the Province to link to gambling businesses located outside the Province which offer gambling games on the internet;

(y) contravenes or fails to observe any provision of this Act which does not provide accordingly

shall be guilty of an offence and on conviction (unless otherwise expressly provided elsewhere in this Act) be liable to a fine not exceeding ten million Rand or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Any person who contravenes or fails to observe a rule made in terms of section 79 shall be guilty of an offence and liable on conviction to a fine not exceeding R500 000 or imprisonment for a period not exceeding six months.

(3) All fines imposed in terms of this Act shall accrue to the Board.

(4) The provisions of paragraphs (h), (i), (j) and (o) of subsection (1) shall not apply to—

(a) the Board, the South African Police Service or any person possessing such device or machine at the instance of the Board or the South African Police Service;

(b) a *bona fide* museum which the Board has on application authorised to possess such device or machine : Provided that—

(i) the device or machine shall be kept in such a manner that it is not available to be played or operated by any person; and

(ii) such device or machine is disabled to the satisfaction of the Board;

(c) any temporary display or exhibition of gambling devices or amusement machines which has on application been approved by the Board : Provided that—

(i) such devices or machines shall not be used for gambling while being so displayed or exhibited;

(ii) no player of such device or machine shall receive or be entitled to receive a prize other than the one or more opportunities to play a further game; and

(iii) any conditions imposed by the Board shall be complied with;

(d) any other person whom the Board on application allows to possess such device or machine on a temporary basis : Provided that—

(i) such device or machine shall not be available to be played or operated by, or be accessible to, any other Member of the general public and shall not be used for gambling;

(ii) no player of such device or machine shall receive or be entitled to receive a prize;

(iii) the device or machine shall be used only for the purpose approved by the Board; and

(iv) any conditions imposed by the Board shall be complied with:

Provided that persons contemplated in paragraphs (b), (c) and (d) shall inform the Board in writing beforehand of all movements of gambling devices and amusement machines contemplated in this subsection and shall comply with any rules made by the Board with regard to such persons.

(5) The provisions of paragraphs (h), (i), (j) and (o) of subsection (1) shall not apply to the owner of any gambling device, such machine or amusement machine which enters the Province on any passenger ship or passenger aircraft or to any person in whose control such device or machine has been placed: Provided that the person in control of such device or machine shall, whilst in the Province, keep such gambling device in such a manner that it is not available to be played or operated by any person or be accessible to any Member of the general public whilst in the Province and shall comply with any rules of the Board in regard to such transitory devices or machines.

(6) Whenever any person is convicted of an offence in terms of this Act or pays an admission of guilt fine in respect thereof in terms of section 57 of the Criminal Procedure Act, 1996 ( Act No. 51 of 1977), all costs incurred by the Board or the South African Police Service, including costs of the transport or storage of any gambling device, equipment or other thing by means of which the offence was committed, which was used in the commission of the offence or which was found in the possession of the convicted person, and any testing thereof by the South African Bureau of Standards, shall, in addition to any fine or penalty imposed or paid by such person, be paid by such person.



- (7) If the Board finds that a holder of a licence has contravened the provisions of the Act or any regulation, rule or licence condition made in terms of the Act, the Board may instead of referring that matter to the South African Police Service or Office of the Director for Prosecutions for prosecution impose an administrative fine on such licence holder and in doing so may impose any such fine which a court of law could have imposed if it had found such licence holder guilty of an offence in respect of such violation.
- (8) A fine shall not be imposed in terms of subsection (7) unless-
- (a) such licence holder has had an opportunity to be heard; or
  - (b) such licence holder has stated its case in writing and has agreed that oral argument is not necessary.

#### **Magistrates' courts jurisdiction**

86. Notwithstanding any law to the contrary, a magistrate court shall have jurisdiction to impose any penalty and order provided for by or under this Act.

#### **Forfeiture**

- 87.(1) A court shall, upon conviction of a person or the payment of an admission of guilt fine for any offence in terms of section 85, declare to be forfeited to the Board—
- (a) all monies, coins, cheques, bills or promissory notes or other documentation securing or evidencing an undertaking for the payment of money found in or on any unlicensed premises or on any person who was in or on such premises;
  - (b) all books, lists, cards, documents or other papers, or any instrument, machine or thing relating to or used or capable of being used in connection with gambling found in or on such premises; and
  - (c) any vehicle, vessel, aircraft or animal used in connection with the offence, whereupon the provisions of section 35 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply, mutatis mutandis, to anything forfeited in terms of this section.
- (2) Upon payment by a person of an admission of guilt fine in terms of section 57 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) which was seized in terms of this Act or the Criminal Procedure Act, 1977 (Act No. 51 of 1977) shall be forfeited to the Board.
- (3) The proceeds of the sale of anything declared forfeited under subsection (1) or (2) shall be paid to the Board.

#### **Delegation of power**

- 88.(1) Any power or function which the Board may exercise or perform in terms of this Act, with the exception of the powers and functions contemplated in sections 31, 33, 34, 36, 37, 38, 39, 40, 42 and 43 may be delegated whether generally or specifically, to the Chief Executive Officer, a committee of the Board, or any other Member of the staff of the Board.
- (2) Any delegated power or function so exercised or performed shall be deemed to have been exercised or performed by the Board.

#### **Repeal of laws**

89. The law mentioned in Schedule I is hereby repealed as indicated in the third column thereof.

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

- 90.(1) This Act shall be called the Limpopo Gambling Act, 2007 and shall come into operation on a date to be fixed by the Premier by proclamation in the *Provincial Gazette*.
- (2) Different dates may be so fixed in respect of different sections of this Act.

## SCHEDULE I

The laws mentioned in the Schedule are hereby repealed to the extent set out in the third column of that Schedule.

Number and year of law	Short title of law	Extent of repeal
Act no 4 of 1996 as amended	Northern Province Gambling Act	The whole Act

## SCHEDULE II

## TRANSITIONAL PROVISIONS

## Definitions

## 1.(1) In this Schedule—

“effective date” means the date on which this Act, or any relevant provision thereof, came into operation in terms of section 90;

“previous Act” means The Limpopo Province Gambling Act, 1996 ( Act No. 4 of 1996, as amended)

## (2) A reference in this schedule—

(a) to a section by number, is a reference to the corresponding section of—

- (i) the previous Act, if the number is followed by the words “of the previous Act”; or
- (ii) this Act, in any other case;

(b) to an item or a sub-item by number is a reference to the corresponding item or sub-item of this Schedule.

## 2. General preservation of rights, notices, duties and other instruments

- (1) Any right or entitlement or privilege enjoyed by, or obligation imposed on, any person in terms of any provision of the previous Act, that had not been spent or fulfilled or run out immediately before the effective date must be considered to be a valid right or entitlement or privilege of, or obligation imposed on, that person in terms of any comparable provision of this Act, as from the date that the right, entitlement, privilege or obligation first arose, subject to the provisions of this Act.
- (2) A notice given by any person to another person in terms of any provision of the previous Act must be considered as notice given in terms of any comparable provision of this Act, as from the date that the notice was given under the previous Act.
- (3) A document that, before the effective date, had been served in accordance with the previous Act must be regarded as having been satisfactorily served for the purposes of this Act.
- (4) An order given by the Board, in terms of any provision of the previous Act, and in effect immediately before the effective date, continues in effect, subject to the provisions of this Act.
- (5) All licences issued in terms of the Northern Province Gambling Act, 1996 ( Act No.4 of 1996) and which are in force immediately before the effective date shall, subject to the payment of the fees and taxes be deemed to be licences issued in terms of and continue in force, subject to the provisions of this Act.
- (6) All licences issued in terms of the Northern Province Gambling Act, 1996 ( Act No. 4 of 1996) and which are in force immediately before the effective date shall, subject to the payment of all fees and amounts otherwise due in terms of this Act, remain valid until they are revoked.

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3. **Limpopo Gambling Board**

- (1) A Member who was a Member of the Board immediately before the effective date continues to be a Member of the Board, holding the same position the person held immediately before the effective date, until the expiry of the term to which the person was appointed in terms of the previous Act.
  - (2) A Member of staff who held appointment under the previous Act immediately before the effective date shall continue to do so in terms of this Act as of the effective date subject to further direction of the Board.
  - (3) An inspector's certificate issued in terms of the previous Act and valid immediately before the effective date continues to be valid as a certificate of appointment as an inspector, as if it had been issued in terms of this Act, until it expires or is cancelled by the Board.
-