

**NORTH WEST  
NOORDWES**

***EXTRAORDINARY • BUITENGEWOON***

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PROVINSIALE KOERANT**

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

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PROVINCIAL NOTICE 8 OF 2020

DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT, CONSERVATION  
AND TOURISM


REGULATION NOTICE

No. , 2020

**AMENDMENT OF THE REGULATIONS MADE IN TERMS OF SECTION 84(1)(e) OF THE  
NORTH WEST GAMBLING ACT, 2001 (ACT NO.2 OF 2001)**

I, Kenetswe Mosenogi, in my capacity as Member of Executive Council responsible for Economic Development, Environment, Conservation and Tourism, hereby amend the Regulations made in terms of section 84(1)(e) of the North West Gambling Act, 2001 (Act No. 2 of 2001) as amended, as set out in the Schedule hereto.

Given under my hand in Mahikeng, this 22<sup>nd</sup> day of January Two Thousand and twenty.



.....  
KENETSWE MOSENOGI MPL

Member of the Executive Council of the North West Province  
responsible for gambling

**GENERAL EXPLANATORY NOTE:**

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

**SCHEDULE**

**Definitions**

1. In these regulations “the Regulations” means the North West Gambling Regulations, 2002 published in Provincial Notice No. 5823 of 2002 (PG 353 of 25 November 2002) as amended.

**Amendment of Regulation 73**

2. Regulation 73 of the Regulations is amended by the substitution for subregulation (1) of the following subregulation:

“(1) a Licensee shall pay a gaming levy in relation to each of its licensed casinos of the following rates, depending on the licensee’s gross gaming revenue.

Gross Gaming Revenue (per month) Where the taxable revenue in the tax period –	Rate of levy
Does not exceed <del>[R4 million]</del> <u>R6 million</u>	<del>[4% of each R1 of the taxable revenue]</del> <u>6%</u> taxable revenue
Exceeds <del>[R4million]</del> <u>R6 million</u> , but <del>[does not exceed]</del> <u>less than [R8 million]</u> <u>R10 million</u>	<del>[R150 000]</del> <u>R360 000</u> plus <del>[7%]</del> <u>8%</u> of the amount <del>[by which the taxable revenue exceeds R8 million]</del> <u>above R6 million</u>
Exceeds <del>[R8 million]</del> <u>R10 million</u> , but <del>[does not exceed R12 million]</del> <u>less than R15 million</u>	<del>[R440 000]</del> <u>R680 000</u> plus <del>[8%]</del> <u>10%</u> of the amount <del>[by which the taxable revenue exceeds R8 million]</del> <u>above R10 million</u>
Exceeds <del>[R12 million]</del> <u>R15 million</u>	<del>[R760 000]</del> <u>R1 180 000</u> plus <del>[10%]</del> <u>12%</u> of the amount <del>[by which the taxable revenue exceeds R12 million]</del> <u>above R15 million</u>

**Amendment of Regulation 133**

3. Regulation 133 is hereby amended by substitution for subregulation (1) of the following subregulation:

"(1) A licensee shall pay gaming levy at the rate of [~~six (6)~~] eight percent of such holder's bingo revenue."

**Amendment of Regulation 182**

4. Regulation 182 is hereby amended by substitution for sub-Regulation (1) of the following subregulation:

"(1) A route operator shall pay a levy at the rate of [~~six (6)~~] eight percent of such operator's gaming revenue."

**Amendment of Regulation 207**

5. Regulation 207 is hereby amended by substitution for subregulation (1) of the following subregulation:

"(1) A licensee shall pay a levy at the rate of [~~six (6)~~] eight percent of such licensee's gross gaming revenue."

**Amendment of Regulation 259**

6. Regulation 259 of the Regulations is hereby amended by the substitution for Regulation 259 of the following Regulation:

"The tax payable in terms of the Regulation 256 shall be calculated in respect of a totalizator conducted by the holder of a totalizator license contemplated in section 56 of the act, at a rate of [~~6.5%~~] seven percent of the gross takings of such totalizator."

**Amendment of Regulation 260**

7. Regulation 260 of the Regulations is hereby amended by the substitution for Regulation 260 of the following Regulation:

“The tax in terms of Regulation 256 shall be calculated in respect of a totalizator conducted by the holder of a special permission in terms of Regulation 283, at the rate of **[6.5%]** seven percent of the gross takings of such totalizator.”.

#### **Amendment of Regulation 274**

**8.** Regulation 274 of the Regulations is hereby by amended by the substitution for sub regulation 2(B) of the following subregulation:

“2(B) The rate of tax payable by a licensed bookmaker in respect of betting transactions entered into in relation to sporting events other than horseracing shall be **[six-and-half per cent]** seven percent of the gross profit.”.

#### **Amendment of Regulation 277**

**9.** Regulation 277 is amended by the substitution of subparagraphs (a) and (b) of the following subparagraphs:

“(a) in respect of bets entered into with an on-course bookmaker at the rate indicated hereunder opposite the type of bet mentioned:

Type of bet	Tax
Horse-racing	<b>[6]</b> <u>6.5%</u>

“(b) in respect of bets entered into at Tattersalls at the rate indicated hereunder opposite the type of the bet mentioned:

Type of bet	Tax
Horse-racing	<b>[6]</b> <u>6.5%.</u> ”.

#### **Short title**

**10.** These Regulations are called North West Gambling Amendment Regulations 2020, and come into operation on the date of publishing in the *Provincial Gazette*.

**PROVINCIAL NOTICE 9 OF 2020****NORTH WEST PROVINCIAL GOVERNMENT****NORTH WEST BUSINESS LICENSING REGULATIONS, 2019**

I, Kenetswe Mosenogi, Member of the Executive Council responsible for Economic Development, Environment, Conservation and Tourism hereby gives notice to publish the draft North West Business Licensing Regulations, 2019 and tariffs for public comments.

Members of the public are invited to submit to the MEC, within 30 days after the publication of the Notice in the Gazette, written representation to the draft North West Business Licensing Regulations, 2019 and tariffs to the following address:

By Post to : Deputy Director General: Economic Development,  
Environment, Conservation and Tourism

Attention : Ms Phemelo Jood  
Private Bag X15  
**MMABATHO**  
2735

Tel : 018-387 7820/1  
Fax : 018 384 0287  
Email Address : [LJlekakake@nwpg.gov.za](mailto:LJlekakake@nwpg.gov.za)

Hand Delivery : NWDC Building  
Cnr University Drive and Provident Streets  
2<sup>nd</sup> Floor  
**MMABATHO**



**SCHEDULE  
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*Regulation*

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PART I  
INTRODUCTORY PROVISIONS

**Definitions**

1. In these Regulations, "the Act" means the North West Business Licensing Act, 2019 (Act No. 3 of 2019) and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context otherwise indicates –

**"applicant"** means any person who applies for a business licence in terms of the Act;

**"application"** means any application lodged with the Business Licensing Authority, through the licensing officer, which meets all the requirements as set out in the Act;

**"guidelines"** means a policy- or procedural manual developed by the Business Licensing Authority subject to amendments from time to time when necessary to –

- (a) assist the Business Licensing Authority in carrying out its mandate;
- (b) guide an applicant in the application process in terms of these regulations;
- (c) guide the licensed traders in terms of compliance with the Act; and
- (d) guide any other party in terms of compliance with the Act.

"**member**" means a member of the Business Licensing Authority appointed in terms of section 6(1)(a) and 6(1)(b) of the Act;

"**person**" means a natural or juristic person;

"**regulations**" include all the annexures; and

"**substituted service**" means service of documents or notices by e-mail or publication in a newspaper circulating in an area where an individual or a number of individuals, having a direct or indirect interest in the matter, reside/s.

## PART II

### APPLICATION FOR BUSINESS LICENCE IN TERMS OF SECTION 17 OF ACT

#### **Lodging of application with Business Licensing Authority for Business licence in respect of licence categories listed under section 17 of Act**

2.(1) A person applying for a business licence in respect of the categories listed under section 17 of the Act must lodge such application with the Business Licensing Authority, through the licensing officer on any business day excluding those declared public holidays and weekends at an address provided for by the Business Licensing Authority in the application form.

(2) An application lodged with the Business Licensing Authority as contemplated in sub regulation (1) is treated as duly lodged when all necessary documents and information contemplated in regulation 3 have been submitted to the Business Licensing Authority.

#### **Form of application to Business Licensing Authority for business licence in respect of licence categories listed under section 17 of Act**

3.(1) An applicant must submit a written application in capital letters and in duplicate, for a licence, and must –

- (a) furnish such information as required in the application form, and
- (b) declare under oath or truly affirm at the end of the said form that the information contained therein, is true and correct.

(2) In addition to the requirements contemplated in section 19 (2) read with section 24 of the Act, every such application must, at the time lodged with the Business Licensing Authority, be accompanied by –

- (a) a plan of the premises clearly showing –

- (i) all doors, windows and counters; and
- (ii) the entries and exits to the premises;
- (b) proof of payment of lodgement fee;
- (c) motivation in support of the application

**Procedure upon receipt of application by licensing officer in respect of applications lodged in terms of section 19 of Act**

4.(1) Where a licensing officer has received an application in terms of section 19(1) of the Act, such licensing officer must, forthwith, using Form NWBLA 3 of Annexure C, complete an acknowledgement of receipt detailing –

- (a) the name of the licensing officer;
- (b) the name of the applicant;
- (c) the category of licence applied for;
- (d) the tracking number of the application;
- (e) the municipal area where the business is to operate;
- (f) the time and date of receipt of such application; and
- (g) signatures of both the applicant and the licensing officer.

(2) Where the licensing officer has received an application in terms of sub regulation (1), such licensing officer must, within ten days of receipt of such application, submit such application to the Business Licensing Authority.

(3) A licensing officer may not receive an incomplete application from an applicant.

**Procedure upon receipt of application by Business Licensing Authority in respect of applications lodged in terms of section 19 of Act**

5.(1) Upon receipt of an application the Business Licensing Authority must enter such application in a register of applications and must within five days of receipt of such application, notify the applicant of such receipt.

(2) The notice contemplated in sub regulation (1) must include –

- (a) the tracking number of the application;
- (b) the name of the licensing officer;
- (c) the category of licence applied for;
- (d) the municipal area where the business is to operate;
- (e) the time and date of receipt of such application;
- (f) the contact details of the Business Licensing Authority.

(3) Where the notification contemplated in sub regulation (1) is not received within the stipulated timeframe by the applicant, such applicant may directly enquire from the Business Licensing Authority whether the Business Licensing Authority has received such application.

(4) In making such enquiry contemplated in sub regulation (2), the applicant must provide the Business Licensing Authority with –

- (a) the tracking number of such application;
- (b) the name of the relevant licensing officer; and
- (c) the date on which the application was submitted to the licensing officer.

### **Finalisation of applications**

6. Save for applications contemplated in section 17(d) of the Act, all applications for licence categories contemplated in section 17 of the Act must be finalised within 60 days of receipt by the Business Licensing Authority.

### **Delivery of written notice from Business Licensing Authority in terms of section 23(2)(b) of Act**

7.(1) The written notice of an objection hearing may be delivered by the Business Licensing Authority to the applicant in terms of section 23(2)(b) of the Act through at least one of the following –

- (a) by publication in at least one newspaper circulating in the area in which the proposed premises will be located, using Form NWBLA 4 of Annexure D;
- (b) by notice at the offices of the tribal authority with jurisdiction;
- (c) by post to the address provided for by the applicant; and
- (d) by an e-mail address provided for by the applicant.

(2) The notice referred to in subregulation (1) must also be given to any party that lodged the objection in the same manner provided for in sub regulation (1).

### **Procedure in relation to objections or representations in terms of section 21 of Act**

8.(1) A person making representations or lodging objections to an application for a Business licence lodged in terms of regulation 2 must comply with the requirements as set out in section 21(2) of the Act.

(2) Upon receipt of written representations, the Business Licensing Authority must cause a copy of such representations to be sent by registered post or delivered to an applicant,

advising such applicant to respond in writing to the written representations or submissions regarding the proposed award of the licence.

**Inspection report (section 34(2) of Act)**

9. An inspector appointed in terms of section 32(1) of the Act, must conduct an inspection and submit a report in terms of section 34(2) of the Act.

**Procedure for applicant's response to objections or representations in terms of section 21(4) of Act**

10. An applicant may, not later than seven days after receipt of an objection or representation in terms of section 21(4) of the Act, or an inspection report, submit, in duplicate, his or her written response to the Business Licensing Authority.

**Objection hearings by Business Licensing Authority in terms of section 23(1) of Act**

11.(1) Upon receipt of the response contemplated in regulation 8 and where the matter –

(a) is clear in terms of the written representations; and

(b) is capable of being determined in terms of the papers before the members of the Business Licensing Authority,

the Business Licensing Authority may dispense with the holding of an objection hearing as contemplated in section 23(1) of the Act.

(2) Where the Business Licensing Authority holds an objection hearing in terms of section 23(1) of the Act, the order or procedure must be as prescribed in the guidelines.

(3) Where the Business Licensing Authority holds an objection hearing as per sub regulation (2) above, it must do so in compliance with section 23(2) of the Act and must notify affected parties using Form NWBLA 4 of Annexure D.

(4) The notice contemplated in sub regulation (3) must be issued at least 14 days before such hearing takes place.

(5) The written notice delivered in terms of section 23(4)(a) of the Act may either be by hand, registered post or by email.

**Licence certificate upon granting of licence**

12.(1) In respect of licence applications, the officer must –

- (a) after an application for a licence has been granted by the Business Licensing Authority, issue a licence certificate in the applicant's name;
- (b) keep and maintain in due and proper order, a register in respect of all decisions of the Business Licensing Authority in respect of such applications;
- (c) within 60 days after the end of each calendar year, publish in the *Gazette* and at least one newspaper widely circulated in the Province, the record of licences, setting out the names of all persons –
  - (i) who had been issued with licences on the last day of the relevant year;
  - (ii) whose licences were cancelled during the relevant year;
  - (iii) who surrendered voluntarily, or have been finally sequestrated, wound up or dissolved during the relevant year; and
  - (iv) who were refused a licence during the relevant year;
- (d) maintain a catalogue in chronological order of all the decisions of the Business Licensing Authority, and after five years, may cause such decisions to be stored in the archives of the Province; and
- (e) perform all other functions and duties required of a licensing officer in terms of this Act.

(2) A licence certificate issued in terms of sub regulation (1) must include –

- (a) a licence number;
- (b) the date on which the applicant's name was entered in the register;
- (c) the fixed address of the premises in respect of which a licence has been granted;
- (d) the conditions upon which the licence was granted;
- (e) the trading hours and trading days applicable to the licence; and
- (f) the category of the licence.

(3) The trading hours contemplated in subregulation (2) do not apply in respect of a municipal area which has bylaws dealing with business trading hours.

### **Inspections in terms of Section 24(3) of Act**

**13.** Where the Business Licensing Authority has directed an inspector, appointed in terms of section 32(1) of the Act, to carry out an inspection, he or she must do so and submit a report by completing Form NWBLA 1 of Annexure A, to the Business Licensing Authority within 14 days after conducting such an inspection.

**Communication of decision in terms of section 25(1) of Act**

14.(1) Where the Business Licensing Authority has decided to grant a licence, the licensing officer must inform the applicant that the licence will be issued upon payment of the prescribed application fee.

(2) When communicating the decision contemplated in sub regulation (1) the licensing officer must also inform any person who objected or made representations, as contemplated in section 21 of the Act, of the right to appeal the decision of the Business Licensing Authority by following the process contemplated in section 36 of the Act.

PART III  
TRANSFER OF LICENCE TO PROSPECTIVE HOLDER  
IN TERMS OF SECTION 30 OF ACT

**Procedure for transfer of licence to prospective holder in terms of section 30 of Act**

15.(1) A person applying for a transfer of a business licence to another person in terms of section 30 of the Act must lodge such application with the Business Licensing Authority using Form NWBLA 5 of Annexure E and must pay the prescribed application fee for transfer of a licence.

(2) The application for a transfer of a licence contemplated in sub regulation (1) must be lodged with the Business Licensing Authority on any business day, excluding weekends and declared public holidays, at an address provided for by the Business Licensing Authority in the application form.

(3) An application lodged with the Business Licensing Authority, contemplated in sub regulation (1), is treated as duly lodged when all necessary documents and information contemplated in regulation 3(2), have been submitted to the Business Licensing Authority:

**Procedure upon granting of application in respect of transfer of Business licence to prospective holder in terms of section 30(1) of Act**

16.(1) The Business Licensing Authority must consider an application for transfer of a business licence and make a finding, not more than 90 days after receipt of the applicant's response to any representations or objections received.

(2) Where a licence has been granted by the Business Licensing Authority the licensing officer must, after having received payment of the prescribed licence fee, issue a licence certificate in the applicant's name using Form NWBLA 6 of Annexure F.



(3) Any approval issued in terms of this regulation is not transferable without prior approval of the Business Licensing Authority.

**PART IV**  
**CODE OF CONDUCT FOR MEMBERS OF BUSINESS LICENSING AUTHORITY**

**General conduct of members of Business Licensing Authority**

17.(1) A member of the Business Licensing Authority must –

- (a) perform the functions of office in good faith, honestly, transparently and with all due diligence;
- (b) at all times, act in the best interests of the Business Licensing Authority and in such a way that the credibility and integrity of the Business Licensing Authority is not compromised;
- (c) strive to be familiar with and abide by all statutory and other instructions applicable to his or her conduct;
- (d) co-operate with public institutions established under legislation and the Constitution of the Republic of South Africa in the promotion of public interest;
- (e) serve the public in an unbiased and impartial manner in order to create confidence in the Business Licensing Authority;
- (f) be helpful and reasonably accessible in his or her dealings with the public and at all times treat members of the public as customers who are entitled to receive high standards of service;
- (g) not unfairly discriminate against any member of the public on account of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;
- (h) not abuse his or her position to promote prejudice or self-interest;
- (i) recognise the public's right to access of information, excluding information that is specifically protected by law;
- (j) strive to achieve the objectives of the Business Licensing Authority cost-effectively and in the public interest;
- (k) be punctual in the execution of his or her duties;
- (l) be honest and accountable in dealing with public funds;
- (m) use the Business Licensing Authority's property and other resources effectively, efficiently and only for authorised official purposes;
- (n) execute his or her responsibilities in a professional and competent manner; and
- (o) not engage in any action that is in conflict with or infringes on the execution of his or her official duties.

(2) The Responsible Member must ensure that each member, when taking office, is aware of the Code of Conduct.

#### **Rewards, gifts and favours**

**18.** A member of the Business Licensing Authority may not request, solicit or accept any reward, gift or favour for –

- (a) voting or not voting in a particular manner on any matter before the Business Licensing Authority or before a committee of which that member is part of;
- (b) influencing the Business Licensing Authority or any committee concerning the exercise of any power, function or duty;
- (c) making a representation to the Business Licensing Authority; or
- (d) disclosing privileged or confidential information.

#### **Unauthorised disclosure of information**

**19.(1)** A member of the Business Licensing Authority may not, without the permission of the Business Licensing Authority, disclose any privileged or confidential information of the Business Licensing Authority to any third party.

(2) For the purpose of this regulation, “privileged or confidential information” includes, but is not limited to, any information –

- (a) determined by the Business Licensing Authority to be privileged or confidential;
- (b) discussed in closed session by the Business Licensing Authority;
- (c) disclosure of which would violate a person’s right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of law.

(3) This regulation does not derogate from the right of any person to access information in terms of national legislation.

#### **Interference in administration of Business Licensing Authority**

**20.** A member of the Business Licensing Authority may not, except as provided by law –

- (a) interfere in the management or administration of the Business Licensing Authority unless mandated by the Business Licensing Authority;
- (b) give or purport to give any instruction to any employee of the Business Licensing Authority except when authorised to do so by the Business Licensing Authority;

- (c) obstruct or attempt to obstruct the implementation of any decision of the Business Licensing Authority; or
- (d) encourage or participate in any conduct that would cause or contribute to maladministration in the Business Licensing Authority.

### **Misconduct by members of Business Licensing Authority**

**21.(1)** If the Responsible Member, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the Responsible Member must –

- (a) authorise an investigation of the alleged breach; and
- (b) give the member a reasonable opportunity to reply in writing regarding the alleged breach.

(2) Upon conclusion of the investigation contemplated in sub regulation 1(a), the Responsible Member may after consideration of the investigation report contemplated in subregulation (1)(a) and complying with the provisions of subregulation (1)(b), remove a member from office.

## PART V GENERAL PROVISIONS

### **Appeals to responsible Member in terms of section 36 of Act**

**22.(1)** A person who appeals against the decision of the Business Licensing Authority, must lodge a notice of intention to appeal with the responsible Member within 21 days after that person has been notified of the decision.

(2) The responsible Member may, in writing and on good cause, extend the period within which a notice of intention to appeal must be submitted.

(3) An appeal must be –

- (a) on an official form NWBLA 7 of Annexure G obtainable from the department; and
- (b) accompanied by –
  - (i) a statement setting out the grounds of appeal;
  - (ii) supporting documentation which is referred to in the appeal and which is not in the possession of the department; and
  - (iii) the prescribed appeal fee, if any.

(4) The responsible Member must consider an appeal lodged in terms of subsection (1) and inform the appellant of the outcome within 30 days after lodgement of such appeal.

(5) When the responsible Member has reached a decision on an appeal, the appellant must be notified of the decision in writing.

(6) Written reasons for the decision must be given to the appellant, upon written request.

(7) The powers vested in the responsible Member in terms of this regulation may be delegated.

(8) The responsible Member in his or her discretion may, however, refer the appeal as contemplated in subsection (1) to an ad hoc committee in terms of section 36(3) of the Act for adjudication if the responsible Member is of the view that the decision would be better made by that committee.

#### **Appointment of inspectors in terms of section 32(1) of Act**

**23.** Each inspector appointed by the responsible Member of the Executive Council in terms of section 32 of the Act is provided with a certificate in Form NWBLA 2 of Annexure B.

#### **Determination of licence fees, amendment or substitution of Annexure H**

**24.(1)** The authority to determine licence fees contemplated in Annexure H vests with the responsible Member.

(2) The responsible Member may, after consultation with the Member of the Executive Council responsible for finance, by notice in the *Gazette*, and with effect from a date to be specified in such notice, amend or substitute Annexure H.

(3) The consultation contemplated in subregulation (2) must be preceded by a 30 day notice in the *Gazette* calling for public comment.

#### **Short title**

**25.** These Regulations are called the North West Business Licensing Regulations, 2019.

**ANNEXURE A**

**INSPECTION REPORT IN TERMS OF SECTION 24(3)  
North West Business Licensing Act, 2019  
(Act No.3 of 2019)**

**NWBLA 1**

1. Name of applicant/name of a company/partnership/close corporation: .....

.....

2. Identity number/Registration number: .....

3. Is the applicant registered as a tax payer?  Yes  No

4. Name of proposed premises and address of premises (including GPS coordinates):

.....

.....

.....

5. Description of location (district, local municipality, urban/rural): .....

.....

6. Description of premises: .....

.....

.....

.....

7. Category of licensing being sought: .....

.....

8.(a) Suitability of premises in terms of the submitted sketch plan:

.....

.....

.....

.....

(b) Is application made in respect of premises which –

- (i) have not yet been erected;
- (ii) are already erected, but require alterations; or
- (iii) are already erected and do not require any further alterations?


**(Mark applicable box)**

9. Is the permission to occupy/lease agreement/title deed attached?

 Yes No

10. Is the granting of this application likely to cause a monopolistic situation?

 Yes No

Explain:

.....  
.....  
.....  
.....

11. Do any forwarded objections in respect of this application exist?

 Yes No

Explain:

.....  
.....  
.....  
.....

12. General remarks: .....  
.....  
.....  
.....  
.....

13. Report compiled by: .....

14. Dated at ..... on this ..... day of ..... 20.....

.....  
Inspector

**ANNEXURE B**  
**INSPECTOR'S CERTIFICATE OF APPOINTMENT IN TERMS OF SECTION 32(2)**  
 North West Business Licensing Act, 2019  
 (Act No.3 of 2019)

**NWBLA 2**

Certificate No.: .....

I, ....., by virtue of the powers vested in me as the Member of the Executive Council for Economic Development, Environment, Conservation and Tourism, hereby appoint –

(a) Name and surname: .....

(b) Identity number: .....; and

(c) Employee number: .....,

to be a Provincial Business Inspector in terms of section 32(1) of the North West Business Licensing Authority, to carry out the duties as contemplated in sections 34(1) and 34(2) of the same Act read with the provisions of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

.....  
 North West Business Licensing Authority  
 Member of Executive Council

.....  
 Date

**ANNEXURE C**  
**RECEIPT OF APPLICATION IN TERMS OF SECTION 19**  
 North West Business Licensing Act, 2019  
 (Regulation 4)  
 (Act No.3 of 2019)

**NWBLA 3**

**For official use:**

Date stamp .....
NW Business Licensing Authority Receipt of Application

(a) the name of the licensing officer;	
(b) the full names of the applicant;	
(c) the category of licence applied for;	
(d) the tracking number of the application;	
(e) the municipal area where the business is to operate;	
(f) the time and date of receipt of such application; and	

.....  
Signature of licensing officer

.....  
*Signature of applicant*



**ANNEXURE D  
OBJECTION HEARING: NOTICE IN TERMS OF SECTION 23  
North West Business Licensing Act, 2019  
(Act No. 3 of 2019)**

**NWBLA 4**

Reference no.: .....

**FOR ATTENTION:**

<b>Name and surname:</b>
<b>Address:</b>
<b>Sex:</b> ..... <b>Age:</b> ..... <b>I.D. No.:</b> .....

By virtue of the powers vested in the chairperson of the Board of the Business Licensing Authority by section 23(4) of the Act, you are hereby directed to be present at a meeting of the Business Licensing Authority which relates to a hearing in respect of objections received (See Annexure attached) in respect of the application for a business licence for the abovementioned premises, which will be held as per the date, time and place indicated as follows:

Date	Time	Place

Your attention is drawn to the following –

- (a) it is compulsory for you to appear in person. The applicant may be assisted or represented by any person of his/her choice in terms of section 23(3)(b) of the Act;
- (b) it is an offence not to be present and to remain in attendance, without you having appointed somebody to appear on your behalf, and
- (c) you will be required to give evidence under oath and/or produce any document or article which is in your possession or custody or under your control.

.....  
**Place of issue**

.....  
**Chairperson**

.....  
**Date**

---

**FOR OFFICIAL USE ONLY**

I certify that I have served this notice upon the said person by –

*(\* Cross out that which is not relevant and true by drawing a line through the word/s)*

*(a)	delivering a true copy to.....PERSONALLY; or
*(b)	delivering, as he/she could not be found, a true copy to ....., apparently over the age of 16 years and apparently residing or employed at the place of RESIDENCE/EMPLOYMENT/BUSINESS* of the said ....., .....,

at.....  
.....

The nature and exigency of this notice was explained to the recipient thereof.

Time: ..... Day: ..... Month: ..... 20.....

.....  
**Signature of the Inspector**

**ANNEXURE E**  
**APPLICATION FOR TRANSFER OF BUSINESS LICENCE TO**  
**A PROSPECTIVE LICENCE HOLDER IN TERMS OF SECTION 30**  
 North West Business Licensing Act, 2019  
 (Act No. 3 of 2019)

**NWBLA 5**

**For official use:** NW Business Licensing Authority Reference No.: .....

Amount: R.....

Receipt No.: .....

Date: .....

**APPLICATION FOR A LICENCE IN TERMS OF ...**

*(Choose the applicable section in the table below and mark the relevant square with an X)*

<b>Section 31 in respect of death or incapacity of a licensed person</b>	
<b>Section 30(1) to transfer a Business licence to a prospective holder</b>	

**INDEX**  
**Description of document**

**Attachments:**

1. Application in terms of sections \_\_\_\_
2. Comprehensive written representations.
3. Documents required to be attached to the application –
  - (a) letter of executorship;
  - (b) death certificate;
  - (c) permission to occupy (in the form of a title deed or lease agreement or rates statement from the municipality);
  - (d) copy of the existing valid business licence;
  - (e) certified copy of identity document of the applicant;
  - (f) proof of payment of lodging fees;
  - (g) proof of renewal of licence fees;
  - (h) tax clearance certificate of applicant/person acquiring a financial interest; and

**PART A**

**INFORMATION RELATING TO APPLICANT WHO IS THE HOLDER OF THE LICENCE**

1. Full names and surname of applicant:

.....  
.....

2. If applicant is not natural person, state the name, identity number and address of each shareholder, member, partner or beneficiary. The applicant is required to submit a resolution from the company authorising a signatory from amongst the existing shareholders. The resolution must be accompanied by a certified copy of the signatories' identity document/s. Should the applicant resolve to have the consultant be the signatory, then the applicant is required to attach a Power of Attorney.

3. Name in which the licensed business is conducted: .....

4.(a) Describe the situation of the premises where the licensed business is conducted with reference to the erf-, street- and farm number: .....

(b) In which district or metropolitan municipality is the premises referred to in subparagraph (a) situated? .....

I declare/truly affirm that the information furnished in Parts A and B of this application in so far as it relates to me/the applicant on whose behalf I am authorised to sign the application, is true and correct.

.....  
Date

.....  
Signature (of applicant who is the holder of the licence or person authorised to sign application)

I certify that this declaration has been signed and sworn to/affirmed before me

at ..... on this ..... day of ..... 20.....

by the holder of the licence/person authorised to sign application who has acknowledged that –

- (a) he/she knows and understands the contents of this declaration;
- (b) he/she has no objection to taking the prescribed oath/affirmation; and

(c) he/she considers the prescribed oath to be binding on his/her conscience, and that he/she uttered the following words:

"I swear that the contents of this declaration are true, so help me God."/I truly affirm that the contents of this declaration are true".

.....  
*Commissioner of Oaths*

.....  
*Affirmation*

Full names and surname: .....

Business address: .....

Designation: .....

.....

Area for which appointment is held: .....

Office held if appointment is ex officio: .....

**PART B**

**INFORMATION RELATING TO APPLICANT WHO IS THE PROSPECTIVE HOLDER**

1.(a) Full names and surname of applicant: .....

.....

(b) Age of applicant: .....

(c) Identity number, or in the case of a company or close corporation, its registration number:

.....

(d) Residential address or address of registered office: .....

.....

(e) Business address: .....

.....

.....

(f) Postal address: .....

.....

(g) Business telephone number: .....

*(Delete (b) if applicant is not a natural person)*

2. If applicant is not a natural person, state the name, identity number and address of each shareholder, member, partner or beneficiary: .....

.....

.....

3.(a) The applicant is required to submit a letter of executorship or letter of authority.

(b) The applicant is to state or explain his/her relationship to the licence holder: .....

.....

(c) The applicant –

(i) has, in the Republic or elsewhere in the preceding 10 years, been sentenced for any offence to imprisonment without the option of a fine;  Yes  No

(ii) has, in the preceding 10 years, been convicted of an offence in terms of the Liquor Act, 1989 (Act No. 27 of 1989), or the NW Business Act, 1997 (Act No. 6 of 1997), irrespective of the sentence imposed, and was, within three years after the conviction, again convicted of an offence in terms of any of the abovementioned two Acts and was, therefore, then sentenced to a fine of not less than **R100** or to imprisonment without the option of a fine;  Yes  No

(iii) is not domiciled in the Republic;  Yes  No

(iv) is an unrehabilitated insolvent;  Yes  No

(v) is a minor;  Yes  No

(vi) is the spouse of a person contemplated in subparagraphs (i), (ii) or (iv); or  Yes  No

(vii) is committed in terms of the Mental Health Act, 1973 (Act no. 18 of 1973) or the Mental Health Care Act, 2002 (Act No. 17 of 2002), as the case may be; and  Yes  No

(d) if the applicant is a company, close corporation, partnership, co-operative association or trust, state whether a person contemplated in subparagraph (a) –

(i) has a controlling interest in such a company, close corporation, co-operative association or trust;

Yes	No
-----	----

(ii) is a partner in such a partnership; or

Yes	No
-----	----

(iii) is the main beneficiary under such a trust.

Yes	No
-----	----

(e) If any of the questions in subparagraphs (a) or (b) have been replied to in the affirmative, provide full details: .....

.....  
 .....  
 .....  
***(Use an annexure if necessary)***

4.(a) State the name and surname, identity number and address of each person –

(i) including the holder of the licence, or who has any financial interest in the business to which the licence relates:

.....  
 .....; and

(ii) who, including the applicant, will have an interest if the application is granted, and in each case, the nature and extent of such interest. If the applicant is a juristic person, it shall be sufficient if the name, registration number and postal address of such juristic person is provided, together with the name of each director and the nature and extent of the financial interest of such company:

.....  
***(Use an annexure if necessary)***

(b) State the financial interest of the applicant in the Business trade in the Republic and, if the applicant is a private company, close corporation, partnership or trust, also of every shareholder, member or partner thereof or beneficiary thereunder. (If the applicant or the said shareholder, member, partner or beneficiary has no such interest, this fact must be specifically mentioned): .....

***(Use an annexure if necessary)***

5. Will the applicant have the right to occupy the premises referred to in paragraph 4(a) of Part A of the application, including such place on other premises upon which any approval or determination is exercised for the purposes of the licence?  Yes  No

I declare/truly affirm that the information furnished in Part B of this application in so far as it relates to me/the applicant on whose behalf I am authorised to sign the application and in the documents attached to it, is true and correct.

.....  
Date

.....  
*Signature (of applicant who is the prospective holder of licence or person authorised to sign application)*

I certify that this declaration has been signed and sworn to/affirmed before me at ..... on this ..... day of ..... 20..... by the applicant who is the prospective holder/person authorised to sign the application who has acknowledged that –

- (a) he/she knows and understands the contents to this declaration;
- (b) he/she has no objection to taking the prescribed oath/affirmation; and
- (c) he/she considers the prescribed oath to be binding on his/her conscience, and that he/she uttered the following words:

“I swear that the contents of this declaration are true, so help me God.”/“I truly affirm that the contents of this declaration are true.”.

.....  
*Commissioner of Oaths*

.....  
*Affirmation*

Full names and surname: .....

Business address: .....

Designation: .....

Area for which appointment is held: .....

Office held if appointment is ex officio: .....



**ANNEXURE F  
TRANSFER CERTIFICATE IN TERMS OF SECTION 30  
North West Business Licensing Act, 2019  
(Act No.3 of 2019)**

**NWBLA 6**

**CERTIFICATE FOR TRANSFER OF A BUSINESS LICENCE**

Licence number: .....

The .....(type of licence) licence held by:

.....

situated at ..... in the .....

(district or metropolitan municipality under which business is conducted) in the name of:

.....

is hereby transferred to.....

.....

.....

The business is conducted in the name of: .....

The transfer of the licence shall be of no force and effect after the expiry date unless the prescribed renewal fees have been paid.

Date of Issue	Amount Received	Receipt No.	Expiry Date
.....	.....	.....	.....

**ANNEXURE G**

**NOTICE OF INTENTION TO APPEAL AGAINST THE DECISION  
OF THE BUSINESS LICENSING AUTHORITY IN TERMS OF SECTION 36  
North West Business Licensing Act, 2019  
(Act No.3 of 2019)**

**NWBLA 7**

In the matter between –

Appellant/Applicant\*:

.....

and

The NW Business Licensing Authority

and Premises (address): .....

Take notice that .....  
(hereinafter called the Appellant/Applicant\*) hereby applies to this Business Licensing  
Authority for an order in the following terms:

1. \*Leave to appeal against the judgment (state particulars): .....

.....  
.....  
.....

2. \*Condoning of the failure to (state particulars): .....

.....  
.....  
.....

3. \*Any other matter (state particulars): .....

.....  
.....  
.....  
.....  
.....

The accompanying documentation of .....

.....is attached in support of the application.

If you intend to oppose this application, you are required to lodge your affidavit in support of your opposition, after prior service upon the Appellant/Applicant, with the responsible Member of the Executive Council or the Business Licensing Authority within one month after service of this application on you.

Dated at ..... on this ..... day of ..... 20 .....

.....  
Applicant/Appellant/Agent

Address: .....  
.....  
.....

To: ..... (local committee)

Address: .....  
.....  
.....

**ANNEXURE H**  
**Licence Fees**  
 (Regulation 24)  
 (Act No.3 of 2019)

Categories of Licences	Application for a business licence	Renewal of a business licence	Application for amendment, substitution or rescission of condition attached to a business licence, including and application to amend a licence for the purposes of changing any business equipment or a machine specified therein	Transfer of a licence
<b>PART A: CONSUMABLES</b>				
(i) Retail store licence	1000.00	500.00	500.00	500.00
(ii) Grocers' licence	1000.00	500.00	500.00	500.00
(iii) Spazashop	500.00	250.00	250.00	250.00
(iv) Hardware store	2000.00	1000.00	1000.00	1000.00
(v) Tent rental and accessories thereto	1000.00	500.00	500.00	500.00
(vi) Motor mechanic services	1000.00	500.00	500.00	500.00
(vii) Auto body repairers	500.00	250.00	250.00	250.00
(viii) Bookstore	3000.00	1500.00	1500.00	1500.00
(ix) Dealer in office equipment and data systems	500.00	250.00	250.00	250.00
(x) Dealer/collector in glass and glassware	500.00	250.00	250.00	250.00
(xi) Furniture and household appliance dealer	1000.00	500.00	500.00	500.00
(xii) Laundry and dry cleaner	500.00	250.00	250.00	250.00
(xiii) Shoemaker and repairer	500.00	250.00	250.00	250.00
(xiv) Bakery	500.00	250.00	250.00	250.00
(xv) Butchery	500.00	250.00	250.00	250.00
(xvi) Accommodation establishments	1000.00	500.00	500.00	500.00
(xvii) Restaurant	500.00	250.00	250.00	250.00
<b>PART B: BEAUTY OR LIFESTYLE</b>				

<b>SERVICES</b>				
(i) Beauty salon licence	500.00	250.00	250.00	250.00
(ii) Hair salon licence	500.00	250.00	250.00	250.00
(iii) Treatment spa licence	500.00	250.00	250.00	250.00
(iv) Gym licence	500.00	250.00	250.00	250.00
<b>PART C: LIFESTYLE AND SPORT ENTERTAINMENT SERVICES</b>				
(i) Video games arcade licence	500.00	250.00	250.00	250.00
(ii) Video hire shop	500.00	250.00	250.00	250.00
(iii) Record bar/dealer in music-ware	500.00	250.00	250.00	250.00
<b>PART D: ADULT ENTERTAINMENT SERVICES</b>				
(i) Massage palour licence	500.00	250.00	250.00	250.00
(ii) Escourt agency licence	2000.00	1000.00	1000.00	1000.00
(iii) Strip club licence	2000.00	1000.00	1000.00	1000.00

<b>BUSINESS LICENSING TARIFFS</b>					
	Application for a business licence		Renewal of a business licence	Application for amendment, substitution or rescission of condition attached to a business licence, including and application to amend a licence for the purposes of changing any business equipment or a machine specified therein	Transfer of a licence
	Application	Licence Fee	Renewal	Amendments	Transfer
<b>PART A: CONSUMABLES</b>					
(i) Retail store licence	1000.00	500.00	500.00	500.00	500.00
(ii) Grocers' licence	1000.00	500.00	500.00	500.00	500.00
(iii) Spazashop	500.00	250.00	250.00	250.00	250.00
(iv) Hardware store	2000.00	1000.00	1000.00	1000.00	1000.00
(v) Tent rental and accessories thereto	1000.00	500.00	500.00	500.00	500.00
(vi) Motor mechanic services	1000.00	500.00	500.00	500.00	500.00
(vii) Auto body repairers	500.00	250.00	250.00	250.00	250.00
(viii) Bookstore	3000.00	1500.00	1500.00	1500.00	1500.00
(ix) Dealer in office equipment and data systems	500.00	250.00	250.00	250.00	250.00
(x) Dealer/collector in glass and glassware	500.00	250.00	250.00	250.00	250.00
(xi) Furniture and household appliance dealer	1000.00	500.00	500.00	500.00	500.00
(xii) Laundry and dry cleaner	500.00	250.00	250.00	250.00	250.00

(xiii) Shoemaker and repairer	500.00	250.00	250.00	250.00	250.00
(xiv) Bakery	500.00	250.00	250.00	250.00	250.00
(xv) Butchery	500.00	250.00	250.00	250.00	250.00
(xvi) Accommodation establishments	1000.00	500.00	500.00	500.00	500.00
(xvii) Restaurant	500.00	250.00	250.00	250.00	250.00
<b>PART B: BEAUTY OR LIFESTYLE SERVICES</b>					
(i) Beauty salon licence	500.00	250.00	250.00	250.00	250.00
(ii) Hair salon licence	500.00	250.00	250.00	250.00	250.00
(iii) Treatment spa licence	500.00	250.00	250.00	250.00	250.00
(iv) Gym licence	500.00	250.00	250.00	250.00	250.00
<b>PART C: LIFESTYLE AND SPORT ENTERTAINMENT SERVICES</b>					
(i) Video games arcade licence	500.00	250.00	250.00	250.00	250.00
(ii) Video hire shop	500.00	250.00	250.00	250.00	250.00
(iii) Record bar/dealer in music-ware	500.00	250.00	250.00	250.00	250.00
<b>PART D: ADULT ENTERTAINMENT SERVICES</b>					
(i) Massage parlour licence	500.00	250.00	250.00	250.00	250.00
(ii) Escort agency licence	2000.00	1000.00	1000.00	1000.00	1000.00
(iii) Strip club licence	2000.00	1000.00	1000.00	1000.00	1000.00

**PROVINCIAL NOTICE 10 OF 2020****NORTH WEST PROVINCIAL GOVERNMENT****NORTH WEST PARKS AND TOURISM BOARD BILL, 2019**

I, Kenetswe Mosenogi, Member of the Executive Council responsible for Economic Development, Environment, Conservation and Tourism hereby gives notice to publish the draft North West Parks and Tourism Board Bill, 2019 for public comments.

Members of the public are invited to submit to the MEC, within 30 days after the publication of the Notice in the Gazette, written representation to the draft North West North West Parks and Tourism Board Bill, 2019 to the following address:

By Post to : Deputy Director General: Economic Development,  
Environment, Conservation and Tourism

Attention : Ms Phemelo Jood  
Private Bag X15  
**MMABATHO**  
2735

Tel : 018-387 7820/1  
Fax : 018 384 0287  
Email Address : [LJlekakalake@nwpq.gov.za](mailto:LJlekakalake@nwpq.gov.za)

Hand Delivery : NWDC Building  
Cnr University Drive and Provident Streets  
2<sup>nd</sup> Floor  
**MMABATHO**



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# **NORTH WEST PARKS AND TOURISM BOARD BILL, 2019**

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*(As introduced in the Provincial Legislature)  
(The English text is the official text of the Bill)*

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(MEC FOR ECONOMIC DEVELOPMENT ENVIRONMENT AND TOURISM)

**BILL**

**To provide for the establishment of the North West Parks and Tourism Board; to determine the objects, powers, duties and functions of the North West Parks and Tourism Board; to determine the manner in which the North West Parks and Tourism Board is to be managed, governed, staffed and financed; to provide for the management and control of protected areas in the North West Province; to provide for the promotion of tourism in the North West Province; to provide for the repeal of the North West Parks Board Act, 2015 (Act No 2 of 2015) and the North West Tourism Board Act, 2015 (Act No 3 of 2015); to provide for the disestablishment of the North West Parks Board and the North West Tourism Board; and to provide for matters incidental thereto.**

**PREAMBLE**

WHEREAS the North West Parks Board Act, 2015 (Act No 2 of 2015) and the North West Tourism Board Act, 2015 (Act No 3 of 2015) are to be repealed by the promulgation of this Act;

WHEREAS the North West Parks Board and the North West Tourism Board will cease to exist upon the repeal of the North West Parks Board Act, 2015 (Act No 2 of 2015) and the North West Tourism Board Act, 2015 (Act No 3 of 2015) and their powers, duties and functions will be assumed by the North West Parks and Tourism Board;

WHEREAS upon the repeal of the North West Parks Board Act, 2015 (Act No 3 of 2015) and the North West Tourism Board Act, 2015 (Act No 2 of 2015), all assets and liabilities of the North West Parks Board and the North West Tourism Board shall accrue to, and vest in the North West Parks and Tourism Board;

AND WHEREAS upon the repeal of the North West Parks Board Act, 2015 (Act No 2 of 2015) and the North West Tourism Board Act, 2015 (Act No 3 of 2015), the North West Parks and Tourism Board, will assume responsibility over all Protected Areas in the Province and have the legal basis to acquire and manage all protected area and tourism assets and liabilities, including subsidiaries of the North West Parks Board and the North West Tourism Board.

**BE IT ENACTED** by the Provincial Legislature of the North West Province, as follows:-

**ARRANGEMENT OF SECTIONS***Section***CHAPTER 1  
DEFINITIONS AND APPLICATION**

1. Definitions
2. Objects of Act

**CHAPTER 2  
NORTH WEST PARKS AND TOURISM BOARD**

3. North West Parks and Tourism Board
4. Objects of Board
5. Powers, duties and functions of Board
6. Powers of responsible Member
7. Composition of board
8. Disqualification from being appointed to board
9. Term of office of members of board
10. Declaration of financial or other interests by nominees to board
11. Failure to declare financial or other interests
12. Recusal of member of board
13. Vacancies, removal and resignation from office of members of board
14. Meetings of board
15. Committees of board
16. Remuneration of members of board

**CHAPTER 3  
CHIEF EXECUTIVE OFFICER AND OTHER STAFF OF BOARD**

17. Chief Executive Officer of Board
18. Functions of Chief Executive Officer
19. Resignation and removal from office of Chief Executive Officer
20. Staff of Board
21. Secondment or transfer of staff to Board

**CHAPTER 4  
FUNDING AND FINANCIAL MANAGEMENT OF BOARD**

22. Funds of Board
23. Financial management
24. Audit and annual report
25. Financial year of Board

**CHAPTER 5  
GENERAL PROVISIONS**

26. Immovable property
27. Legal proceedings against Board
28. Security of confidential information held by Board
29. Dissolution of Board
30. Use of name of Board
31. Regulations and notices
32. Delegations
33. General offences pertaining to Board
34. Penalties
35. Transitional arrangements and validation in respect of repeal of North West Parks Board Act and North West Tourism Board Act
36. Repeal of laws
37. Short title

## CHAPTER 1 DEFINITIONS AND APPLICATION

### Definitions

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

"**Board**" means the North West Parks and Tourism Board contemplated in section 3;

"**board**" means the board of directors of the North West Parks and Tourism Board contemplated in sections 6 and 7;

"**Chief Executive Officer**" means the Chief Executive Officer of the Board appointed in terms of section 17;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Department**" means the Department responsible for protected areas in the Province;

"**Executive Council**" means the Executive Council of the Province of North West;

"**financial year**" means the period as contemplated in section 25;

"**Gazette**" means the official *Provincial Gazette* of North West;

**"Head of Department"** means the person appointed as head of the Department responsible for protected areas in terms of section 12 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

**"Member of the Executive Council responsible for finance"** means the member of the Executive Council responsible for finance in the Province;

**"Portfolio Committee"** means the Portfolio Committee of the Provincial Legislature responsible for protected areas;

**"prescribed"** means prescribed by regulation under section 31, and **"prescribe"** has a corresponding meaning;

**"Province"** means the North West Province contemplated in section 103 of the Constitution, and **"provincial"** has a corresponding meaning;

**"Provincial Government"** means the government of the North West Province;

**"Provincial Legislature"** means the Legislature of the Province of North West as contemplated in section 105 of the Constitution, and having legislative authority for the Province as contemplated in section 104(1) of the Constitution;

**"regulations"** means regulations made in terms of section 31;

**"responsible Member"** means the member of the Executive Council of the North West Province responsible for tourism and protected areas;

**"protected area"** means a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature and wildlife with associated ecosystem services; and

**"this Act"** includes the regulations.

## **Objects of Act**

2. The objects of this Act are to provide for the –

- (a) the management and control of state owned protected areas in the Province;
- (b) the nature and wildlife conservation in state owned protected areas under the

control and management of the North West Parks and Tourism Board in the Province;

(c) the promotion of tourism in the Province;

(d) tourism sector training within the Province;

(e) the creation of an enabling environment for tourism investment promotions in the Province;

(f) the management of existing and newly established state owned tourism facilities in the Province;

(g) the creation of enabling environment for transformation of the tourism and wildlife sector in the Province; and

(h) tourism sector training within the Province.

## CHAPTER 2 NORTH WEST PARKS AND TOURISM BOARD

### **North West Parks and Tourism Board**

3.(1) The North West Parks and Tourism Board is hereby established.

(2) The Board is a juristic person capable of suing and being sued.

(3) The Board is a Schedule 3C provincial public entity subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

### **Objects of Board**

4. The objects of the Board are to –

(a) initiate, develop, administer, manage and maintain protected areas , in the Province;

(b) conserve and preserve wildlife sector in protected areas in the Province;

(c) perform the powers, duties and functions specified in sections 5;

(d) create enabling environment for access to markets for new entrants in the wildlife sector in the Province;

(e) contribute to the establishment of enabling environment for job creation in the wildlife sector in the Province;

(f) market the Province as a tourism destination locally, provincially, nationally and internationally;

(g) provide tourism training and skills transfer in the sector;

(h) facilitate tourism investment promotion in the Province;

- (i) create enabling environment for access to markets for new entrants in the tourism sector in the Province; and
- (j) contribute to the establishment of enabling environment for job creation in the tourism sector in the Province.

### **Powers, duties and functions of Board**

5.(1) The Board must, through its board –

- (a) initiate, develop, administer, manage and maintain protected areas, in the Province;
- (b) conserve and preserve wildlife in protected areas under its control and management, in the Province;
- (c) undertake research aimed at applying new or known methods of nature conservation in protected areas under its control and management;
- (d) promote awareness on the protection of wildlife and nature conservation in protected areas under its control and management, in the Province;
- (e) take reasonable steps to create awareness by the public with regard to any matter related to but not limited to –
  - (i) measures to protect and conserve wildlife;
  - (ii) safety precautions that must be adhered to when visiting protected areas or being around wildlife; and
  - (iii) safety precautions that must be adhered to when attacked by any dangerous wildlife species,in protected areas under its control and management;
- (f) promote biodiversity by striving to reduce any negative environmental impact within protected areas under its control and management;
- (g) where a need arises, own, manage and maintain State Owned Companies geared at advancing the objectives of the Board;
- (h) determine and annually review entry fees for visitors to protected areas, in the Province;
- (i) In determining the fees contemplated in subsection (1)(h), the board must take into account persons who are from historically disadvantaged background, and develop a policy for non-payment of entry fees for such a category of persons;
- (j) investigate and make recommendations to and advise the responsible Member regarding any matter related to the protection of wildlife in protected areas under its control and management, in the Province;
- (k) (a) market the Province as a tourism destination locally, provincially, nationally and internationally;

- (l) provide tourism sector training in the Province;
- (m) mobilise resources and investment in tourism projects targeting previously disadvantaged individuals;
- (n) provide for efficient support systems to new entrants in the tourism sector in the Province;
- (o) manage programmes aimed at accessing the tourism markets to emerging tourism enterprises;
- (p) plan and facilitate the implementation of the national marketing and branding programs;
- (q) mobilize resources for the implementation of tourism marketing and training programs in the Province;
- (r) establish a convention bureau which will assist the Province to market it as a business events destination;
- (s) establish, register and control State Owned Companies subject to the approval by the Executive Council; and
- (t) perform the functions and carry out the duties and responsibilities imposed by this Act and any other law.

(2) In relation to protected areas, the Board, through its board of directors, has the authority to –

- (a) determine and approve measures to safeguard the public against fatal wildlife attacks within protected areas under its control and management, in the Province; and
- (b) specify the procedures and control measures to be adopted in connection with the conservation and protection of wildlife within protected areas under its control and management.

(3) The Board must –

- (a) administer funds appropriated from the Provincial Legislature in accordance with the Public Finance Management Act;
- (b) initiate and administer the funding from sources other than appropriations from the Provincial Legislature;
- (c) put measures in place to attract tourists into the Province;
- (d) attract foreign and local investment and funding for the establishment, development and growth of tourism facilities and training in the Province;
- (e) co-ordinate and facilitate human resource development in the tourism sector in the Province;



- (f) promote heritage and culture tourism in the Province; and
- (g) establish local and international partnerships to encourage and facilitate the transfer of knowledge and skills to the tourism sector in the Province.

(4) The Board must –

- (a) develop a five year strategic plan which must be reviewed periodically by the board of directors.
- (b) make recommendations to the responsible Member, and take remedial action in respect of, any matter relating to the powers and functions of the Board;
- (c) report to the responsible Member on any matter referred to the board of directors by him or her;
- (d) report to the responsible Member on the development and implementation of social responsibility programs relating to tourism;
- (e) collaborate with national, provincial and international stakeholders and participate in marketing programmes that are aimed at increasing the economic profile of the sector; and
- (f) perform such functions as may be assigned to it in terms of this Act or any other law.

(5) For the purposes of promoting uniformity and co-operation by all organs of state in the national, provincial and local sphere of government on matters related to tourism the Board, through its board of directors –

- (a) must act as a link between the national, provincial and local spheres of government and other stakeholders in the tourism sector;
- (b) may liaise and interact with any organisation, structure or body that has an interest in any matter related to tourism; and
- (c) must operate throughout the Province: Provided that where it considers it desirable for the attainment of its objects, may become involved in projects and programmes outside the Province or establish linkages with different spheres of government.

(6) The Board must, in consultation with the responsible Member –

- (a) initiate, promote, plan, establish, fund, co-ordinate, manage, or carry on any undertaking or acquire any such undertaking and sell or otherwise dispose of any such undertaking or portion thereof or interest therein, subject to the Public Finance Management Act and any other applicable law;
- (b) request and facilitate the establishment of joint ventures and public-private partnerships; and

(c) seek to increase and retain investments in its subsidiaries.

(7) In order to achieve its objectives as stated above, the Board must –

- (a) in consultation with the responsible member and member of the Executive Council for finance enter into an agreement for purposes of attaining a right in both movable and immovable property;
- (b) enter into negotiations with any national, provincial or local government entities for purposes of cooperation and twinning in promoting tourism in the Province;
- (c) open and conduct banking accounts at a bank as defined in the Banks Act, 1990; and

(8) The board of directors contemplated in subsection (1) is the accounting authority of the Board as contemplated in section 49 of the Public Finance Management Act 1999, (Act No. 1 of 1999).

#### **Powers of responsible Member**

**6. The responsible Member –**

- (a) appoints members of the board in terms of section 7(7)(a);
- (b) terminates the appointment of board members in terms of section 13(2);
- (c) exercises the powers contemplated in section 4(5);
- (d) approves the appointment of the Chief Executive Officer in terms of section 17(3);
- (e) approves the appointment of board members of subsidiaries in terms of section 4(c); and
- (f) disestablishes the subsidiaries of the Board, in consultation with the Provincial Executive Council.

#### **Composition of board**

**7.(1) The board is composed of –**

- (a) not less than five and not more than nine members appointed by the responsible Member, and
- (b) the Chief Executive Officer, *ex officio*, as contemplated in section 18(1).

**(2) The responsible Member may designate the Head of the Department –**

- (a) to facilitate liaison between the responsible Member and the board;
- (b) to report to the responsible Member from time to time regarding matters which are considered relevant; and

- (c) to attend meetings of the board and participate in discussion.
- (3) The person designated in terms of subsection (2) does not have the right to vote when a decision of the board is taken.
- (4) Members of the board must –
- (a) be fit and proper persons to serve the best interests of the Province;
  - (b) be characterised by their independence, impartiality and fairness; and
  - (c) collectively possess –
    - (i) legal skills, experience and qualifications;
    - (ii) financial skills, experience and qualifications;
    - (iii) extensive knowledge of and experience in business management including human resources management and labour relations;
    - (iv) extensive knowledge of and experience in biodiversity and tourism;
    - and
    - (v) any other skill, experience or qualification that might be of benefit to the board.
- (5) The responsible Member must, by notice in the *Gazette* and at least two newspapers circulating in the Province, invite interested parties within the Province to nominate candidates to serve on the board.
- (6) The invitation for nominations in terms of subsection (5) must specify the –
- (a) nomination procedure;
  - (b) requirements for nomination;
  - (c) date by which a nomination must be received by the responsible Member;
  - and
  - (d) acceptance by nominees.
- (7) The responsible Member must appoint the members of the board and designate –
- (a) one of the members of the board as the chairperson; and
  - (b) one of the members of the board of as the deputy chairperson.
- (8) The responsible Member must publish the names of the persons appointed to the board of in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the board.
- (9) The responsible Member must, within two months after the appointment of members

of the board, inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

(10) The Code of Conduct contained in Schedule 1 and the Declaration of Interests and Gifts by Members of board, contained in Schedule 2 to this Act apply to all members of the board.

(11) This section applies, with the necessary changes, to the filling of a vacancy on the board.

#### **Disqualification from being appointed to board**

**8.(1)** A person is disqualified from being appointed to the board or from remaining on the board, by reason that he or she –

- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) has a direct or indirect interest in any contract with the Board and fails to declare the interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member may, upon a person who is nominated for appointment disclosing full details of an offence in an affidavit, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution; and
- (g) fails to disclose an interest in accordance with section 10 or attended or participated in the proceedings of the board while having an interest contemplated in section 10.

(2) A disqualification in terms of subsection (1)(f) ends five years after the sentence has been completed.

#### **Term of office of members of board**

**9.(1)** Persons appointed to the board hold office for a period of three years or such lesser period as the responsible Member may determine and are, subject to section 7, eligible for reappointment at the expiration of such period.

(2) No person may be reappointed after having served on the board for two consecutive terms.

#### **Declaration of financial or other interests by nominees to board**

**10.(1)** A nominee to the board must –

(a) within 10 days of having accepted an appointment to the board, submit to the responsible Member a written declaration of any financial or other interests in the biodiversity, hospitality and tourism sectors or related sectors which could be related to or may be in conflict with an appointment as a member of the board, which declaration must include relevant information about any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and

(b) in the declaration referred to in paragraph (a), include financial and other interests in the activities of the board or related sectors of family members or close associates, which could be related to or may be in conflict with an appointment as a member of the board.

(2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of section 8 to be considered for the position of the member of the board.

(3) Every member of the board must, upon assuming office and at the beginning of every financial year, submit a written declaration of his or her direct or indirect interest in any company or other business interest in the manner provided for in section 75 of the Companies Act, 2008 (Act No. 71 of 2008).

(4) Where a member of the board or family member or close associate experiences a change in financial or any other circumstances and acquires an interest in the activities of the Board or has reason to know of any changed circumstances, the member of the board must, within 10 days of the date of the changed circumstances, submit a written declaration of change of financial or other interests to the responsible Member.

(5) The responsible Member must –

(a) keep a register of the interests of members of the board disclosed in terms of this section; and

(b) update that register from time to time.

**Failure to declare financial or other interests**

11.(1) A member of the board who fails to make a declaration envisaged in section 10 commits an offence.

(2) The responsible Member, on becoming aware that a member of the board has failed to comply with the provisions of section 10, must investigate the matter and consider appropriate disciplinary action.

**Recusal of member of board**

12.(1) A member of the board must recuse himself or herself in any matter or proceeding where he or she, a family member or close associate has or reasonably could be expected to have, a financial or other interest in the outcome of a decision by the board.

(2) Any person may make an application, orally or in writing, for a member of the board to recuse himself or herself where that person has reason to believe that the member of the board, a family member or close associate has or could reasonably be expected to have a financial or other conflict of interest in the outcome of a decision by the board.

(3) A person making an application referred to in subsection (2) must give reasons for his or her request.

(4) In the event of an application referred to in subsection (2), the chairperson of the board must decide on the matter, save that in cases where the application concerns the chairperson of the Board the matter must be decided on by the deputy chairperson.

(5) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.

(6) If it subsequently emerges that the board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the board is invalid.

**Vacancies, removal and resignation from office of members of board**

13.(1) A member of the board must vacate office if he or she becomes subject to a disqualification contemplated in section 10.

(2) The responsible Member may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her discretion, there are good reasons for doing so.

(3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the board, from two consecutive meetings of the board for which reasonable notice was given to that member personally or by post.

(4) A member may resign from office in writing by giving not less than 30 days notice to the responsible Member.

(5) The responsible Member may waive the resignation notice contemplated in subsection (4), if such waiver would not be detrimental to the efficient functioning of the Board.

(6) Whenever a vacancy occurs on the board, the responsible Member must, subject to section 7, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

#### **Meetings of board**

**14.(1)** The board must hold routine quarterly meetings and may convene special meetings as required and the chairperson may direct how the meetings should be held.

(2) Every member of the board must be notified of each meeting in writing, at least 14 days prior to such meeting, and such notification must contain an agenda for the proposed meeting.

(3) In the event that the chairperson or the deputy chairperson of the board is absent from any meeting of the board, the members present at that meeting may elect one member present to preside at that meeting.

(4) A special meeting of the board may be called at the request of –

(a) the chairperson; or

(b) the majority of the members of the board by written petition, whereupon the chairperson must, in writing, notify every member of the board of the time and place of the special meeting.

- (5) A *quorum* for a meeting of the board is a majority of its members.
- (6) Any decision of the board must be taken by resolution of the majority of the members present at any meeting of the board and, in the event of an equality of votes on any matter, the member presiding at the meeting in question will have a casting vote in addition to his or her deliberative vote as a member of the board.
- (7) No decision of the board is invalid merely by reason of a vacancy in the board: Provided that the decision is taken by the required majority of the members of the board present and entitled to sit as members of the board.
- (8) The proceedings of all meetings of the board must be duly recorded, minuted and retained on file.
- (9)(a) The minutes of the previous meeting must be read at the commencement of each meeting.
- (b) The minutes may be regarded as read if copies thereof were furnished to the members of the board prior to the meeting.
- (c) The chairperson may only sign the minutes once objections or corrections have been dealt with.
- (10) The chairperson must decide on issues of order or procedure: Provided that if any member objects to any such decision, the issue must be put to the vote and the decision of the majority of the members is final and binding on the board.
- (11) A member of staff of the Board may, on invitation by the board, attend a meeting of the board.
- (12) The board may invite any person to attend any of its meetings.

### **Committees of board**

- 15.(1)** The board may appoint one or more committees, not limited to its own members, to assist it in the exercise of its powers and the performance of its duties and functions.
- (2) Any committee appointed in terms of subsection (1) must be chaired by a member of the board.
- (3) A committee contemplated in subsection (1) must perform such duties and functions



as the board may determine.

(4) The board may, at any time, dissolve or reconstitute such a committee.

(5) The board –

- (a) may delegate any of its powers or assign any of its duties or functions to a committee appointed in terms of subsection (1);
- (b) is not absolved from exercising or performing any power, duty or function so delegated or assigned; and
- (c) may amend, review or rescind any decision of a committee.

(6) Any delegated or assigned power, duty or function exercised or performed by a committee is regarded to have been exercised or performed by the Board.

(7)(a) The Chief Executive Officer may attend and take part in, but may not vote at, a meeting of a committee.

(b) A member of staff of the Board may, on invitation by the relevant committee, attend a meeting of that committee.

#### **Remuneration of members of board**

16.(1)(a) A member of the board may be paid such remuneration or allowances as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance.

(b) A member of the board who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –

- (i) the national government;
- (ii) a provincial government;
- (iii) a municipality; or
- (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest,

who continues to receive such remuneration, allowances or other benefits while serving as a member of the board, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position in which he or she would have been were it not for such post or employment.

(2)(a) A member of the board and a member of a committee of the board may, in respect

of his or her functions as a member, receive reimbursement for reasonable actual subsistence and traveling expenses necessitated by the actual attendance of a meeting of the board or a committee of the board.

(b) The responsible Member must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

### CHAPTER 3 CHIEF EXECUTIVE OFFICER AND OTHER STAFF OF BOARD

#### **Chief Executive Officer of Board**

17.(1) The Board must, through its board, with the approval of the responsible Member and using a method which will, in the opinion of the responsible Member, reach the greatest number of residents of the Province, invite applications for the position of the Chief Executive Office.

(2) The board must, with the approval of the responsible Member, appoint a selection panel to review all the applications, shortlist and interview applicants.

(3) The board must, subject to the provisions of subsection (2) and with the approval of the responsible Member, appoint a suitably qualified, skilled and experienced person as the Chief Executive Officer of the Board.

(4)(a) The Chief Executive Officer is appointed for a period not exceeding five years.

(b) The Chief Executive Officer may be reappointed.

(5)(a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the board.

(b) The board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(6)(a) For purposes of the declaration of financial or other interests, the provisions of section 10 apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the board.

(b) The board must keep and maintain a register of financial or other interests declared by the Chief Executive Officer.

#### **Functions of Chief Executive Officer**

18.(1) The Chief Executive Officer is an *ex officio* member of the board and performs

his or her functions as assigned or delegated by the board.

(2) The Chief Executive Officer is not an accounting officer of the Board.

(3) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the board must, in writing, and with the approval of the responsible Member, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

### **Resignation and removal from office of Chief Executive Officer**

**19.**(1) The Chief Executive Officer vacates office –

- (a) in the case of resignation, when the resignation takes effect;
- (b) when, in terms of the Companies Act 2008, (Act No. 71 of 2008), the person holding that office has become disqualified to serve as director of a company; and
- (c) upon having been removed from office in terms of subsection (2).

(2) The board may, with the approval of the Member of the Executive Council, terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

### **Staff of Board**

**20.**(1) The board must, subject to subsection (2), employ management staff of the Board and the Chief Executive Officer must subject to subsection (2), employ members of staff of the Board.

(2) The board must determine human resources policies for the staff, including the Chief Executive Officer.

### **Secondment or transfer of staff to Board**

**21.** The Board may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act 1994, (Proclamation No. 103 of 1994), or from a municipality, other organs of state and the private sector.

## **CHAPTER 4 FUNDING AND FINANCIAL MANAGEMENT OF board**

### **Funds of Board**

**22.**(1) The funds of the Board consist of –

- (a) money appropriated by the Provincial Legislature;
  - (b) donations or contributions or income lawfully received by the board from any source;
  - (c) interest on investments of the Board; or
  - (d) fees received by the Board in payment for the provision of services by the Board.
- (2) The Board must utilise its funds –
- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of the –
    - (i) members of the board;
    - (ii) Chief Executive Officer; and
    - (iii) members of staff of the Board;
  - (b) to cover costs in connection with the –
    - (i) day to day operation and administration of the Board;
    - (ii) performance of the duties and functions of the board, and
    - (iii) exercise of its powers in terms of this Act.
- (3) The board must, with the concurrence of the responsible Member –
- (a) open an account in the name of the Board with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
  - (b) deposit therein all money received in terms of subsection (1).

### **Financial management**

**23.(1)** The board must cause full and proper books of account and all the necessary records in relation thereto to be kept.

(2) The board must ensure that the Board's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3) The board must, in each financial year at such time as the responsible Member determines, submit to the responsible Member for approval –

- (a) a business plan for the Board, containing measurable objectives and the other information contemplated in section 24(3)(b) and such further information as the responsible Member determines; and
- (b) a statement of the Board's estimated income and expenditure, in respect of the following three financial years or such longer or shorter period as the Member

of the Executive Council determines.

(4) In any financial year the board must submit to the responsible Member, for approval, supplementary statements of the Board's estimated income and expenditure for that financial year.

(5) The board may not enter into any financial commitment beyond its approved budget and its accumulated reserves.

(6) The board may, with the approval of the responsible Member, and subject to the provisions of section 154 of the Public Finance Management Act, 1999 –

(a) invest any unexpended portion of its funds in a registered bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); or

(b) with the approval of the responsible Member dispose of that portion in any other manner.

(7) Subject to the provisions of section 154 of the Public Finance Management Act, 1999, the board may establish such reserve funds, and deposit therein such amounts, as the responsible Member approves.

(8) The board may only invest or dispose of funds as contemplated in subsection (6) and establish a reserve fund as contemplated in subsection (7), with the prior written approval of National Treasury, as required by section 53 of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

#### **Audit and annual report**

**24.(1)** Subject to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Auditor-General must audit the financial statements of the Board.

(2) The Board must, through the responsible Member, table the report on its activities in the Provincial Legislature within five months after the end of each financial year.

(2) The report must –

(a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;

(b) state the extent to which the board has achieved or advanced its objectives referred to in sections 5 and 6, and the measurable objectives as set out in its

business plan as contemplated in section 24(3)(a) during the financial year concerned; and

(c) contain relevant performance information regarding the economic, efficient and effective use of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

#### **Financial year of Board**

25. The financial year of the Board commences on 1 April of a particular year and ends on 31 March of the following year.

### CHAPTER 5 GENERAL PROVISIONS

#### **Immovable property**

26. The board must, consistent with relevant laws, determine the policies and procedures with regard to the acquisition and disposal of immovable property.

#### **Legal proceedings against Board**

27.(1) Any legal proceedings against the Board must be instituted in accordance with the Institution of Legal Proceedings against Certain Organs of State Act, 2002 (Act No. 40 of 2002).

(2) The Board is, for purposes of subsection (1), regarded as an organ of state contemplated in section 239 of the Constitution.

#### **Security of confidential information held by Board**

28.(1) Subject to the Constitution and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information submitted to the board in connection with any legal brief or instruction, unless he or she is ordered to do so by a court of law or unless the person who gave such brief or instruction consents thereto in writing.

(2) No person may disclose any information kept in the registers contemplated in sections 10(5), 17(6) and 20 (4) unless such disclosure is –

- (a) in terms of any law that compels or authorises such disclosure;
- (b) materially necessary for the proper functioning of the board; or
- (c) made for purposes of monitoring, evaluating, investigating or considering any

activity relating to the board.

(3) Any person who contravenes subsection (1) or (2) commits an offence.

#### **Dissolution of Board**

29. The Board may only be dissolved in terms of an Act of the Provincial Legislature.

#### **Use of name of Board**

30.(1) Unless authorised in writing by the Board to do so, no person may in any way represent or make use of the name, acronym, logos, plaques, designs or other material used or owned by the Board.

(2) No person may falsely claim to be acting on behalf of the Board.

(3) Any person who contravenes subsections (1) or (2) commits an offence.

#### **Regulations and notices**

31. The responsible Member may, by notice in the *Gazette* and after consultation with the board, make regulations prescribing –

(a) any matter which is required or permitted to be prescribed in terms of this Act; or

(b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

#### **Delegations**

32.(1) The responsible Member may delegate to the Head of Department –

(a) any power conferred on the responsible Member by this Act, except the power to make regulations, in terms of section 32, or

(b) any duty imposed on the responsible Member by this Act, except any duty regarding the appointment, and termination of office, of the members of the board contemplated in sections 7 and 13.

(2) The board may delegate to the Chief Executive Officer any power or duty conferred or imposed on the board by this Act.

(3) Any power or duty delegated in terms of subsection (1), or (2) must be exercised or performed subject to such conditions as the person or body that made the delegation

considers necessary.

(4) Any delegation in terms of subsection (1) or (2) –

- (a) must be in writing;
- (b) must not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
- (c) may at any time be withdrawn or amended in writing by that person or body.

#### **General offences pertaining to Board**

33.(1) A member of the board, a member of staff, advisor, agent or other person employed by or acting on behalf of the Board commits an offence if he or she directly or indirectly accepts any unauthorised fee or reward from any person in respect of or in connection with any service rendered or anything done or offered by the Board.

(2) Any person commits an offence if he or she, in respect of or in connection with any service rendered or anything done or offered by the Board, bribes or attempts to bribe, or corruptly influences or attempts to corruptly influence, any member of staff or any adviser, agent or other person employed by or acting on behalf of the Board or board.

(3) Any person who falsely claims that he or she is authorised to charge or collect fees on behalf of or by direction of the Board, commits an offence.

(4) Any person who obstructs the board, including any officer or agent of the Board, in the exercise of any powers of the Board or board in terms of this Act, commits an offence.

#### **Penalties**

34. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 5 years.

#### **Transitional arrangements and validation in respect of repeal of North West Parks Board Act and North West Tourism Board Act**

35.(1)(a) Since the North West Parks and Tourism Board is the legal successor in law to the North West Parks Board and the North West Tourism Board, all assets, liabilities and responsibilities of the North West Parks Board and the North West Tourism Board accrue to the North West Parks and Tourism Board; and



(b) Persons who, on the day before the date of commencement of this Act, were members of staff of the North West Parks Board and the North West Tourism Board are regarded as having been appointed in terms of section 20 of this Act with the retention of all rights and benefits.

(2) Any act, determination, designation, decision, matter or any other thing done, made, taken, executed or carried out or purported to have been done, made, taken, executed or carried out by the North West Parks Board and the North West Tourism Board, the Chief Executive Officers, officers or members of staff of the North West Parks Board and the North West Tourism Board or the responsible Members in terms of or in pursuance of the repealed Acts, to the date of commencement of this Act, is not invalid by reason of –

(a) the regulations referred to in the repealed Acts not having been published by the responsible Members; or

(b) any procedure, process, requirement, condition or detail referred to in the repealed Acts not having been determined or prescribed by regulation, as contemplated in the repealed Acts.

(3) In achieving the objects contemplated in subsections (1) and (2) the responsible Member may establish a task team to deal with matters related thereto.

#### **Repeal of laws**

36. This North West Parks Board Act, 2 015 (Act No 3 of 2015) and the North West Tourism Board Act, 2 015 (Act No 2 of 2015), are hereby repealed.

#### **Short title**

37. This Act is called the North West Parks and Tourism Board Act, 2019 and comes into operation on a date to be determined by the responsible Member.

**SCHEDULE 1**  
**CODE OF CONDUCT FOR BOARD MEMBERS**  
(Section 8(10))

**General conduct of board members**

**1. A board member –**

- (a) must perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
- (b) must fulfil his or her role in an efficient manner;
- (c) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (d) must comply with any applicable legislation;
- (e) must act in the best interest of the board;
- (f) may not embark on actions that would create division within the board;
- (g) may not refuse to provide any service to a person on political or ideological grounds;
- (h) must foster good relations with the organs of state with whom he or she interacts; and
- (i) must disclose gifts received.

**Attendance at meetings**

**2. A member of the board must attend each meeting of the board and of a committee of which that member of the board is a member, except when –**

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules of the board; or
- (b) that member of the board is required in terms of this Code to withdraw from the meeting.

**Sanctions for non-attendance of meetings**

**3.(1) The responsible Member may impose a sanction as determined by the responsible Member on a member of the board for –**

- (a) not attending a meeting which that member of the board is required to attend in terms of item 2; or
- (b) failing to remain in attendance at such a meeting.

(2) A member of the board, who is absent from three or more consecutive meetings of the board, or from three or more consecutive meetings of a committee of the board, which that member of the board is required to attend in terms of item 2, must be removed from office as a member of the board, by the responsible Member.

(3) The responsible Member must inform the Premier of the removal of the member of the Board.

### **Disclosure of interests**

4.(1) A member of the board must –

(a) disclose to the board; or to any committee of the board of which that member of the board is a member, any direct or indirect personal or private business interest that that member of the board, or any spouse, partner or business associate of that member of the Board, may have in any matter before the board or the committee of the board; and

(b) withdraw from the proceedings of the board or committee of the board when that matter is considered by the board or its committee, unless the board or its committee decides that the member of the board's direct or indirect interest in the matter is trivial or irrelevant.

(2) A member of the board who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the board, must disclose full particulars of the benefit of which the member of the board is aware at the first meeting of the board at which it is possible for the member of the board to make the disclosure.

(3) This item does not apply to an interest or benefit which a member of the board, or a spouse, partner, business associate or close family member has or acquires in common with other members of the board.

### **Personal gain**

5.(1) A member of the board may not use the position or privileges of a member of the board, or confidential information obtained as a member of the Board, for private gain or to improperly benefit another person.

(2) Except with the prior consent of the board, a member of the board may not –

(a) be a party to or beneficiary under a contract for –

(i) the provision of goods or services to the Board; or

(ii) the performance of any work otherwise than as a member of the Board and for the board;

(b) obtain a financial interest in any business of the board; or

(c) for a fee or other consideration appear on behalf of any other person before the Board or its committee.

(3) If more than one quarter of the members of the board object to consent being given to a member of the board in terms of sub-item (2), such consent may only be given to the member of the Board with the approval of the responsible Member.

#### **Declaration of interests**

6.(1) When appointed, a member of the board must, within 10 days, declare, in writing, to an officer of the board designated by the responsible Member the following financial interests held by that member of the Board –

- (a) shares and securities in any company;
- (b) membership of any close corporation;
- (c) interest in any trust;
- (d) directorships;
- (e) partnerships;
- (f) other financial interests in any business undertaking;
- (g) employment and remuneration;
- (h) interest in property;
- (i) pension; and
- (j) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a member of the board must be declared, in writing, to the officer referred to in sub-item (1) annually.

(3) Gifts received by a member of the board in excess of an amount as may be prescribed by notice in the Provincial Gazette from time to time, must also be declared in accordance with sub-item (1).

(4) The board must determine which of the financial interests referred to in sub-item (1) must be made public, having regard to the need for confidentiality and the public interest for disclosure.

(5) The declaration of interests and gifts contemplated in this item must substantially comply with the format of Annexure A to this Schedule, and must be completed annually where necessary, in order to comply with the provisions of sub-item (2).

**Rewards, gifts and favours**

7. A member of the board may not request, solicit or accept any reward, gift or favour for

–

- (a) voting or not voting in a particular manner on any matter before the board or before a committee of the board of which that member of the board is a member;
- (b) persuading the board or any committee of the board in regard to the exercise of any power, function or duty;
- (c) making a representation to the Board or any committee of the board; or
- (d) disclosing privileged or confidential information.

**Unauthorised disclosure of information**

8.(1) A member of the board may not, without the permission of the board or a committee, disclose any privileged or confidential information of the Board or committee to any unauthorised person.

(2) For the purpose of this item "privileged or confidential information" includes any information –

- (a) determined by the board or committee of the board to be privileged or confidential;
- (b) discussed in closed session by the board or its committee;
- (c) of which disclosure would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of the law.

(3) This item does not derogate from the right of any person to access information in terms of national legislation.

**Breach of Code of Conduct**

9.(1) If the board, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the board must report such breach to the responsible Member.

(2) The responsible Member may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make recommendations on whether the member of the board should be suspended or removed from office.

(3) If the responsible Member is of the opinion that a member of the board has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the responsible Member may –

- (a) Warn, reprimand or suspend the member of the board for a period and on conditions determined by the responsible Member; or
- (b) remove the member of the board from office.

(2)(a) Any member of the board who has been warned, reprimanded, suspended or removed in terms of sub-item (3) may, within 14 days of having been notified of the decision of the responsible Member, appeal to the Premier in writing, setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the responsible Member.

(c) The responsible Member may, within 14 days of receipt of the appeal referred to in paragraph (b), make any representation pertaining to the appeal to the Premier in writing.

(d) The Premier may, after having considered the appeal, confirm, set aside or vary the decision of the responsible Member and inform the member of the board, the board and the responsible Member of the outcome of the appeal.

(4) Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

(5) The secretary of the board must ensure that each member of the board, when taking office, is given a copy of this Code and that a copy of this Code is available in every room or place where the board or a committee of the board meets.

**SCHEDULE 2  
DECLARATION OF INTERESTS AND GIFTS**

*(Section 8(10))*

I, the undersigned: \_\_\_\_\_  
*(Full names)*

Identity number: \_\_\_\_\_

Postal address: \_\_\_\_\_

Residential address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

hereby certify that the following information is complete and correct to the best of my knowledge:

**1. Shares and other financial interests**

<b>Number of shares/ Extent of financial interests</b>	<b>Nature</b>	<b>Nominal Value</b>	<b>Name of Company/Entity</b>

**2. Directorships and partnerships**

<b>Name of corporate entity or partnership</b>	<b>Type of business</b>	<b>Amount of Remuneration</b>

**3. Consultancies**

<b>Name of client</b>	<b>Nature</b>	<b>Type of business activity</b>	<b>Value of any benefits received</b>

**4. Sponsorships**

Source of assistance/ sponsorship	Description of assistance/ sponsorship	Value of assistance/ sponsorship

**5. Gifts and hospitality from a source other than a family member**

Description	Value	Source

**6. Land and property**

Description	Extent	Area	Value

\_\_\_\_\_  
SIGNATURE

PLACE: \_\_\_\_\_

DATE: \_\_\_\_\_

**OATH/AFFIRMATION**

1. I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:

(a) Do you know and understand the contents of the declaration?

Answer \_\_\_\_\_.

(b) Do you have any objection to taking the prescribed oath or affirmation?

Answer \_\_\_\_\_.

(c) Do you consider the prescribed oath or affirmation to be binding on your conscience?



Answer \_\_\_\_\_.

2. I certify that the deponent has acknowledged that she/he knows and understands the contents of this declaration. The deponent uttered the following words: "I swear that the contents of this declaration are true, so help me God." / "I truly affirm that the contents of the declaration are true". The signature/ mark of the deponent has been affixed to the declaration in my presence.

**COMMISSIONER OF OATHS/JUSTICE OF PEACE**

Full first names and surname: \_\_\_\_\_  
 (Block letters)

Designation: \_\_\_\_\_ *Ex Officio* Republic of South Africa

Street address of Institution: \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

Signature: \_\_\_\_\_

---

**SIGNATURE OF RESPONSIBLE MEMBER**

DATE \_\_\_\_\_

**NAME OF RESPONSIBLE MEMBER**

\_\_\_\_\_

**PORTFOLIO:** \_\_\_\_\_

**MEMORANDUM ON THE OBJECTS ON THE  
NORTH WEST PARKS AND TOURISM BOARD BILL, 2019**

**1. BACKGROUND**

1.1 A Resolution to merge the North West Parks Board and the North West Tourism Board, thereby establishing the North West Parks and Tourism Board was taken by the North West Provincial Executive Council. In order to give effect to the above Exco Resolution, promulgation of an Act establishing a new public entity to be known as the North West Parks and Tourism Board, thereby disestablishing the North West Parks Board and the North West Tourism Board through repeal of the North West Tourism Board Act, 2015 (Act No 3 of 2015) and the North West Parks Board Act, 2015 (Act No 3 of 2015), is imperative. This Act seeks to provide for –

- (a) the establishment of the North West Parks and Tourism Board;
- (b) determination of the objects, powers, duties and functions of the North West Parks and Tourism Board;
- (c) the manner in which the North West Parks and Tourism Board is to be managed, governed, staffed and financed;
- (d) the management and control of protected areas in the North West Province;
- (e) the promotion of tourism in the North West Province;
- (f) the repeal of the North West Parks Board Act, 2015 (Act No 2 of 2015) and the North West Tourism Board Act, 2015 (Act No 3 of 2015); and
- (g) the disestablishment of the North West Parks Board and the North West Tourism Board,

in the North West Province.

1.2 This Act further seeks to provide the legal basis for the North West Parks and Tourism Board to assume responsibility as successor in law to the North West Parks Board and the North West Tourism Board thereby assuming their powers, duties and functions and the accrual and vesting of their assets and liabilities.

1.3 Section 104, read with Part A of Schedule 5 of the Constitution of the Republic of South Africa, 1996 assigns Provinces the concurrent competence to legislate on environment, nature

conservation and tourism.

## **2. CLAUSE BY CLAUSE ANALYSIS**

### **Clause 1.**

Clause 1 defines certain terms in the context they are used in the Act.

### **Clause 2.**

Clause 2 provides for the objects of the Act.

### **Clause 3.**

Clause 3 provides for the establishment of the North West Parks and Tourism Board.

### **Clause 4.**

Clause 4 provides for the objects of the North West Parks and Tourism Board.

### **Clause 5.**

Clause 5 provides for the Powers, duties and functions of the North West Parks and Tourism Board.

### **Clause 6.**

Clause 6 provides for the powers of responsible Member.

### **Clause 7.**

Clause 7 provides for the composition of the board of Directors of the North West Parks and Tourism Board.

### **Clause 8.**

Clause 8 provides for the disqualification from being appointed to the board of the North West Parks and Tourism Board.

### **Clause 9.**

Clause 9 provides for the term of office of members of board of the North West Parks and Tourism Board.

**Clause 10.**

Clause 10 provides for the declaration of financial or other interests by nominees to board of the North West Parks and Tourism Board.

**Clause 11.**

Clause 11 provides for consequences for failure to declare financial or other interests.

**Clause 12.**

Clause 12 provides for the recusal of a member of board of the North West Parks and Tourism Board.

**Clause 13.**

Clause 13 provides for vacancies, removal and resignation from office of members of board of the North West Parks and Tourism Board.

**Clause 14.**

Clause 14 regulates meetings of board of the North West Parks and Tourism Board.

**Clause 15.**

Cause 15 provides for the establishment of committees of the board. of the North West Parks and Tourism Board.

**Clause 16.**

Clause 16 provides for the remuneration of members of board of the North West Parks and Tourism Board.

**Clause 17.**

Clause 17 provides for the appointment of the Chief Executive Officer of the North West Parks and Tourism Board.

**Clause 18.**

Clause 18 provides for the functions of the Chief Executive Officer.

**Clause 19.**

Clause 19 provides for the resignation and removal from office of the Chief Executive Officer.

**Clause 20.**

Clause 20 provides for the appointment of staff of Board.

**Clause 21.**

Clause 21 provides for the secondment or transfer of staff from the public service to the North West Parks and Tourism Board.

**Clause 22.**

Clause 22 provides for the Funds of the North West Parks and Tourism Board.

**Clause 23.**

Clause 23 provides for financial management.

**Clause 24.**

Clause 24 regulates the audit and annual report of the North West Parks and Tourism Board.

**Clause 25.**

Clause 25 provides for the financial year of the North West Parks and Tourism Board.

**Clause 26.**

Clause 26 regulates matters pertaining to the immovable property of the North West Parks and Tourism Board.

**Clause 27.**

Clause 27 provides for legal proceedings against the North West Parks and Tourism Board.

**Clause 28.**

Clause 28 provides for the security of confidential information held by the North West Parks and Tourism Board.

**Clause 29.**

Clause 29 provides for procedure for the dissolution of the North West Parks and Tourism Board.

**Clause 30.**

Clause 30 prohibits the unauthorised use of name of the North West Parks and Tourism Board.

**Clause 31.**

Clause 31 provides for Regulations and notices.

**Clause 32.**

Clause 32 provides for delegations.

**Clause 33.**

Clause 33 provides for general offences pertaining to the North West Parks and Tourism Board.

**Clause 34.**

Clause 34 provides for penalties.

**Clause 35.**

Clause 35 provides for transitional arrangements and validation in respect of repeal of North West Parks Board Act and North West Tourism Board Act.

**Clause 36.**

Clause 36 provides for the repeal of laws.

**Clause 37.**

Clause 37 provides for the short title.

**3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

Since the establishment of the North West Parks and Tourism Board affects two existing public entities there are organisational and personnel implications that are foreseen. As part of the merger consultations with organised labour in terms of the Labour Relations Act will be embarked upon and where duplication of posts are identified transfers to the public service may also be considered.

#### **4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

4.1 Since the establishment of the North West Parks and Tourism Board affects two existing public entities, there are financial implications foreseen.

4.2 These financial implications must be addressed in the business case for the merger of the two affected entities.

#### **5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED**

5.1 The Bill has been drafted in consultation with the key staff members in the Department and the Provincial Treasury;

5.2 The Accounting Authority of the North West Parks Board;

5.3 The Accounting Authority of the North West Tourism Board; and

5.4 The office of the Chief State Law Advisor.

#### **6. CONTACT PERSON:**

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Position : Manager: Legal Services  
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