

Provincial Gazette Extraordinary

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CONTENTS

PROVINCIAL NOTICE

Bill: Western Cape Eighth Gambling and Racing Amendment Bill, 2000

P.N. 19 2000

The following Bill is hereby published for general information:—

Western Cape Eighth Gambling and Racing Amendment Bill, 2000

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 14 February 2000:

(a) by posting it to:

The Chief Executive Officer
Western Cape Gambling and Racing Board
P.O. Box 8175
ROGGEBAAI
8012

(b) by handing it in at:

Reception
8th Floor
Reserve Bank Building
60 St George's Mall
CAPE TOWN

Buitengewone Provinsiale Koerant

5415

Vrydag, 21 Januarie 2000

As 'n Nuusblad by die Poskantoor Geregistreer

INHOUD

PROVINSIALE KENNISGEWING

Wetsontwerp: Wes-Kaapse Agste Wysigingswetsontwerp op Dobbelary en Wedrenne, 2000

P.K. 19 2000

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:—

Wes-Kaapse Agste Wysigingswetsontwerp op Dobbelary en Wedrenne, 2000

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 14 Februarie 2000:

(a) deur dit te pos aan:

Die Hoof-uitvoerende Beampste
Wes-Kaapse Raad op Dobbelary en Wedrenne
Posbus 8175
ROGGEBAAI
8012

(b) deur dit in te handig by:

Ontvangs
8ste Verdieping
Reserwe Bank Gebou
St Goerge's Wandelstraat 60
KAAPSTAD

GENERAL EXPLANATORY NOTE:

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

BILL

To amend the Western Cape Gambling and Racing Law, 1996, so as to make further provision for the payment of rewards to informers, to stipulate that all fees payable in terms of the Law shall be exclusive of Value Added Tax, to adjust fee amounts accordingly, to provide for the payment of certain costs incurred by the Board or the South African Police Service in cases where an admission of guilt fine is paid, to consolidate the law pertaining to tax payable by the holders of bookmaker licences, and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

Amendment of section 44B of Law 4 of 1996

1. Section 44B of the Law is hereby amended by the substitution for subsection (1) of the following subsection: 5

“(1) A bid fee, as set out in paragraph 4 of Schedule II payable to the **[Board]** Provincial Administration: Western Cape shall be collected by the Board from **[by]** all successful applicants for a casino operator licence.”

Amendment of section 75 of Law 4 of 1996

2. Section 75 of the Law is hereby amended by the substitution for subsection (3) of the following subsection: 10

“(3) Whenever any person is convicted of any offence in terms of this Law, or pays an admission of guilt fine in respect thereof in terms of section 57 of the Criminal Procedure Act (Act 51 of 1977), all costs incurred by the Board or the South African Police Service, including any costs for the transport or storage of any gambling devices, equipment or any other thing by means of which the offence was committed or which was used in the commission of the offence or found in the possession of **[the convicted]** such person shall, in addition to any fine or penalty imposed in terms of subsection (1), or paid by such person, be for the account of such person, unless the Court orders otherwise.” 15 20

Substitution of section 80 of Law 4 of 1996

3. The following section is hereby substituted for section 80 of the Law:

“80. The Board may, notwithstanding anything to the contrary in any other law contained, from its funds pay to any person who has furnished information leading to the successful execution of a search warrant, the seizure of gambling devices, or the arrest or conviction of any other person for a contravention of any provisions of this Law, a reward in such amount as the Board may decide.” 5

Amendment of Schedule II of Law 4 of 1996

4. Schedule II of Law 4 of 1996 is hereby amended—

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

“1. The fees payable in terms of section 32 are as follows: 10

Kinds of licences	Nuw licence application fee	
	R	
Casino operator licence	[228 000,00]	<u>200 000,00</u>
Limited gambling machine operator licence	[114 000,00]	<u>100 000,00</u>
Limited gambling machine premises licence	[5 7000,00]	<u>5 000,00</u>
Bingo licence	[57 000,00]	<u>50 000,00</u>
Bingo premises licence	[5 700,00]	<u>5 000,00</u>
Junket agent licence	[5 700,00]	<u>5 000,00</u>
Manufacturer licence	[5 700,00]	<u>5 000,00</u>
Distributor licence	[5 700,00]	<u>5 000,00</u>
Race course licence	[5 700,00]	<u>5 000,00</u>
Race course premises licence	[5 700,00]	<u>5 000,00</u>
Totalisator operator licence	[114 000,00]	<u>100 000,00</u>
Totalisator premises licence	[5 700,00]	<u>5 000,00</u>
Bookmaker licence	[5 700,00]	<u>5 000,00</u>
Bookmaker premises licence	[5 700,00]	<u>5 000,00</u>
Key employee licence	[228,00]	<u>200,00</u>
Gambling employee licence	[57,00]	<u>50,00</u> ”;

(b) by the substitution for paragraph 2 of the following paragraph:

“2. The fees payable in terms of section 44 are as follows: 40

Kinds of licences	Annual licence fee	Investigation fee
	R	R
Casino operator licence	[114 000,00] <u>100 000,00</u>	[3 420,00] <u>3 000,00</u> per gambling table plus [2 280,00] <u>2 000,00</u> per slot machine
Limited gambling machine operator licence	[57 000,00] <u>50 000,00</u>	[1 140,00] <u>1 000,00</u> per limited gambling machine
Limited gambling machine premises licence	[570,00] <u>500,00</u>	[2 280,00] <u>2 000,00</u>
Bingo licence	[2 280,00] <u>2 000,00</u>	[5 700,00] <u>5 000,00</u>
Bingo premises licence	[570,00] <u>500,00</u>	[2 280,00] <u>2 000,00</u>
Junket agent licence	[228,00] <u>200,00</u>	[570,00] <u>500,00</u>
Manufacturer licence	[2 280,00] <u>2 000,00</u>	[11 400,00] <u>10 000,00</u>
Distributor licence	[2 280,00] <u>2 000,00</u>	[11 400,00] <u>10 000,00</u>

Kinds of licences	Annual licence fee	Investigation fee
Race course licence	[228,00] 200,00	[570,00] 500,00
Race course premises licence Totalisator operator licence	[228,00] 200,00 [2 280,00] 2 000,00	[570,00] 500,00 [57 000,00] 50 000,00
Totalisator premises licence	[228,00] 200,00	[570,00] 500,00
Bookmaker licence	[1 140,00] 1 000,00	[4 560,00] 4 000,00
Bookmaker premises licence Key employee licence	[228,00] 200,00 [57,00] 50,00	[570,00] 500,00 [228,00] 200,00
Gambling employee licence	[57,00] 50,00	[57,00] 50,00”;

(c) by the substitution for paragraph 3 of the following paragraph:

“3. The exclusivity fees payable in terms of section 44A are as follows:

Value of casino development	Exclusivity Fee
Where the value of the casino development does not exceed R175 million	[R570 000,00] R500 000,00 per annum for a period of ten years escalating annually at the rate applicable in respect of debts to the State as determined by the Minister responsible for National Finance from time to time
Where the value of the casino development exceeds R175 million	[R1 140 000,00] R1 000 000,00 per annum for a period of ten years escalating annually at the rate applicable in respect of debts to the State as determined by the Minister responsible for National Finance from time to time”;

(d) by the substitution for paragraph 4 of the following paragraph:

“4. The bid fees payable in terms of section 44B are as follows:

Value of casino development	Bid Fee
Where the value of the casino development does not exceed R175 million (save for the Metropolitan casino development)	[R5,7 million] R5 million
Where the value of the casino development exceeds R175 million (save for the Metropolitan casino development)	[R11,4 million] R10 million
In respect of the casino located within a radius of 75 kilometres from the Cape Town City Hall (the Metropolitan casino)	R135 million”;

(e) by the substitution for paragraph 5 of the following paragraph:

“5. The limited gambling machine operator fees payable in terms of section 44C are as follows:

Size of limited gambling machine operator	Limited gambling machine operator fee
Where the number of limited gambling machines does not exceed 500 machines per operator	[R570 000,00] R500 000,00 per annum for a period of ten years escalating annually at the rate applicable in respect of debts to the State as determined by the Minister responsible for National Finance from time to time
Where the number of limited gambling machines exceeds 500 machines per operator but does not exceed 1000 machines per operator	[R1 140 000,00] R1 000 000,00 per annum for a period of ten years escalating annually at the rate applicable in respect of debts to the State as determined by the Minister responsible for National Finance from time to time

Size of limited gambling machine operator	Limited gambling machine operator fee	
Where the number of limited gambling machines exceeds 1000 machines per operator	[R1 710 000,00] R1 500 000,00 per annum for a period of ten years escalating annually at the rate applicable in respect of debts to the State as determined by the Minister responsible for National Finance from time to time.”	5

, and

- (f) by the substitution for paragraph 6 of the following paragraph:
“6. All fees set out in this Schedule shall exclude Value Added Tax.”. 10

Substitution of Schedule IV of Law 4 of 1996

5. The following Schedule is hereby substituted for Schedule IV of the Law:

“SCHEDULE IV Tax on betting (section 64)

[Notwithstanding anything to the contrary in Schedule III or the repeal in terms of this Law of the Horse Racing and Betting Ordinance, 1968, the taxes, duties and levies payable in terms of that Ordinance (and any regulations issued in terms thereof), as it existed immediately before such repeal, by the holder of a bookmaker’s licence shall be calculated, administered and paid by the holder of a bookmaker licence, as if the relevant provisions of that Ordinance (and any regulations) had not been repealed provided taht any monies which, in terms of such Ordinance and any regulations issued in terms thereof, would have been payable by the holder of a bookmaker licence to the Western Province Racing Club shall be paid by such licence holder into the Provincial Revenue Fund.] 15 20

1. The holder of a bookmaker licence shall collect tax from every person who has taken a winning bet with such licence holder in respect of any event or contingency, at the percentage which is prescribed from time to time in Regulations made in terms of section 81. 25
2. The tax period in respect of the holder of a bookmaker licence shall commence on 00:00 every Monday and end at 23:59 the following Sunday. 30
3. The holder of a bookmaker licence shall, at the time and in the manner prescribed, submit a return to the Board in respect of betting transactions conducted during the preceding tax period.
4. The holder of a bookmaker licence shall make payment of taxes to the Chief Executive Officer at the time and in the manner prescribed.” 35

Short Title

6. This Law shall be called the Western Cape Eighth Gambling and Racing Amendment Act, 2000.

EXPLANATORY MEMORANDUM ON THE PROPOSED AMENDMENTS TO THE WESTERN CAPE GAMBLING AND RACING LAW, 1996 (LAW 4 OF 1996), AS AMENDED (“THE LAW”)

1. Proposed amendment of section 44B of Law 4 of 1996

- 1.1. This proposed amendment makes it clear that bid fees collected from successful applicants for casino operator licences are payable to the Provincial Administration: Western Cape.

2. Proposed amendment of section 75 of Law 4 of 1996

- 2.1. proposed amendment to section 75 is intended to make provision for the payment by persons who have paid an admission of guilt fine in respect of contraventions of the Law, of all costs incurred by the Board or the South African Police Service, including costs for the transport and storage of items seized or found in the possession of the relevant person.

3. Proposed amendment of section 80 of Law 4 of 1996

- 3.1. This proposed amendment broadens the circumstances under which the Board may pay a reward to informers, and has been necessitated by practical considerations. It has been found that informers are reluctant to provide information as to the activities of illegal operators, many of whom enjoy the protection of complex, organised networks, if payment will be forthcoming only upon conviction of the person in respect of whom the information is provided. In many cases, payment of the reward is substantially delayed owing to the length of time in which the criminal cases generated are eventually brought to trial.
- 3.2. In addition, an admission by an informer during criminal proceedings to the effect that a reward will be payable only upon conviction of the accused person, is regularly invoked as an argument that the informer has a motive to furnish false evidence.
- 3.3. Greater success in the fight against the illegal gambling industry is likely to be attained where informers are provided with a greater incentive to furnish information. It will be noted that the proposed amendment guarantees that informers will not be paid any fee unless successful action of some kind has been taken pursuant to the information given, including the successful execution of a search warrant, the seizure of gambling devices and the arrest of any person.

4. Proposed amendment of Schedule II of Law 4 of 1996

- 4.1. The proposed amendments to Schedule II are intended to provide clarity by specifying that all fees set out therein are exclusive of Value Added Tax (“VAT”), and amending the fee structures to reflect this.
- 4.2. The rationale behind the amendment is that the Board, which receives certain of these fees for its own account, such as new licence application fees and annual investigation fees, is liable and registered for VAT.
- 4.3. However, this situation must be distinguished from the situation where fees are directly payable to the Provincial Revenue Fund, or where the Board merely collects fees to be deposited into the Provincial Revenue Fund, as an agent for the Provincial Administration. In the latter case, VAT is not chargeable, since the Provincial Administration is neither liable nor registered for VAT.
- 4.4. In its current form, the Law provides that all fees set out in Schedule II are inclusive of VAT, and is therefore inaccurate. It is therefore proposed to amend each category of fee payable individually (other than the bid fee recoverable

in respect of the Metropole casino, which, in accordance with the original intention, was contemplated to be paid over to the Provincial Government in the amount stated, and which will therefore remain the same although exclusive of VAT) so as to remove the percentage thereof intended to represent the VAT amount.

- 4.5. It is also necessary to amend the blanket provision in Schedule II, in terms of which all fees listed therein are inclusive of VAT, to make it clear that all fees listed exclude VAT.
- 4.6. In accordance with the above objectives:
 - 4.6.1. the proposed amendment to paragraph 1 of Schedule II reduces the amounts of the new licence application fees by the portions thereof originally intended to represent VAT;
 - 4.6.2. the proposed amendment to paragraph 2 of Schedule II reduces the amounts of the annual licence and investigation fees by the portions thereof originally intended to represent VAT;
 - 4.6.3. the proposed amendment to paragraph 3 of Schedule II reduces the amounts of the exclusivity fees payable to the Board by the portions thereof originally intended to represent VAT;
 - 4.6.4. the proposed amendment to paragraph 4 of Schedule II reduces the amounts of the bid fees recoverable in respect of casino operator licences other than the Metropole by the amounts thereof originally intended to represent VAT;
 - 4.6.5. the proposed amendment to paragraph 5 of Schedule II reduces the amounts of the limited gambling machine operator fees payable to the Board by the portions thereof originally intended to represent VAT, and
 - 4.6.6. the proposed amendment to paragraph 6 of Schedule II provides that all fees listed in the Schedule exclude VAT.

5. Proposed substitution of Schedule IV of Law 4 of 1996

- 5.1. The proposed substitution of Schedule IV is intended to consolidate the Law in respect of the payment of taxes by the holders of bookmaker licences, and so to remove any potential uncertainty in respect of the issue of taxes payable by such licence holders.
- 5.2. The proposed Schedule IV sets out the position (in broad terms) as to the payment of taxes. It stipulates the fact that tax is payable on winning bets, at a percentage to be prescribed by regulation, specifies the tax period and deals broadly with the submission of returns and payment of taxes by licence holders. The effect of this amendment is that the Horseracing Ordinance No 34 of 1968 is no longer applicable, and the position is regulated solely by the Law and the Regulations.

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