



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 615

30 September
September 2016

No. 40320

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ISSN 1682-5843



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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE AND INDUSTRY**NO. 1207****30 SEPTEMBER 2016****DRAFT NATIONAL GAMBLING AMENDMENT BILL, 2016****INVITATION FOR THE PUBLIC TO COMMENT ON THE DRAFT NATIONAL GAMBLING AMENDMENT BILL, 2016**

I, Dr Rob Davies, the Minister of Trade and Industry, having obtained Cabinet approval, hereby publish the draft National Gambling Amendment Bill for broader public comment.

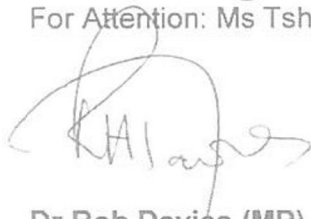
Interested persons may submit written comments on the proposed draft National Gambling Amendment Bill not later than forty five (45) days from the date of publication of this notice to:

Director-General, Department of Trade and Industry
Private Bag x84
Pretoria
0001

Or hand deliver to:

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For Attention: Ms Tsholofelo Shale



Dr Rob Davies (MP)
Minister of Trade and Industry

29 September 2016

REPUBLIC OF SOUTH AFRICA

NATIONAL GAMBLING AMENDMENT BILL, 2016

(Minister of Trade and Industry)

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 National Gambling Act, 2004, so as to amend certain definitions; to delete any reference to the National Gambling Board; to provide for the repositioning of the National Gambling Board as a Regulator; to provide for the recognition of self-regulating body of the horseracing industry; to provide for the electronic form of bingo; to strengthen the regulation of casinos, limited pay-out machines and bingo; to provide for automatic forfeiture of unlawful winnings to the National Gambling Regulator; to provide for the restriction of gambling advertisements, unsolicited advertisements and promotions; to provide for certain new offences; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 7 of 2004 (hereinafter referred to as “the principal Act”)

1. Section 1 of the principal Act is hereby amended by –

(a) the substitution for the definition of “bingo” of the following definition:

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

- (a) that is played for consideration, using cards or devices, including electronic form of bingo -
- (i) that are divided into spaces each of which bears a different number, picture or symbol; **[and]**
 - (ii) with numbers, pictures or symbols arranged randomly such that each card **[or]**, similar device or electronic screen contains a unique set of numbers, pictures or symbols; and
 - (iii) not having the “look and feel” of a slot machine;
- (b) in which either –
- (i) an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match each such number, picture or symbol to numbers, pictures or symbols appearing on the card or other device as [it] such series is called or displayed; or
 - (ii) an electronic or similar device generates and displays a series of numbers, pictures or symbols and on behalf of the players, matches each such number, picture or symbol to the numbers, pictures or symbols appearing on the electronic card or other similar device after such number, picture or symbol is generated or displayed; and
- (c) in which either –
- (i) the player who is first to match all spaces on the card or other similar device, or who matches a specified set of numbers, pictures and symbols on the card or device, wins a prize; or
 - (ii) the player on whose behalf the electronic or similar device referred to in subparagraph (i) first matches all the spaces on the card or similar device, or matches a specified set of

numbers, pictures and symbols on the electronic card or similar device, wins a prize or more than one prize; or

any other substantially similar game declared to be bingo in terms of section 2(a);”.

- (b) the deletion of the definition of “board”;
- (c) the substitution for the definition of “Chief Executive Officer” of the following definition:

“**Chief Executive Officer**’ means the person appointed by the **[board]** Minister;”

- (d) the insertion after the definition of “gambling machine” of the following definition:

“**gambling regulator**’ means the National Gambling Regulator established in terms of section 64 of this Act;”

- (e) the substitution for the definition of “regulatory authority” of the following definition:

“**regulatory authority**’ means the **[board]** National Gambling Regulator or a provincial licensing authority;”.

Amendment of section 4 of Act 7 of 2004

- 2. Section 4 of the principal Act is hereby amended by –

- (a) the substitution in subsection (1) for paragraphs (a), (b) and (c) of the following paragraphs respectively:

- “(a) being a player, stakes money or anything of value on a fixed-odds bet, or an open bet, with a bookmaker on any contingency, excluding bets on lottery or lottery results and sports pools; or
- (b) being a bookmaker –
- (i) accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency, excluding bets on lottery or lottery results and sports pools; or
 - (ii) stakes money on anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency, excluding bets on lottery or lottery results and sports pools;
- (c) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency, excluding bets on lottery or lottery results and sports pools.”

Amendment of section 10 of Act 7 of 2004

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

“A person must notify a provincial licensing authority and the **[board]** National Gambling Regulator, if the person-.”

Amendment of section 13 of Act 7 of 2004

4. Section 13 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A person licensed to make any gambling activity available to the public must not extend credit contrary to this Act or any other law, in the name of the licensee or a third party **[,to any person for purposes of gambling]**.”

Amendment of section 14 of Act 7 of 2004

5. Section 14 of the principal Act is hereby amended by –

- (a) the substitution in subsection (7) for the words preceding paragraph (a) of the following words:

“The **[board]** National Gambling Regulator must –”

- (b) the addition in subsection (7) of the following paragraphs:

“(c) establish and maintain -

- (i) the national register of excluded persons, in accordance with section 14 of the Act;
- (ii) the national central electronic monitoring system, in accordance with section 27 of the Act;
- (iii) the national registry of gambling machines or gambling devices, in accordance with section 21 of the Act;
- (iv) a central registry of information contemplated in section 35 of the Act; and
- (v) the national probity register contemplated in terms of section 57 of the Act.

(d) monitor the socio-economic patterns of gambling activity within the Republic and in particular, conduct research and identify factors relating to gambling, patterns, causes and consequences of -

- (i) the socio-economic impact of gambling; and
- (ii) addictive or compulsive gambling.

(e) carry out the responsibilities set out in section 33;

(f) exercise any other powers and performing any other duties assigned to it in terms of this Act;

- (g) advise the Council, through the Minister, on the maximum number of any kind of licences relating to casinos, racing, gambling and wagering that should be awarded in the Republic or in any particular province;
 - (h) advise the Council, through the Minister, on matters of national policy relating to casinos, racing, gambling and wagering and on the determination of national norms and standards regarding any matter in terms of this Act that should apply generally throughout the Republic;
 - (i) recommend to the Council, through the Minister, changes to bring about uniformity in the laws of the various provinces in relation to casinos, racing, gambling and wagering;
 - (j) advise the Council, through the Minister, in respect of any matter referred to it by the Council;
 - (k) monitor market share and market conduct in the gambling industry and refer any concerns regarding market share or possible prohibited practices to the Competition Commission in terms of the Competition Act, 1998 (Act No. 89 of 1998);
 - (l) provide a broad-based public education programme about the risks and socio-economic impacts of gambling; and
 - (m) comply with directions issued to it by the Council relating to casinos, racing, gambling, wagering or any other related matter, in exercising its powers and performing its duties set out in this Act.”
- (c) the substitution for subsection 8 of the following subsection:

“(8) The **[board]** National Gambling Regulator may –

- (a) not charge a fee for registering a person as an excluded person[.];
- (b) liaise with any foreign or international authorities having any objects similar to the objects of the National Gambling Regulator;
- (c) have regard to international developments in the field of casinos, racing, gambling and wagering; and
- (d) consult any person, organisation or institution with regard to any matter related to gambling matters.”.

Amendment of section 15 of Act 7 of 2004

6. Section 15 of the principal Act is hereby amended by the addition in paragraph (a) of subsection (1) of the following subparagraphs:

- “(iii) at a location or time other than as prescribed by the Minister;
- (iv) by unsolicited short message service (sms), multi-media messaging service (mms) or fax enticing a person to participate in gambling services; or
- (v) by conducting gambling schools aimed at providing gambling teaching services through the electronic media.”.

Amendment of section 16 of Act 7 of 2004

7. Section 16 of the principal Act is hereby amended by -

- (a) the substitution for subsection (3) of the following subsection:

- “(3) Any person who is prevented from paying winnings referred to in subsection (2) must remit those winnings to the **[board]** National

Gambling Regulator in the prescribed manner and form, to be held by the **[board in trust]** National Gambling Regulator, pending a decision in terms of subsection (4).”.

(b) the substitution for subsection (4) of the following subsection:

“(4) Upon receiving any winnings under subsection (3), the **[board]** National Gambling Regulator must investigate the circumstances of the relevant gambling activity, and either –

(a) deliver the winnings to the person who won **[them]**, if the **[board]** National Gambling Regulator is satisfied that –

(i) the gambling activity was lawful **[,and]**;

(ii) the winner was not a minor; or

(iii) the winner was not an excluded person at the time of the activity. **[or]** ”.

(b) the deletion of paragraph (b) of subsection (4):

“**[(b) apply to the High Court for and order declaring the winnings forfeit to the State]** ”.

(c) the insertion of the following subsection after subsection (4):

“(5) The winnings held by the National Gambling Regulator in terms of subsection (3) shall be automatically forfeited to the National Gambling Regulator from the date of such winnings were remitted to the National Gambling Regulator.”.

Insertion of section 17A in Act 7 of 2004

8. The following section is hereby inserted in the principal Act after section 17:

“Restrictions on gambling premises and location of automated teller

machines

17A. (1) Where applicable, gambling premises must, in cases where –

- (a) they are located inside general public places such as, shopping malls, arcades, complexes and centres be accessed in separate entrances from such public place; and
- (b) there are developments surrounding the gambling premises, be obscured from the surroundings.

(2) Cash automated teller machines must -

- (a) be cash or deposit receiving machines; and
- (b) be located where they are not visible from the gambling floor.”.

Amendment of section 18 of Act 7 of 2004

9. Section 18 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The operation of limited pay-out machines must be incidental to and not be the primary business conducted in any premises licensed as a site, if that site falls within an incidental use category determined by the Minister in terms of section **[26(1)(b)] 26(2)(e)**.”.

Amendment of section 21 of Act 7 of 2004

10. Section 21 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The **[board]** National Gambling Regulator must –”

Amendment of section 22 of Act 7 of 2004

11. Section 22 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections respectively:

“(1) A person who imports a gambling machine or gambling device into the Republic, or who manufactures such a machine or device within the Republic, must register that machine or device by providing the information required in terms of section 20(2) in the prescribed manner and form to the **[board]** National Gambling Regulator.”.

“(2) The **[board]** National Gambling Regulator must not register a gambling machine or gambling device unless that type of machine or device has been certified in accordance with the requirements of this Act as complying with the relevant standards for such a machine or device, as determined in terms of the standards Act, 1993 (Act 29 of 1993).”.

Amendment of section 23 of Act 7 of 2004

12. Section 23 of the principal Act is hereby amended by the substitution in paragraph (c) of subsection (7) for the words preceding subparagraph (i) of the following words:

“must advise the **[board]** National Gambling Regulator in the prescribed manner and form when it has-”.

Amendment of section 25 of Act 7 of 2004

13. Section 25 of the principal Act is hereby amended by -

- (a) the substitution in paragraph (c) of subsection (1) for subparagraph (iii) of the following subparagraph:

“(iii) the **[board]** National Gambling Regulator; and.”.

- (b) the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) the **[board]** National Gambling Regulator.”.

Amendment of section 26 of Act 7 of 2004

14. Section 26 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (e) of the following paragraph:

“(e) after consulting the **[board]** National Gambling Regulator, determine the circumstances in which a site may be licensed, and for that purpose, may establish different categories of sites and different requirements with respect to each such category; and.”.

Amendment of section 27 of Act 7 of 2004

15. Section 27 of the principal Act is hereby amended by –

- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The **[board]** National Gambling Regulator must establish and maintain a national electronic monitoring system capable of -.”.

- (b) the addition in subsection (1) of the following paragraph:

“(c) collecting the monitoring fees in its operation of the national electronic system, for payment to the Fiscus.”.

- (c) the substitution for subsection (2) of the following subsection:

“(2) The **[board]** National Gambling Regulator may contract with any person who must acquire a national licence to supply any or all of the products or services required to fulfil its obligations in terms of subsection (1), but any such contractor must not be a person who, or firm that, is disqualified as a licensee in terms section 50.”.

(d) the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) the frequency and nature of reports to be produced by the **[board]** National Gambling Regulator in respect of the operation of the system; and”.

(e) the substitution for subsection (4) of the following subsection:

“(4) (a) Every limited pay-out machine that is made available for play must be electronically linked to the national central electronic monitoring system, and the licensee of that machine must pay the prescribed monitoring fees in relation to that machine.

(b) The Minister may, after consultation with the Council and the industry, determine the operation of the national central electronic monitoring system.”.

(f) the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(a) the provincial licensing authority of each province access to all data on the system that originated in that province, without charge by the **[board]** National Gambling Regulator; and”.

Amendment of section 30 of Act 7 of 2004

16. Section 30 of the principal Act is hereby amended by the addition of the following subsection after subsection (2):

“(3) Despite the provisions of subsections (1) and (2), no provincial licencing authority has jurisdiction to issue a lottery licence or any licence related to a lottery activity.”.

Amendment of section 31 of Act 7 of 2004

17. Section 31 of the principal Act is hereby amended by –

(a) the substitution for subsection (2) for the following subsection:

“(2) Subject to any requirements set out in applicable provincial law, a provincial licensing authority may, by agreement with the **[board]** National Gambling Regulator or with another provincial licensing authority, delegate to the **[board]** National Gambling Regulator or to that other provincial licensing authority any power or duty that is to be exercised or performed by the provincial licensing authority in terms of this Act or applicable provincial law, in the manner contemplated in section 238 of the Constitution.”.

Amendment of section 32 of Act 7 of 2004

18. Section 32 of the principal Act is hereby amended by –

(a) the substitution for the heading thereof of the following heading:

“**Jurisdiction of [board] National Gambling Regulator.**”.

(b) the substitution for subsection (2) of the following subsection:

“(2) In accordance with this Act and subject to the direction of the Council provided for in Chapter 4, the **[board]** National Gambling Regulator may exercise the powers and perform the duties assigned to it in terms of this Act.”.

Substitution of section 33 of Act 7 of 2004

19. The following section is hereby substituted for section 33 of the principal Act –

“33. Responsibilities of **[board] National Gambling Regulator**

The **[board]** National Gambling Regulator is responsible to -

(a) evaluate -

(i) the issuing of national licences by provincial licensing authorities;

and

(ii) the compliance monitoring of licensees by provincial licensing authorities.

(b) conduct oversight evaluations of the performance of provincial licensing authorities in the manner envisaged in section 34, so as to ensure that the national norms and standards established by this Act are applied uniformly and consistently throughout the Republic;

(c) assist provincial licensing authorities to ensure that unlicensed gambling activities are detected in the manner envisaged in section 66(2) and (3), as provided for in Part B of this Chapter; and

(d) consider applications and motivations from the provincial licensing authorities for acquisition of additional limited pay out machines, for purposes of compliance with the approved criteria.”.

Amendment of section 34 of Act 7 of 2004

20. Section 34 of the principal Act is hereby amended by –

- (a) the substitution for the heading thereof of the following heading:

“**[Oversight]** Function of the **[board]** National Gambling Regulator.”.

- (b) the substitution for subsections (1), (2), (3),(4),(5), (6), (7) and (8) of the following subsections respectively:

“(1) The **[board]** National Gambling Regulator must ensure that its functions and those **[of the Chief Executive Officer]** set out in this section are exercised in a manner consistent with the requirements of section 41(1)(e), (g), and (h) of the Constitution.”.

(2) The **[board may direct the Chief Executive Officer]** National Gambling Regulator may [to] carry out an oversight evaluation of the exercise by a provincial licensing authority of its responsibilities and functions in terms of this Act.

(3) Before conducting an evaluation in terms of subsection (2), the **[Chief Executive Officer]** National Gambling Regulator must notify the relevant provincial licensing authority, in writing, of -

(a) **[a direction given by the board]** its intention to carry out the oversight evaluation; and

(b) generally, the scope and methodology of the proposed evaluation.

(4) The **[Chief Executive Officer]** National Gambling Regulator must -

(5) If, as a result of an evaluation conducted in terms of subsection (2), **[Chief Executive Officer]** National Gambling Regulator has reason to believe that a provincial licensing authority has failed to comply with any provision of this Act, it [Chief Executive Officer] -

(6) If an agreement contemplated in subsection (5)(b) is reached between the provincial licensing authority and the **[board]** National

Gambling Regulator, the Chief Executive Officer must monitor progress achieved in terms of that agreement, and -

- (i) report to the **[board]** the accounting officer of the Department of Trade and Industry at intervals determined by **[it]** him; and
 - (ii) issue a further deficiency report and invitation contemplated in subsection (5), if the provincial licensing authority significantly fails to meet any of its commitments in terms of that agreement.
- (7) A provincial licensing authority may request the **[board]** National Gambling Regulator to set aside all or part of a deficiency report issued **[by the Chief Executive Officer]** in terms of subsection (5) or (6).
- (8) The **[board]** National Gambling Regulator may refer the matter to the Council for consideration in terms of section 62(2)(c), if -
- (a) a provincial licensing authority does not respond to a deficiency report issued by the **[Chief Executive Officer]** National Gambling Regulator in terms of subsection (5) or (6);
 - (b) the provincial licensing authority and the **[board]** National Gambling Regulator fail to reach an agreement contemplated in either subsection; or
 - (c) the provincial licensing authority is persistently in default in terms of that agreement.”.

Amendment of section 35 of Act 7 of 2004

21. Section 35 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections respectively:

- “(2) Each provincial licensing authority must report to the **[board]** National Gambling Regulator, at the prescribed intervals, on the prescribed information kept by that licensing authority in terms of subsection (1).

- (3) The **[board]** National Gambling Regulator must submit upon request to a provincial licensing authority any prescribed information reported to it in terms of subsection (2).”.

Amendment of section 36 of Act 7 of 2004

22. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Council may, as contemplated in section 41(2) of the Constitution, facilitate the settlement of any dispute between the **[board]** National Gambling Regulator and one or more provincial licensing authorities concerning the powers and duties to be exercised and performed by them relating to casinos, racing, gambling and wagering.”.

Amendment of section 42 of Act 7 of 2004

23. Section 42 of the principal Act is hereby amended by the substitution for subsections (1), (2), (3), (4), (5), (6), and (7) of the following subsections, respectively:

“(1) After receiving a notice from a provincial licensing authority that it proposes to issue a national licence, the **[Chief Executive Officer]** National Gambling Regulator -

- (a) must direct an inspector to conduct an oversight evaluation of the application, investigative report and recommendations of the provincial licensing authority, if two or more provincial licensing authorities have so requested in terms of section 40(3); or
- (b) in any other case, may direct an inspector to conduct such an oversight evaluation, if there are good grounds to believe that the requirements of this Act have not been satisfied.

- (2) If a direction is given for an oversight evaluation, the **[Chief Executive Officer]** National Gambling Regulator must issue a notice of intent to evaluate the proposed licence in the prescribed form to -
- (i) the applicant;
 - (ii) the provincial licensing authority; and
 - (iii) any provincial licensing authority that made a request for the oversight evaluation, in terms of subsection (1)(a).
- (3) After conducting an oversight evaluation in terms of subsection (1), the **[Chief Executive Officer]** National Gambling Regulator may -
- (a) **[without referring the application to the board,]** advise the provincial licensing authority in the prescribed manner that there are no objections to the issue of the national licence as proposed;
- (4) A provincial licensing authority may issue the licence as proposed by it, if the **[Chief Executive Officer]** National Gambling Regulator-
- (5) If the **[Chief Executive Officer]** National Gambling Regulator issues a request in terms of subsection (3)(b), the provincial licensing authority may –
- (a) issue the licence with the altered conditions as requested. **[by the Chief Executive Officer]**; or
 - (b) request the **[board]** the accounting officer of the Department of Trade and Industry to set aside the request of the **[Chief Executive Officer]** National Gambling Regulator and permit the issuing of the licence as initially proposed.

- (6) If the **[Chief Executive Officer] National Gambling Regulator** issues a deficiency report in terms of subsection (3)(c), the provincial licensing authority must either -
- (a) consider the application afresh; or
 - (b) request the **[board] the accounting officer of the Department of Trade and Industry** to set aside the deficiency report and permit the issuing of the licence as initially proposed.
- (7) If a matter is referred to the **[board] the accounting officer of the Department of Trade and Industry** in terms of subsection (5) or (6), the **[board] the accounting officer of the Department of Trade and Industry** may -
- (a) confirm the request or deficiency report of the **[Chief Executive Officer] National Gambling Regulator**;
 - (b) set aside all or part of the request or the deficiency report; or
 - (c) permit the issuing of the licence with or without conditions.”.

Amendment of section 43 of Act 7 of 2004

24. Section 43 of the principal Act is hereby amended by –

- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“A provincial licensing authority may, with the prior concurrence of the **[board] National Gambling Regulator**, suspend or revoke a national licence as if that licence were a provincial licence issued by that licensing authority, if –“.

- (b) the substitution for subsection (2) of the following subsection:

“(2) A provincial licensing authority must immediately advise **[each other]** the National Gambling Regulator if the provincial licensing authority [of a suspension or revocation of] suspends or revokes a national licence.”.

Insertion of section 44A, 44B and 44C in Act 7 of 2004

25. The following sections are hereby inserted in the principal Act after section 44:

“44A Restrictions in the structure and allocation of bingo machines

- (1) The Minister, by regulation made in accordance with section 87 and after considering the criteria set out in this section, may prescribe a maximum number of bingo machines that can be granted in the Republic and in each province.
- (2) The traditional and electronic form of bingo shall be allocated together as may be prescribed by the Minister, after consultation with the Council in terms of section 87 of the Act.
- (3) The design and structure of bingo machines shall not resemble slot machines as contemplated in subsection 1(a)(iii) of the Act.

44B Horseracing and betting

- (1) Self-regulation in the horseracing industry is recognised through a structure that meets the standard criteria set by the Council.
- (2) Any self-regulatory body that operates within the industry, shall be accredited and monitored by the National Gambling Regulator, provided it meets the standard criteria set and adopted by the Council.
- (3) The National Gambling Regulator, working together with the provincial licensing authorities, must design the standard operation

criteria to be approved by the Council, to operate as the minimum standards to guide the self-regulating body.

- (4) Bookmakers shall –
- (a) pay for intellectual property rights;
 - (b) contribute a reasonable amount towards the development of the horse racing industry, as may be prescribed by the provincial licensing authorities upon adoption of a national criterion set by the Council; and
 - (c) if the exploited product is not an intellectual property right, the provincial licensing authorities shall determine a reasonable rate to be paid for the exploitation of such product.
- (5) The provincial licensing authorities must –
- (a) accredit the self-regulating body in various categories of horse sporting activities;
 - (b) monitor compliance by the self-regulating body with the standard operation criteria; and
 - (c) ensure that the self-regulating body submits quarterly reports.

44C Bets on lottery and sports pools

- (1) Bets on lottery, lottery results and sports pools are permitted under the licence issued by the National Lottery Commission, with the requirement that –
- (a) licensees contribute a reasonable amount towards the National Lotteries Distribution Trust Fund; and
 - (b) such amount will be determined by the Minister, communicated to license holders by way of notice, from time to time, as contemplated in the Lotteries Act, 1997 (Act 57 of 1997), as amended.”.

Amendment of section 53 of Act 7 of 2004

26. Section 53 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a), of the following words:

“When considering an application for a licence, other than an employment licence, or when considering an application for the transfer of a licence, a provincial licensing authority or the **[board]** National Gambling Regulator.”.

Insertion of section 53A in Act 7 of 2004

27. The following section is hereby inserted in the principal Act after section 53:

Promoting broad-based transformation in the gambling industry

53A (1) The gambling industry must achieve the broad-based transformation in the gambling industry and advance the objectives of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) as amended, as contemplated in the applicable sections and the Codes.

(2) Non-compliance will lead to corrective measures, suspension or withdrawal of the licence.”.

Amendment of section 57 of Act 7 of 2004

28. Section 57 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Each provincial licensing authority must submit to the **[board]** National Gambling Regulator a copy of every probity report it prepares in terms of this Act or provincial law, and the **[board]** National Gambling Regulator must compile all such reports into a national probity register in the prescribed manner and form.”.

Amendment of section 61 of Act 7 of 2004

29. Section 61 of the principal Act is hereby amended by the substitution in paragraph (b) of subsection (2) for subparagraph (i) of the following subparagraph:

“(i) the **[chairperson of the National Gambling Board]** Chief Executive Officer of the National Gambling Regulator; and”.

Amendment of section 62 of Act 7 of 2004

30. Section 62 of the principal Act is hereby amended by the -

(a) substitution in subsection (1) for paragraph (e) of the following paragraph:

“(1)(e) the resolution of any dispute that may arise among provincial licensing authorities, or between a provincial licensing authority and the **[board]** National Gambling Regulator, regarding the regulation and control of gambling activities; and”

(b) substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) may provide oversight and direction to the **[board]** National Gambling Regulator in the exercise of its powers and the performance of its duties;”

(c) substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) may make a finding that a provincial licensing authority has failed to comply with this Act and, if it does so, may direct that provincial licensing authority to enter into an agreement with the **[board]** National Gambling Regulator in respect of the steps to be taken by the provincial licensing authority to ensure compliance with this Act.”

(d) the addition in subsection (1) of the following paragraph:

“(g) policy amendments before the Council to ensure policy alignment.”.

Insertion of section 63A in Act 7 of 2004

31. The following section is hereby inserted in the principal Act after section 63:

“63A Meeting quorum

Where the Minister convenes a meeting in terms of section 63(1) and the Council fails to establish a quorum twice in respect of a decision on a particular matter, the Council shall take a decision in the third meeting, whether the meeting reaches a quorum or not.”.

Amendment of section 63 of Act 7 of 2004

32. Section 63 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) At a meeting of the Council to which supplementary members are called, a supplementary member may be represented by an alternate, chosen by that supplementary from among the other **[board]** National Gambling Regulator members of the applicable regulatory authority.”.

Substitution of section 64 of Act 7 of 2004

33. The following section is hereby substituted for section 64 of the principal Act:

“Establishment of National Gambling Regulator

64 (1) The National Gambling Regulator is hereby established as an entity within the administration of the Department, which -

(a) has jurisdiction throughout the Republic;

- (b) is a juristic person;
 - (c) is independent and subject only to the Constitution and the law;
 - (d) must exercise its functions in accordance with this Act;
 - (e) must be impartial; and
 - (f) must perform its functions –
 - (i) in a transparent manner as is appropriate having regard to the nature of the specific function; and
 - (ii) without fear, favour or prejudice.”
- (2) The Minister may appoint a suitably qualified and experienced person as Chief Executive Officer of the National Gambling Regulator, who –
- (a) holds office for an agreed term not exceeding five years;
 - (b) may be re-appointed for a second term of office at the expiry of the term of office contemplated in section 64(2)(a) above.
- (3) The Chief Executive Officer of the National Gambling Regulator, who is a suitably qualified and experienced person shall be responsible for –
- (a) all responsibilities pertaining to the functions of the National Gambling Regulator;
 - (b) all income and expenditure of the National Gambling Regulator;
 - (c) all revenue collected by the National Gambling Regulator;
 - (d) all assets and the discharge of all liabilities of the National Gambling Regulator; and
 - (e) the proper and diligent implementation of the principal Act.
- (4) The National Gambling Regulator shall –
- (a) report to the accounting officer of the Department of Trade and Industry in all matters;
 - (b) assign management or other duties to employees with appropriate skills to assist its functions.

- (5) The Minister shall appoint at least one (1) person and may appoint other persons with suitable qualifications as Deputy Chief Executive Officer to assist the Chief Executive Officer in carrying out the functions of the National Gambling Regulator.
- (6) Each organ of state must assist the National Gambling Regulator to maintain its independence and impartiality and to perform its functions effectively.

Amendment of section 65 of Act 7 of 2004

34. Section 65 of the principal Act is hereby amended by –

- (a) the substitution for the heading thereof of the following heading:

“Objects and functions of **[board]** National Gambling Regulator:” .

- (b) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The **[board]** National Gambling Regulator has the following powers and duties to be exercised and performed in terms of this Act:”.

- (c) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“The **[board]** National Gambling Regulator may-”

- (d) the substitution for subsection (3) of the following subsection:

“(3) The **[board]** National Gambling Regulator may liaise with any foreign or international authorities having any objects similar to the objects of the **[board]** National Gambling Regulator.

- (e) the substitution in subsection (4) for paragraph (c) of the following paragraph:

“(c) may consult any person , organisation or institution with regard to any matter deemed necessary by the **[board]** National Gambling Regulator.”.

- (f) the addition of the following subsections after subsection (4):

“(5) The National Gambling Regulator must –

(a) promote and support the development, where the need exists of a fair, transparent, competitive, sustainable, responsible and efficient gambling business to –

(i) promote quality and sustainable livelihoods in communities;

(ii) serve the needs of historically disadvantaged persons;

(iii) promote reintegration of persons who are addicted to gambling into families and communities for quality livelihoods; and

(iv) set appropriate conditions for responsible gambling business.

(b) conduct education and awareness relating to gambling activities;

(c) train police officers and prosecutors for successful prosecution of cases in the gambling sector;

(d) collate information from provincial licencing authorities on excluded persons who are addicted to gambling;

(e) conduct research and disseminate information relating to gambling activities;

(f) in the case where there is no compliance with the objects of this Act, exercise the authority or power to request compliance; and

(g) within two years of coming into operation of this Act, the National Gambling Regulator must formulate an implementation plan for capacitating its personnel for implementing this Act.

- (6) The National Gambling Regulator must conduct research to –
- (a) disseminate information and contribute towards the greater knowledge in the field of gambling and its socio-economic dynamics;
 - (b) conduct education and awareness programmes of the provisions of this Act;
 - (c) provide capacity building as an integrated and on-going institutional process taking place on multiple fronts for purposes of –
 - (i) providing rehabilitation and counselling services to gambling addicts; and
 - (ii) equipping its human personnel with the knowledge and understanding of addiction to gambling.
 - (d) monitor socio-economic patterns of gambling business, addiction and abuse within the Republic including programmes and services necessary to address the problem and successes of rehabilitation and counselling services;
 - (e) monitor the trends in communities with regards to gambling services, the needs of gambling addicts and the gambling business alongside the operations of community-based organisations and institutions such as, churches, schools, health and multi-purpose centres;
 - (f) monitor the trends in the market for –
 - (i) patterns of provision of gambling services;
 - (ii) alternative dispute resolution agents, the patterns and costs of services, impartiality of such agents and impacts of such agents on the incidence of enforcement and the grant of appropriate relief;
 - (i) policies to the Minister in relation to any matter affecting the gambling service providers and consumers including, making proposals for fair legislative, regulatory controls

and policy development that promote the interests of the public.

- (7) In carrying out its functions, the National Gambling Regulator must have regard to international standards in the field of programmes designed to address issues of abuse and gambling addictions.
- (8) The National Gambling Regulator must use the funds for the purpose stated in this section, which funds must be administered in accordance with the terms and conditions as determined through the mechanisms of the normal budgetary processes.
- (9) The funds shall be responsible for -
- (a) promoting public awareness against the harmful effects of gambling addition;
 - (b) financing rehabilitation and counselling programmes to curb addiction related to gambling and abuse of gambling addicts;
 - (c) funding research through a range of projects for the detection and prevention of problem gambling and gambling-related harm including, research into the use of predictive data analytics; and
 - (d) promoting any other appropriate cause as may be prescribed by the Minister.”.

Insertion of section 66A in Act 7 of 2004

35. The following section is hereby inserted in the principal Act after section 66:

“Inter-departmental relations in relation to gambling activities

66A. For purposes of collaborative work with other government departments responsible for matters related to gambling –

- (a) The Department of Trade and Industry must enter into an agreement with the Department of Social Development, Finance, Justice and Correctional Services, Communications, and Police, to provide for the joint exercise or performance of their respective powers and functions contemplated in this Act and may establish a forum or similar body in this regard, subject to this provision.”.

Amendment of section 66 of Act 7 of 2004

36. Section 66 of the principal Act is hereby amended by –

- (a) the substitution for subsection (4) of the following subsection:

“(4) The **[board]** National Gambling Regulator may liaise with provincial licensing authorities on matters of common interest.”.

- (b) the substitution for subsection (5) of the following subsection:

“(5) The **[board]** National Gambling Regulator may request any provincial licensing authority to submit any report or information related to the activities of that licensing authority **[to the board]**. ”.

Repeal of sections 67, 68, 69, 70, 71, 72, 73, 74 and 75 of Act 7 of 2004

37. Sections **67, 68, 69, 70, 71, 72, 73, 74 and 75** of the principal Act are hereby repealed.

Insertion of section 76A in Act 7 of 2004

38. The following section is hereby inserted in the principal Act after section 76:

“Enhancing the powers of the inspectorate

- 76A (1)** The Gambling Inspectorate operating within the National Gambling Regulator shall –
- (a) investigate illegal gambling activities in South Africa;
 - (b) have powers to interact with related inspectorates to investigate and report cases related to illegal gambling activities;
 - (c) ensure compliance of gambling institutions with gambling laws; and
 - (d) work collaboratively with respective institutions to monitor and put measures to curb illegal gambling activities.”.
- (2)** No financial institution is allowed to process payment transactions for illegal gambling activities to which this Act applies and which is prohibited under the Financial Intelligence Centre Act, (Act No. 38 of 2001).”.

Amendment of section 76 of Act 7 of 2004

39. Section 76 of the principal Act is hereby amended by the addition of the following subsections:

- “(4) The National Gambling Regulator must keep a register of unlawful gambling operators.
- (5) Any gambling operator listed wrongfully in the register may motivate for the removal from the register to the National Gambling Regulator.
- (6) Any decision of wrongful listing of a gambling operator in the register by the National Gambling Regulator, is subject to review by the courts.”.

Amendment of section 86A of Act 7 of 2004

40. Section 86A of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections respectively:

- “(1) The **[board]** National Gambling Regulator may, subject to this Act and in consultation with the relevant provincial licensing authority, delegate any power or duties that are to be exercised or performed by the **[board]** National Gambling Regulator in terms of section 33(a) to (g) to any provincial licensing authority.
- (2) A delegation in terms of subsection (1) –
- (a) must be in writing;
 - (b) is subject to any limitations, conditions and directions the **[board]** National Gambling Regulator may impose; and
 - (c) does not divest the **[board]** National Gambling Regulator of the responsibility concerning the exercise of the power or the performance of the duty.”.

Insertion of section 87A in Act 7 of 2004

41. The following section is hereby inserted in the principal Act after section 87:

“Harmonisation of Gambling Laws

87A (1) The provincial gambling laws applicable in terms of this Act shall, prior to a date prescribed by the Minister, be amended, consolidated or repealed so as to ensure consistency with –

- (a) national gambling policies;
- (b) any provisions of this Act providing for structures, procedures and functions in respect of the harmonised and consolidated regulation of gambling;
- (c) regulations and notices issued from time to time by the Minister after consultation with the Council; and
- (d) in general, any other applicable provision of this Act.”.

Short title and commencement

42. This Act is called the National Gambling Amendment Act, 2016, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065