

EASTERN CAPE GAMBLING AND BETTING ACT NO. 5 OF 1997

[\[View Regulation\]](#)

[ASSENTED TO 24 JUNE, 1997]

[DATE OF COMMENCEMENT OF SECTIONS 1, 3 TO 18, 41, 80, 88: 9 JULY, 1997 AND FOR REMAINING SECTIONS: 1 JANUARY, 1998]

(Text signed by the Acting Premier)

as amended by

Gambling and Betting Amendment Act (Eastern Cape), No. 9 of 1997

Gambling and Betting Amendment Act (Eastern Cape), No. 6 of 1998

Gambling and Betting Amendment Act (Eastern Cape), No. 5 of 1999

Gambling and Betting Amendment Act (Eastern Cape), No. 3 of 2000

Gambling and Betting (Fees and Taxes) Amendment Act, No. 7 of 2002

Gambling and Betting Amendment Act (Eastern Cape), No. 8 of 2002

Eastern Cape Gambling Amendment Act, No. 1 of 2015 (W.E.F. 1 August 2016, s. 4 and 5 W.E.F. 19 February 2018)

Provincial Notice 309 of 2017

ACT

To provide for control over gambling and betting; and for matters connected therewith.

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CHAPTER 1

INTERPRETATION AND APPLICATION OF ACT

BE IT ENACTED by the Legislature of the Province of the Eastern Cape.

1. Definitions.-(1) In this Act the following words and expressions shall have the following meanings, unless the context indicates otherwise:

"advertisement" means any written, illustrated, visual, electronic or other descriptive material or oral statement, communication, representation or reference which is distributed among or transmitted to, members of the public or otherwise brought to their notice, which is intended, or purports to be intended, to promote the gambling business of a licence holder or any business which offers gambling to members of the public or to encourage the use of the gambling services offered by such gambling business or to otherwise draw attention thereto where such distribution, transmission or bringing to the notice of members of the public is effected by such licence holder or business or is paid for, whether directly or indirectly by such licence holder or business and "advertise" and "advertising" have corresponding meanings;

[Definition of "advertisement" inserted by s. 1 (a) of Act No. 8 of 2002.]

"amusement game" means any game which is played or activated by the insertion or payment of a coin, token, credit, electronic credit, debit, bill of exchange or other value instrument which enables the player to win a prize which is not in the form of cash, tokens, cheques, credit, debits, bills of exchange or other value instruments, but is limited to-

- (i) one or more non-cash prizes with a value and restrictions not exceeding the amount prescribed by the Minister in terms of the National Gambling Act;
- (ii) more than one opportunity to play a further game, provided that no more than 10 such opportunities may be won in respect of a single game; or
- (iii) in the case of games which involve a substantial element of skill, one or more tickets which cumulatively entitle or enable the player to receive a non-cash prize on the premises concerned and which are not transferable to any other person: Provided that no accumulation of tickets shall entitle or enable a player to receive a prize having a higher retail value than 15 times the value contemplated in paragraph (i) and at least 20 tickets shall be required in respect of each Rand of the retail value of such non-cash prize: Provided further that no more than 15 tickets may be won in respect of any single such game but excludes games contemplated in section 61 (1) (a) (ii) and (v);

Provided further that such game is not similar to or derived from a game normally played in a casino or on a gambling machine other than bingo;

[Definition of "amusement game" substituted by s. 1 (a) of Act No. 3 of 2000 and s. 1 (b) of Act No. 8 of 2002 and substituted by s.2 (a) of Act 1 of 2015.]

"amusement machine" means any, machine or device. other than a gambling device on or by means of which an amusement game may be played;

[Definition of "amusement machine" substituted by s. 2 (b) of Act 1 of 2015.]

"associate" means-

- (a) an employer;
 - (b) a co-shareholder of a private company contemplated in section 20 of the Companies Act, 1973 (Act No. 61 of 1973);
 - (c) a co-member of a close corporation contemplated in section 2 of the Close Corporations Act, 1984 (Act No. 69 of 1984);
 - (d) a person to whom one has granted or from whom one has received a general power of attorney;
- [Definition of "associate" inserted by s. 1 (b) of Act No. 3 of 2000 and substituted by s. 2 (c) of Act No. 1 of 2015.]

"bet" or "betting" means an activity as described in sections 18C and 18D;

[Definition of "bet or betting" substituted by s. 2 (d) of Act No. 1 of 2015.]

"bingo" means game, including a game played in whole or in part by electronic means-

- (a) that is played for consideration, using cards or other devices (whether electronic or otherwise)-
 - (i) that are divided into spaces each of which bears a different number, picture or symbol; and
 - (ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols;
 - (b) in which 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 appearing on the card or device as it is called or displayed; or
 - (ii) an electronic or similar device generates and displays a series of numbers, pictures or symbols and then, 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 the spaces on the card or other similar device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize, or
 - (ii) the player on whose behalf the electronic or similar device referred to in paragraph (b) (ii) first matched 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 by the Minister or the responsible member to be bingo;

[Definition of "bingo" substituted by s. 2 (e) of Act No. 1 of 2015.]

"bingo licence" means any licence contemplated in section 47;

"board" means the Eastern Cape Gambling and Betting Board, established by section 3;

[Definition of "board" substituted by s. 1 of Act 6 of 1998.]

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

[Definition of "bookmaker" substituted by s. 2 (f) of Act No. 1 of 2015.]

"bookmaker licence" means any licence contemplated in Chapter 8;

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

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

or available to be played; or

- (d) only social gambling is conducted in terms of a temporary licence or this Act;
[Definition of "casino" substituted by s. 2 (g) of Act No. 1 of 2015.]

"casino licence" means a licence contemplated in section 41;

"chief executive officer" means the chief executive officer of the board appointed in terms of section 12 (1);

"consideration" means-

- (a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar object; or
- (b) any other thing, undertaking, promise, agreement or assurance;
regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly;
[Definition of "consideration" substituted by s. 2 (h) of Act No. 1 of 2015.]

"Constitution" means the Constitution of the Republic of South Africa, 1996;
[Definition of "Constitution" substituted by s. 2 (i) of Act No. 1 of 2015.]

"contingency" means an event or occurrence of which the outcome is uncertain or unknown to any person until it happens;
[Definition of "contingency" substituted by s. 2 (j) of Act No. 1 of 2015.]

"controlling interest", in relation to any licensee, applicant or business, means any interest of whatever nature enabling the holder thereof to exercise, directly or indirectly, any control whatsoever over the activities or assets of the licensee, applicant or business concerned, and **"control"** has a corresponding meaning;

"designated area"-

- (a) when used in relation to a site, means an area at that site in which any limited payout machine is authorised to be placed; and
- (b) when used in any other case, means an area within licensed premises where any gambling game is available to be played;
[Definition of "designated area" substituted by s. 2 (k) of Act No. 1 of 2015.]

"enquiry" means an enquiry contemplated in section 78;

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

"Executive Council" means the Executive Council of the Province;

"family member" means a person's-

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;
[Definition of "family member" substituted by s. 1 (c) of Act No. 3 of 2000 and substituted by s. 2 (l) of Act No. 1 of 2015.]

"financial interest" means-

- (a) having a right or entitlement to share in profits or revenue;
- (b) a real right in respect of any property of the company, corporation or business;
- (c) real or personal right in any property used by the company, corporation or business; or
- (d) a direct or indirect interest in the voting shares or voting rights attaching to the shares of the company or having an interest in a close corporation;
[Definition of "financial interest" substituted by s. 1 (c) of Act No. 8 of 2002 and by s. 2 (m) of Act No. 1 of 2015.]

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

"gambling" or **"gamble"** or **"gambling activity"** means an activity described in section 18B;
[Definition of "gambling" substituted by s. 1 (d) of Act No. 8 of 2002 and by s. 2 (o) of Act No. 1 of 2015.]

"gambling and betting review tribunal"

[Definition of "gambling and betting review tribunal" inserted by s. 1 of Act 5 of 1999 and deleted by s. 2 (p) of Act No. 1 of 2015.]

"gambling area"

"gambling business" means any business of which gambling forms any part;

"gambling device" means equipment or any other thing that is used or [designed to be used remotely or directly in connection with gambling or betting including a mechanical, electro-mechanical or electronic device, component or machine or gambling machine] at the time of its manufacture was designed to be used, in determining the result of a gambling activity;

[Definition of "gambling device" substituted by s. 1 (d) of Act No. 3 of 2000 and substituted by s. 2 (r) of Act No. 1 of 2015.]

"gambling employee" means any person registered in terms of section 69;

"gambling game" means any activity described in section 18E;

[Definition of "gambling game" substituted by s. 2 (s) of Act No. 1 of 2015.]

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

(a) is available to be played or operated upon payment of a consideration; and

(b) may, as a result of playing or operating it, entitle the player or operator to a pay out, or deliver a pay out to the player or operator;

[Definition of "gambling machine" substituted by s. 1 (f) of Act No. 3 of 2000 and by s. 2 (t) of Act No. 1 of 2015.]

"gambling machine site licence" means a licence contemplated in section 50;

"horse race" means any horse race over a defined or agreed course held for the entertainment of the public and members of any association or club, but does not include-

(a) any race in the nature of a public trial gallop at which no betting takes place held under the management and control of the holder of a race course licence;

(b) any race or contest of a private nature at which no betting takes place; and

(c) any race held for the entertainment of the public where it is not intended that betting takes place and which meets with the prescribed requirements;

[Definition of "horse race" substituted by s. 1 (e) of Act No. 8 of 2002.]

"inspector" means an inspector appointed under section 75;

"junket" means a visit or an excursion to a casino by one or more persons who receive complimentary services such as transport, food and lodging as an inducement to gamble at the casino, which is arranged by a third party;

"junket agent" means any natural person who, for commission, a share in gambling profits or any other consideration, in conjunction with the holder of a casino licence, plans or organises a junket;

"key person" means a person registered in terms of section 68;

"licence" means-

(a) a casino licence;

(a) a bingo licence;

[Editorial Note: numbering as per original *Gazette*.]

(b) a route operator licence;

[Editorial Note: numbering as per original *Gazette*.]

(d) a gambling machine site licence;

(e) a race course licence;

(f) a totalisator licence;

(g) a bookmaker licence;

(h) a provisional licence;

(i) a temporary licence; or

(j) for the purposes of sections 27, 61 (13), 88 and 90, a licence contemplated in section 4 (1) (c) (xxx) issued in terms of the procedure determined by the board;

[Definition of "licence" substituted by s. 1 (g) of Act No. 3 of 2000.]

"licensed premises" means the place or premises specified in a licence on which the activities authorised thereby may be conducted in terms of this Act;

"limited gambling machine" means a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed by regulations made in terms of the National Gambling Act;

[Definition of "limited gambling machine" substituted by s. 2 (u) of Act No. 1 of 2015.]

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

"Minister" means the Member of the national cabinet responsible for the administration of the National Gambling Act;

[Definition of "Minister" inserted by s. 2 (v) of Act No. 1 of 2015.]

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

[Definition of "National Gambling Act" inserted by s. 2 (v) of Act No. 1 of 2015.]

"national licence" means a national licence contemplated in the National Gambling Act;

[Definition of "national licence" inserted by s. 2 (v) of Act No. 1 of 2015.]

"open bet" means-

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

[Definition of "open bet" substituted by s. 2 (w) of Act No. 1 of 2015.]

"opportunity to play a further game" means an opportunity as described in section 18F;

[Definition of "opportunity to play a further game" substituted by s. 1 (h) of Act No. 3 of 2000 and by s. 2 (x) of Act No. 1 of 2015.]

"Ordinance" means the Horse Racing and Betting Ordinance, 1968 of the former Province of the Cape of Good Hope;

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

[Definition of "organ of state" inserted by s. 2 (y) of Act No. 1 of 2015.]

"partner" means a person with whom one has entered into a partnership agreement;

[Definition of "partner" inserted by s. 1 (i) of Act No. 3 of 2000 and substituted by s. 2 (z) of Act No. 1 of 2015.]

"pay off" means a pay out as described by section 18F (a) and (b);

[Definition of "pay off" inserted by s. 2 (aa) of Act No. 1 of 2015.]

"player" or **"patron"** means any participant in a gambling game and includes a punter in any betting transaction;

"political office-bearer" means-

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

[Definition of "political office-bearer" substituted by s. 2 (bb) of Act No. 1 of 2015.]

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

[Definition of "premises" substituted by s. 2 (cc) of Act No. 1 of 2015.]

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

"property" means any movable, immovable, corporeal or incorporeal property of any nature;

"prospective licensee" means a company, close corporation, or an applicant for a licence referred to in section 19 (1) and **"prospective transferee"** shall have a like meaning;

"Province" means the Province of the Eastern Cape;

"provisional licence" means a licence contemplated in section 34;

"public servant" means-

- (a) for the purposes of sections 5 and 6, a person who is a public servant in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994); and
- (b) for the purposes of sections 31 and 42, a person employed by an organ of state or by a court or a judicial officer;

[Definition of "public servant" substituted by s. 2 (dd) of Act No. 1 of 2015.]

"race course licence" means any licence issued in terms of section 56;

"Republic" means the Republic of South Africa;

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

"route operator licence" means a licence issued in terms of section 49;

"route operator" means a person who is licensed as such in terms of section 49;

[Definition of "route operator" inserted by s. 2 (ee) of Act No. 1 of 2015.]

"rules" means the rules made in terms of section 59;

"site" means premises licensed for the placement of one or more limited pay out gambling machines contemplated in section 49;

[Definition of "site" inserted by s. 2 (ff) of Act No. 1 of 2015.]

"independent site operator" means a site operator who is not linked to a route operator, and is licenced to own and operate limited pay-out machines on a single site;

[Definition of "independent site operator" inserted by s. 2 (gg) of Act No. 1 of 2015.]

"social gambling" means-

- (a) the playing of any gambling game, other than the operation of a gambling machine, in a private dwelling, a church, school or community hall, a club house belonging to a genuine sports club or such other place as the board may from time to time approve and in which no person directly or indirectly receives any form of remuneration or compensation for operating, conducting, carrying on, maintaining or providing such gambling game;
- (b) the playing of any gambling game other than the operation of a gambling machine for the purpose of genuine fund-raising by a church, a school, a genuine sports club or an entity duly registered in terms of the Fund Raising Act, 1978 (Act No. 107 of 1978), or such other entity as the board may from time to time determine, and in accordance with the procedures and subject to the conditions which may be prescribed or determined by the board and which may include the obtaining of a temporary licence;

[Definition of "social gambling" substituted by s. 1 (j) of Act No. 3 of 2000.]

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

[Definition of "sporting event" inserted by s. 1 (f) of Act No. 8 of 2002.]

"spouse" means a person's-

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

[Definition of "spouse" substituted by s. 2 (hh) of Act No. 1 of 2015.]

"temporary licence" means any licence issued in terms of section 38;

"the Act" or **"this Act"** includes the Schedules and any regulation or rule made or issued thereunder;

"totalisator" means a totalisator as contemplated in section 18D;

[Definition of "totalisator" substituted by s. 2 (ii) of Act No. 1 of 2015.]

"winning bet" means any bet where the person who placed the bet correctly predicted the result of the event or contingency or combination thereof in respect of which the bet was placed.

(2) The responsible Member may, on the recommendation of the board, by notice in the *Provincial Gazette*, declare any occupation which is directly connected with, or closely related to, the conducting of a gambling game or the operation of a casino, to be that of a key person or gambling employee for the purposes of this Act.

2. Application of Act and other laws.-(1) Save for the provisions of the National Gambling Act or as may otherwise be provided in this Act, nothing contained in any other law relating to gambling or racing shall apply in respect of any gambling or horse racing conducted in the Province.

[Sub-s. (1) substituted by s. 3 (a) of Act No. 1 of 2015.]

(2) This Act shall bind the Provincial Government and any person in the service thereof.

[Sub-s. (2) deleted by s. 3 (b) and sub-s. (3) renumbered by s. 3 (c) of Act No. 1 of 2015.]

[S. 2 substituted by s. 2 of Act No. 3 of 2000.]

CHAPTER 2

GAMBLING BOARD

[Chap. 2 heading substituted by s. 4 of Act No. 3 of 2000.]

3. Establishment of board.-There is hereby established a juristic person to be known as the Eastern Cape Gambling Board.

[S. 3 substituted by s. 2 of Act 6 of 1998 and by s. 5 of Act No. 1 of 2015.]

4. Powers of board.-(1) The powers and functions of the board shall be-

- (a) to oversee gambling and betting activities in the Province;
- (b) to advise the responsible Member or furnish a report or recommendation to the responsible Member on any matter referred to the board by the responsible Member for consideration and arising from the application of this Act relating to the control over gambling and racing in the Province; and
- (c) to exercise such powers and perform such functions and duties as may be assigned to the board in terms of this Act or any other law,

and in particular-

- (i) to invite applications for licences in terms of this Act or accept such applications without such invitation;
- (ii) to consider and dispose of applications for licences and registrations in such manner and at such time and place as it may from time to time determine;
[Sub-para. (ii) substituted by s. 3 (a) of Act No. 3 of 2000.]
- (iii) to grant, renew, amend, refuse, suspend or revoke licences under this Act;
- (iv) to impose conditions in respect of any licence at any time;
- (v) to revoke licences granted under the Ordinance;
- (vi) to acquire, hold, hire, let and alienate intellectual, movable and immovable property;
- (vii) to open and maintain bank accounts;
- (viii) to appoint and dismiss staff and do all things incidental thereto;
- (ix) to conclude and perform contracts;
- (x) to participate in or conduct quasi-judicial and administrative proceedings;
- (xi) to make and enforce rules for the conduct of its proceedings and hearings;
- (xii) to receive, expend and generally administer funds;
- (xiii) to collect and administer in accordance with the provisions of this Act, taxes and fees imposed by and adjusted under this Act;
[Sub-para. (xii) substituted by s.6 (a) of Act No. 1 of 2015.]
- (xiv) to make rules governing the licensing, conduct and operation of any gambling or racing activity or business;
- (xv) to conduct or cause to be conducted hearings, investigations and enquiries with regard to any matter falling within the scope of its functions;
- (xvi) to apply to court to place any gambling operation under supervisory management;

- (xvii) to enter into agreements with or obtain the assistance of any department or organ of State, including the South African Police Service, to conduct or assist it in conducting its investigations;
- (xviii) to obtain information from licence holders and other persons and agencies;
- (xix) to conduct an ongoing study of, and investigation into, gambling and racing throughout the Province and elsewhere in order to ascertain whether there are any deficiencies in this Act or in any regulation or rule made thereunder and to discover any abuses or violations of the procedures contained in this Act or any regulation or rule made thereunder;
- (xx) to determine minimum internal control systems for licence holders, including accounting and reporting procedures and any other procedures or systems, whether computerised or not;
- (xxi) to impose penalties for any breach of this Act or any of the regulations, rules or licence conditions made under this Act by a licence holder or registrant, which may include a fine or the suspension of or the imposition of conditions relating to any licence issued in terms of this Act;

[Para. (xxi) substituted by s. 2 (a) of Act No. 8 of 2002.]

- (xxii) to determine fees and charges in respect of investigations, enquiries and any other function performed by the board;
- (xxiii) to collect and administer interest and penalties imposed by or under this Act;
- (xxiv) to undertake or cause to be undertaken tests on equipment and gambling devices used or to be used in gambling activities and to recover the costs thereof from any person at whose instance or in respect of whose gambling activities such tests are undertaken;
- (xxv) to issue summonses for the appearance of persons or the production of books, documents or things in connection with applications, hearings, investigations or enquiries under this Act, including the rules or regulations made thereunder;
- (xxvi) to establish field or branch offices;
- (xxvii) to establish and administer funds for the proper administration of this Act and to achieve the strategic objectives of the board and promote socioeconomic development in the Province;

[Para. (xxvii) substituted by s. 6 (b) of Act No. 1 of 2015.]

- (xxviii) to consult with any person or employ consultants regarding any matter relevant to the performance of its functions on such terms and conditions as the board may determine;
- (xxix) to compile a list of persons who are to be excluded or rejected from specified licensed premises and of those who are prohibited from partaking in specified gambling;
- (xxx) to make rules, if the board deems it necessary, governing the registration, conduct and operation of amusement machines and amusement games and the licensing of amusement operators and in consultation with the responsible Member and the Member of the Executive Council responsible for finance to impose licence and registration fees therefor: Provided that any disqualification provided for in such rules shall not be more onerous than those contained in section 31: Provided further that different rules may be imposed and different categories of licence required and issued in respect of different categories of amusement machines and amusement operators;

[Sub-para. (xxx) substituted by s. 3 (a) of Act No. 6 of 1998, by s. 3 (b) of Act No. 3 of 2000 and by s. 6 (c) of Act No. 1 of 2015.]

- (xxxi) to exercise its powers and perform its functions and duties in order to achieve the strategic objectives of the board and to promote socio-economic development in the Province.

[Sub-para. (xxxi) substituted by s. 6 (d) of Act No. 1 of 2015.]

(2) The board may, with the approval of the responsible member-

- (a) exercise such powers and perform such functions and duties in terms of the law of any other province or area in respect of persons and matters in the said province as the board may in terms of this Act perform and perform in this province; and
- (b) enter into an agreement with the National Gambling Board contemplated in section 64 of the National Gambling Act or the gambling regulatory authority of any other province or provinces which provides for the joint monitoring, licensing or regulation of activities having an inter-provincial nature, such as wide area progressive jackpots, monitoring systems or linked bingo systems;

[Para. (b) substituted by s. 6 (e) of Act No. 1 of 2015.]

(3) The board may, in its sole discretion, grant authority for the installation of an amusement machine for the playing of amusement games in premises which the board deems suitable, in terms of subsection (1) (xxx).

(4) The board may subject to subsection (6) delegate any function or power which it may exercise in terms of the Act to any of its committees, officers or employees whereupon such function shall be exercised or performed on behalf of the board: Provided that the board may not delegate-

- (a) the powers set out in subparagraphs (ii) and (iii) for a casino licence and a route operator licence and

the powers set out in paragraphs (iv), (v), (xi) and subject to subsection (5), subparagraph (xxx) of subsection (1) (c);

[Para. (a) substituted by s. 6 (f) of Act No. 1 of 2015.]

(b) the powers set out in section 81.

[Sub-s. (4) added by s. 3 (b) of Act 6 of 1998.]

(5) The board may delegate its powers relating to the award, issue, revocation and suspension of-

(a) licences and registrations contemplated in subsection (1) (c) (xxx);

(b) registrations in terms of sections 61, 65, 68 and 69; and

(c) temporary licences contemplated in paragraphs (b), (c) and (d) of section 38 (1).

[Sub-s. (5) added by s. 3 (b) of Act No. 6 of 1998, substituted by s. 3 (c) of Act No. 3 of 2000 and substituted by s. 2 (c) of Act No. 8 of 2002.]

(6) The board shall not be divested of any power delegated by it and may amend or withdraw any decision made in the exercise of that power.

[Sub-s. (6) added by s. 3 (b) of Act 6 of 1998.]

(7) The board may, on a cost recovery basis, levy a fee from a licence holder for the provisions of services in respect of that licence holder by inspectors.

[Sub-s. (7) added by s. 3 (d) of Act No. 3 of 2000.]

5. Constitution of board.-(1) The board shall consist of 8 members appointed by the responsible Member, of whom-

(a) one member shall be qualified to be admitted to practise as a legal practitioner in the Republic and has, for a cumulative period of at least 5 years after having so qualified, practised as a legal practitioner or performed service related to the application or administration of the law;

(b) one member shall be qualified as a chartered accountant in the Republic, who has been so qualified for a period of at least 5 years, and, for a cumulative period of at least 5 years after having so qualified, has practised as a chartered accountant;

(c) one member shall be appointed by virtue of his or her knowledge and active involvement in the tourism industry;

(d) one member shall be appointed by reason of his or her knowledge and experience in the field of welfare or of community or socio-economic development;

(e) one member shall represent the Department of Economic Affairs, Environment and Tourism of the Province, designated by the Member of the Executive Council responsible for that Department;

(f) one member shall represent the Department of Finance, Provincial Expenditure and Management Services of the Province, designated by the Member of the Executive Council responsible for that Department;

(g) one member shall represent the Department of Safety and Security, designated by the Member of the Executive Council responsible for that Department;

(h) one member shall be appointed to represent the interests of the community at large,

[Para. (h) amended by s. 7 (a) of Act No. 1 of 2015.]

Provided that no more than 4 members appointed by the responsible Member may be public servants.

[Proviso inserted by s. 7 (b) of Act No. 1 of 2015.]

(2) In addition the chief executive officer of the board shall *ex officio* be a member of the board, but shall not be entitled to vote.

(3) (a) A member of the board other than a member referred to in paragraphs (e), (f) or (g) of subsection (1) shall not be appointed until the responsible Member has invited interested parties by notice in the *Provincial Gazette* and an advertisement in the media regarded as appropriate by the responsible Member to nominate within 21 days of the publication of such notice candidates for consideration.

(b) The names of the nominees shall be published in the said *Provincial Gazette* and the media.

(c) Any person who wishes to object to the appointment of any person to the board, may, not later than 14 days before the date on which the appointment of the members of the board is intended to be made, lodge with the responsible Member in writing an objection stating the ground or grounds which, according to such a person, disqualify the person to be appointed, from being appointed as a member to the board.

(d) A member of the board shall be appointed by the responsible Member after due consideration of all

nominations and any objections lodged in terms of paragraph (c) and after consultation with the Standing Committee of the Legislature of the Province responsible for economic affairs.

(e) The final list of appointees shall include both genders.

(f) The final list of appointees shall be published in the said *Provincial Gazette* and media.

(4) The responsible Member shall appoint a member of the board as the chairperson, and another member as the deputy chairperson.

(5) If the chairperson is absent or is for any reason unable to act as chairperson, the deputy chairperson shall perform the functions of the chairperson.

(6) A member of the board shall before assuming office, make and subscribe an oath or solemn affirmation in the form determined by the responsible Member.

6. Persons disqualified from being members of board.-Subject to section 7 (3), a person may not be a member of the board if that person-

- (a) is not a citizen of the Republic;
- (b) at the relevant time is, or during the preceding 12 months was, a public servant other than a person appointed in terms of section 5 (1) (e), (f) or (g);
- (c) at the relevant time is, or during the preceding 12 months was, a member of Parliament, any provincial legislature or local authority, or any council, commission or House of Traditional Leaders established in terms of the Constitution;
- (d) at the relevant time is, or during the preceding 12 months was, an office-bearer or employee of any party, movement, organisation or body of a party political nature;
- (e) has any direct or indirect interest in any gambling activity or any other business or enterprise that may conflict with the proper performance of his or her duties as a member of the board;
- (f) or his or her partner or associate, holds an office in or with, or is employed by, any person, company, organisation or other body, whether corporate or unincorporated, which has an interest contemplated in paragraph (e);
- (g) is an unrehabilitated insolvent;
- (h) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;
- (i) has at any time been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under this Act or any Act providing for the prevention or the criminalization of corruption, or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R500;
- (j) has at any time been removed from an office of trust on account of misconduct;
- (k) is a family member, partner or associate, of a person contemplated in paragraph (b), (e) or (f);
[Para. (k) substituted by s. 2 of Act No. 5 of 1999.]
- (l) failed to disclose an interest in terms of section 7 (2) (a), or attended or participated in the proceedings of the board while having an interest contemplated in section 7 (1);
- (m) is not a natural person.

(2) For the purposes of this section and sections 7 and 12 (5) a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment.

(3) The disqualifications referred to in subsection (1) do not apply to the chief executive officer despite his or her *ex officio* membership of the board as contemplated in section 5 (2).

[S. 6 amended by s. 3 of Act No. 8 of 2002 and substituted by s. 8 of Act No. 1 of 2015.]

7. Recusal of board member with conflicting interests.-(1) Notwithstanding the provision of paragraph (c) of section 6 and who was not so disqualified at the time of his or her appointment may remain a member of the board and act in accordance with the provisions of this section if-

- (a) he or she or his or her family member, partner or business associate is a director, member or partner of, or has a controlling interest or any financial or other interest in, the business of the applicant or any person who made representations in relation to the application for a licence; or

- (b) he or she has any interest which precludes him or her from performing his or her functions as a member of the board in a fair, unbiased and proper manner.

[Sub-s. (1) amended by s. 9 of Act No. 1 of 2015.]

(2) (a) If at any stage during the course of any proceedings before the board it appears that a member of the board has or may have any interest contemplated in subsection (1) (a) that member shall forthwith and fully disclose the nature of his or her interest and leave the meeting or hearing so as to enable the remaining members of the board to discuss the matter and determine whether that member is precluded from participating in the proceedings at such meeting or hearing by reason of a conflict of interest.

(b) Such disclosure and the decision taken by the remaining members of the board regarding such determination shall be recorded in the minutes of the proceedings in question.

(c) If any member of the board fails to disclose any interest contemplated in subsection (1) or if, having such an interest, he or she attends or in any manner whatsoever contributes to the proceedings at the meeting or hearing concerned, such contribution will be deemed not to have been made: Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, revocation or withdrawal of a licence or registration, or the transfer of a licensed business to new premises, shall thereby be invalidated.

(3) Notwithstanding the provisions of paragraphs (e), (f) and (k) of section 6, any person who would be disqualified from remaining a member of the board in terms of paragraphs (e), (f) and (k) of section 6 and who was not so disqualified at the time of his or her appointment may remain a member of the board and act in accordance with the provisions of this section if-

- (a) the provisions of subsection (1) are applicable to such person;
- (b) he or she recuses himself or herself in terms of subsection (1); and
- (c) such disqualification may reasonably fall away within 6 months of its coming into existence.

[Sub-s. (3) inserted by s. 4 of Act No. 8 of 2002.]

(4) If a disqualification in subsection (3) continues for longer than 6 months, the member of the board concerned shall be disqualified from remaining a member of the board from the date 6 months after the coming into existence of such disqualification.

[Sub-s. (4) inserted by s. 4 of Act No. 8 of 2002.]

8. Termination of term of office.-A vacancy in the office of a member of the board shall immediately occur when-

- (a) such member dies;
- (b) such member's written resignation is received by the Chief Executive Officer;
- (c) such member becomes subject to a disqualification contemplated in section 6;
- (d) such member is absent from two consecutive meetings of the board without the prior written leave of the chairperson, or where applicable, the deputy chairperson;
- (e) such member's term of office has expired; and
- (f) such member's term of office is terminated by the Executive Council: Provided that the Executive Council shall not terminate a member's term of office unless it considers this to be in the public interest, in the interest of the proper administration of this Act, or that the member has neglected to perform his or her functions as a member properly.

[Para. (f) substituted by s. 3 of Act 5 of 1999.]

8A. Termination of term of office of board and taking over administration of board.-(1) The responsible Member may, at any time-

- (a) if he or she considers it to be in the public interest;
- (b) if he or she considers it to be in the interest of the proper administration of this Act;
- (c) the board has failed to perform its functions, exercise its powers or comply with its strategic objectives;
- (d) there is mismanagement of its finances; or
- (e) there is for any other reason, good cause to do so,

simultaneously terminate the terms of office of all members of the board and may, after consultation with the Executive Council, by notice in the *Provincial Gazette*, appoint an interim Board consisting of three members and the members appointed in terms of section 5 (e) - (g) to perform the functions and exercise the powers of the board on

its behalf until such time as a new board is appointed in terms of section 5.

(2) The responsible Member may appoint the members of the interim Board at his or her discretion after consultation with the Executive Council.

(3) The interim Board appointed by the responsible Member in terms of subsection (1) remains in office until such time as the responsible Member appoints new members to the board in terms of section 5: Provided that the term of office of the interim Board may not exceed a period of six calendar months from the date of appointment.

(4) The responsible Member may-

- (a) withdraw or amend any provision of the notice contemplated in subsection (1) on such conditions as he or she considers appropriate; and
- (b) withdraw the appointment of a member of the interim Board and appoint another person in his or her place.

(5) The responsible Member may recover from the funds of the board the costs of appointing the interim Board to take over the administration of the board.

[S. 8A inserted by s. 4 of Act No. 5 of 1999, substituted by s. 4 of Act No. 3 of 2000 and by s. 10 of Act No. 1 of 2015.]

9. Tenure of office of members of board and filling of vacancies.-(1) A member of the board shall hold office, subject to the provisions of subsection (4) and section 6, for 5 years.

(2) If a member of the board for any reason ceases to hold office, the responsible Member may with due regard to sections 5 and 6, appoint a person to act in the place of the member vacating office for the unexpired period of the term of office of that member: Provided that the responsible Member may notwithstanding section 5 (3) (a) appoint a person who would be eligible for appointment under section 6 of this Act as a member for a period of not more than 3 months pending such appointment.

[Sub-s. (2) substituted by s. 5 (a) of Act 5 of 1999 and s. 11 (a) of Act No. 1 of 2015.]

(3) Any person whose term of office as a member of the board has expired, shall be eligible for reappointment: Provided that no member may serve more than 2 terms in total.

(4) To ensure continuity 2 members, who shall be determined by the responsible Member after consultation with the board from among members other than members falling under paragraphs (e), (f) and (g) of section 5 (1) shall continue in office after the first period of 5 years.

[Sub-s. (4) substituted by s. 5 (b) of Act 5 of 1999.]

(5) Notwithstanding the provisions of subsection (3), a member of the board who is appointed to a vacant seat in terms of subsection (2) may, in addition to the appointment to the vacant seat, be appointed for one full term of office.

[Sub-s. (5) inserted by s. 11 (b) of Act No. 1 of 2015.]

10. Remuneration and allowances of members of board.-A member of the board shall be paid such remuneration and allowances out of the funds of the board as the responsible Member may determine in concurrence with the member of the Executive Council responsible for finance.

11. Meetings and decisions of board.-(1) The first meeting of the board shall be held at a time and place determined by the chairperson, and thereafter the board shall meet at such times and places as the board may from time to time determine for the expeditious conduct of its business.

(2) The chairperson may at any time on reasonable notice convene an extraordinary meeting of the board to be held at a time and place determined by him or her for the conduct of any business.

(3) The quorum for a meeting of the board shall be a majority of its members.

(4) If both the chairperson and deputy chairperson are absent from any meeting of the board, the members present shall from among themselves elect a person to preside at such meeting.

(5) The decision of a majority of the members present at a meeting of the board shall constitute a decision of the board and, in the event of an equality of votes in relation to-

- (a) the proposed granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or the transfer of a licensed business to new premises, it shall be deemed that the board has decided against the proposal; and
- (b) any other matter, the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote.

(6) No decision taken by or act performed under the authority of the board shall be invalid by reason only of a vacancy on the board or, subject to section 7 (2) (c), of the fact that any person not entitled to sit as a member of the board sat as such a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the majority of the members of the board who were present at the time and entitled to sit as members.

(7) Any meeting of the board convened for the purpose of considering representations or objections in relation to any application for a licence made in terms of this Act, shall be accessible to the public: Provided that the chairperson may in his or her discretion and if the board is of the opinion that any person's presence is not desirable at the meeting concerned, direct that such a person may not attend the meeting or shall leave the meeting: Provided further that deliberations with a view to making decisions and to voting thereon in respect of any matter at a meeting, shall take place behind closed doors.

(8) The chief executive officer shall attend and participate in all meetings of the board but shall not have the right to vote.

(9) The board shall cause minutes of its meetings to be kept, and such minutes shall, subject to section 16 (2), be open to public inspection in the prescribed manner.

(10) All deliberations of the board and those of its committees shall be recorded on magnetic tape, in digital format or any other prescribed format and the recordings must be stored in accordance with the law relating to the preservation and the storage of archives.

[Sub-s. (10) added by s. 6 of Act 5 of 1999 and substituted by s. 12 (a) of Act No. 1 of 2015.]

(11) Nothing in this section shall be interpreted as preventing a member of the board to attend a meeting of the board by means other than his or her physical presence and the board shall make rules in accordance with section 81 regarding the technology which a member may use to attend a meeting and which may constitute his or her attendance as well as the manner in which the decisions of that member shall be recorded and stored.

[Sub-s. (11) inserted by s. 12 (b) of Act No. 1 of 2015.]

12. Staff of board.-(1) The board shall in the performance of its functions be assisted by-

- (a) a chief executive officer appointed by the board in consultation with the responsible Member;
- (b) persons appointed by the chief executive officer; and
- (c) officers and employees placed at the disposal of the board under section 15 (3) (a) of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(2) The chief executive officer shall, subject to the control of the board, perform the functions entrusted to him or her by or in terms of this Act.

(3) The staff of the board shall receive such remuneration allowances, and other employment benefits out of the funds of the board, and shall be appointed on such terms and conditions for such periods as the board may determine.

[Sub-s. (3) substituted by s.13 of Act No. 1 of 2015.]

(4) A member of the staff of the board shall, before assuming his or her duties as such, make and subscribe an oath or solemn affirmation in the prescribed form before the chairperson of the board.

(5) No person shall be admitted to the staff of the board as contemplated in this section if such person or any family member of such person has a controlling interest or any financial or other such interest in any gambling activity.

[Sub-s. (5) substituted by s. 4 of Act 6 of 1998.]

13. Involvement in gambling by member or staff of board.-(1) No member of the board or member of the staff of the board shall-

[Sub-s. (1) substituted by s. 14 (b) of Act No. 1 of 2015.]

- (a) participate in any gambling in the Province except in the performance of his or her duties in terms of this Act; or

[Para. (a) substituted by s. 14 (c) of Act No. 1 of 2015.]

- (b) solicit or accept employment from, or be employed at the gambling area of, the holder of, or an applicant for, a licence under this Act within 1 year after the termination of his or her term of office or service, as the case may be: Provided that a member of the staff may accept such employment within such period with the prior written approval of the board.

[Para. (b) substituted by s. 5 (a) of Act No. 8 of 2002 and by s. 14 (d) of Act No. 1 of 2015.]

(2) A member of the board or of the staff of the board, any family member of such member or any person

related to such member within the second degree of consanguinity, shall not accept any donation, reward or other such benefit directly or indirectly from an applicant for, or the holder of, a licence or registration in terms of this Act and no such person shall directly or indirectly give or offer such donation, reward or other such benefit to such member, family member or relative: Provided that the provisions of this subsection shall not apply to-

- (a) a reasonable meal with a value of less than the amount determined by the responsible Member given to a board member or member of staff of the board whilst such member is acting in the course and scope of his or her duties;
- (b) a *bona fide* gambling win by such board member, staff member, family member or relative at premises of such applicant, licence holder or registrant or an affiliate thereof where such person is not prohibited from so gambling in terms of this Act;
- (c) a salary earned by such family member or person related to such member within the second degree of consanguinity from such applicant, licence holder or registrant in so far as the employment of such person by the licence holder will, in the opinion of the board, not compromise the objectivity of the board member or member of staff to whom such person is related;
- (d) any benefit such as discounted accommodation, promotional materials and the like available to all members of the general public;
- (e) any benefit or object with a value not exceeding that determined by the responsible Member.
[Sub-s. (2) substituted by s. 5 (b) of Act No. 8 of 2002.]

(3) No family member of a member or member of staff of the board shall be employed at or by a gambling business in the province if such employment would, in the opinion of the board, lead to a conflict of interest.
[Sub-s. (3) substituted by s. 5 (c) of Act No. 8 of 2002.]

- (4) Any person who contravenes a provision of subsection (1), (2) or (3) shall be guilty of an offence.
[Sub-s. (4) inserted by s. 5 (d) of Act No. 8 of 2002.]
[S. 13 heading substituted by s. 14 (a) of Act No. 1 of 2015.]

14. Committees to assist board.-(1) The board may appoint one or more committees to enquire into any matter referred to it by the board and to report on that matter to the board.

(2) Such a committee shall consist of so many members of the board or so many other persons, or so many members and other persons, as the board may deem necessary, and the board may from time to time dissolve or reconstitute such a committee.

(3) If a committee consists of more than one member, the board shall designate a member of the committee as chairperson thereof.

(4) A member of a committee who is not a member of the board or in full-time service of the State shall receive remuneration and allowances from the funds of the board as the board, after consultation with the responsible Member, may determine.

(5) A committee shall perform its functions and exercise its powers subject to the provisions of this Act and such directives of the board as are not in conflict with such provisions.

15. Expert and other assistance.-(1) The board may appoint or call to its assistance such experts or other persons as it may deem necessary with a view to assisting it in the exercise and performance of its powers, functions and duties and for the performance of any work arising therefrom.

(2) The terms, conditions, remuneration and allowances applicable to any expert or person appointed or called upon under subsection (1), and the work to be performed or service to be rendered by him or her shall be determined by the board and shall be contained in a written agreement entered into for that purpose between the board and the expert or person concerned.
[Sub-s. (2) substituted by s. 15 of Act No. 1 of 2015.]

(3) Upon having performed the work or completed the service pursuant to an agreement contemplated in subsection (2), the expert or other person concerned shall submit a report in regard thereto to the board for its consideration.

(4) The board, on receipt of a report contemplated in subsection (3), may refer the matter back to the expert or person concerned for such further attention as may be determined by the board, or to perform such further functions as the board may deem necessary or desirable.

16. Transparency and confidentiality.-(1) The board shall, subject to subsection (2), function in a transparent and open manner.

(2) No member of the board or of the staff of the board, no person or expert contemplated in sections 14 and 15 and no inspector shall, except on the order of a court of law, disclose-

- (a) any document or information, or the identity of any person, which the board has determined not to be open to public inspection or to be divulged as contemplated in section 25 (2);
- (b) particulars of the proceedings at any hearing from which the public or any member or category thereof have been excluded as contemplated in section 29 (2) (b), except to the extent authorised by the board; or
- (c) any document or information which has been furnished to the board by any regulatory or law enforcement authority on condition of confidentiality.

(3) Any person who contravenes a provision of subsection (2) shall be guilty of an offence.

17. Funds of board.-(1) The funds of the board shall consist of-

- (a) money appropriated by the Legislature of the Province in order to enable the board to perform its functions under this Act;
- (b) annual board administration fees contemplated in Schedule II, Parts B and D as adjusted by the responsible Member in terms of section 57 (8);
[Para. (b) substituted by s. 16 of Act No. 1 of 2015.]
- (c) investigation fees charged in respect of applications for licences and registrations;
- (d) inspection and investigation fees contemplated in section 4 (7); and
[Para. (d) substituted by s. 6 (a) of Act No. 8 of 2002.]
- (e) money accruing to the board from any other source.
[Sub-s. (1) substituted by s. 5 (a) of Act 6 of 1998.]

(2) The board shall, for the purposes of appropriations contemplated in subsection (1) (a), submit to the responsible Member such estimates of expenditure and other inputs in respect of budget matters as the responsible Member or the Provincial Treasury may require.

(3) The board shall utilise its funds for the defrayal of expenses incurred by the board in the performance of its functions in terms of this Act.

(4) The board shall open an account with a bank determined by the board which is registered in the Republic and approved by the National Treasury as contemplated in section 7 (2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and shall deposit in that account all money referred to in subsection (1).
[Sub-s. (4) substituted by s. 6 (b) of Act No. 8 of 2002.]

(5) The board may with the approval of the responsible Member invest money deposited in terms of subsection (4) which is not required for immediate use.

(6) Any money standing to the credit of the board at the close of any financial year of the board in the account referred to in subsection (4) or which has been invested under subsection (5) excluding-

- (a) such money as has been approved by the responsible Member as being necessary for the running expenses of the board; and
- (b) funds required by the board in respect of outstanding creditors or received by way of prepayments,

shall be paid into the Provincial Revenue Fund.

[Sub-s. (6) substituted by s. 5 (b) of Act No. 6 of 1998 and by s. 6 of Act No. 3 of 2000.]

(7) The board may establish such other bank accounts at institutions complying with subsection (4) as the board, in consultation with the responsible Member, may determine.

[Sub-s. (7) inserted by s. 6 (c) of Act No. 8 of 2002.]

18. Accounting responsibility.-(1) The board members contemplated in section 5 shall collectively be the accounting authority of the board charged with accounting for all money received and payments made by the board: Provided that the Provincial Treasury may in exceptional circumstances approve or instruct that the chief executive officer or another member of staff of the board shall be the accounting authority for the board, which approval or instruction may at any time be withdrawn.

(2) The board may in writing delegate any of the powers delegated or entrusted to it by the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the chief executive officer or a member of the staff of the board or instruct such person to perform a duty assigned to the members of the board in terms of this Act.

(3) A delegation or instruction contemplated in subsection (2)-

- (a) is subject to such limitations or conditions as the members of the board may impose;
- (b) may either be to a specific individual or the holder of an office; and
- (c) shall not divest the members of the board of responsibility concerning the exercise of the delegated power or performance of the assigned duty.

(4) Subject to any vested rights, the board may revoke a decision taken by a person or a member of a delegation or instruction contemplated in subsection (2).

(5) The financial year of the board shall end on 31 March each year.

(6) The board shall-

- (a) keep full and proper records of all money received or expended by, and of all assets and liabilities and financial transactions of, the board;
- (b) follow the bookkeeping and accounting systems, instructions and requirements of the Provincial Treasury; and
- (c) as soon as is practicable, but not later than 2 months after the end of each financial year referred to in subsection (5), prepare annual financial statements reflecting, with suitable particulars, money received and expenses incurred by the board during, and its assets and liabilities at the end of, the financial year in question.

(7) The records and annual financial statements referred to in subsection (6) shall be audited by the Auditor-General or, if so instructed by the Auditor-General, a person appointed by the board who is registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005) as an accountant and auditor, and who engages in public practice as such.

[Sub-s. (7) substituted by s. 17 of Act No. 1 of 2015.]

[S. 18 substituted by s. 7 of Act No. 8 of 2002.]

18A. Exemption from liability.-No member or member of staff of the board shall be liable in his or her personal capacity for anything done by him or her in good faith in the course of exercising the powers of the board in terms of this Act.

[S. 18A inserted by s. 7 of Act No. 3 of 2000.]

CHAPTER 2A

GAMBLING ACTIVITIES

[Chapter 2A inserted by s. 18 of Act No. 1 of 2015.]

18B. Gambling activity.-An activity is a gambling activity if it involves-

- (a) placing or accepting a bet or wager in terms of section 18C;
- (b) placing or accepting a totalisator bet, in terms of subsection 18D; or
- (c) making available for play, or playing bingo or another gambling game as contemplated in section 18E.

18C. Placing bet or wager.-A person places or accepts a bet or wager when that person-

- (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; 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; or
 - (ii) stakes money or anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency; or
- (c) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or
- (d) expressly or implicitly undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c).

18D. Totalisator bet.-A person places or accepts a totalisator bet when that person stakes money or anything of value on the outcome of an event or combination of events by means of-

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

18E. Gambling game.-(1) An activity is a gambling game if-

- (a) it meets the following criteria-
 - (i) it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to or receive a pay out; and
 - (ii) the result might be determined by the skill of the player, the element of chance, or both; or
 - (b) it is a bet or wager in terms of section 18C that is placed in a casino in relation to any activity that meets the criteria in paragraph (a).
- (2) Despite subsection (1) for all purposes of this Act, none of the following activities is a gambling game-
- (a) a bet or wager in terms of section 18B other than a bet or wager contemplated in subsection 1 (b); or
 - (b) a totalisator bet in terms of section 188; or
 - (c) an amusement game.

18F. Pay out and opportunity to play further game.-(1) (a) Subject to paragraph (b), a pay out is any money, merchandise, property, a cheque, credit, electronic credit, a debit, a token, a ticket or anything else of value won by a player-

- (i) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and
 - (ii) regardless of how the pay out is made.
- (b) Neither of the following is a pay out-
- (i) an opportunity to play a further game; or
 - (ii) a prize given to a participant or team of participants in a sporting event in respect of the participant's or team's performance in that event.
- (c) The result of the gambling game-
- (i) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game-
 - (aa) in respect of which the opportunity was won; and
 - (bb) on the machine on which the opportunity was won; but
 - (ii) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be-
 - (aa) distributed or transferred to the person who has won such an opportunity or to any other person; or
 - (bb) converted into money, property, a cheque, credit or any other thing of value; or
 - (cc) converted in terms of any scheme, arrangement, system, plan or device prescribed in terms of the National Gambling Act.

CHAPTER 3

LICENCES IN GENERAL

19. Licensees.-(1) Subject to subsections (2) and (3), as appropriate, licence in respect of a casino shall only be issued to a company registered in terms of Companies Act, 2008 (Act 71 of 2008) and any other licence under

this Act shall only be issued to such a company or to a close corporation incorporated under the Close Corporations Act, 1984 (Act No. 69 of 1984): Provided that the provisions of this section shall not apply in respect of a licence contemplated in section 4 (1) (c) (xxx) and shall not apply in respect of a gambling machine site licence where the board considers appropriate.

[Sub-s. (1) substituted by s. 8 of Act No. 3 of 2000 and amended by s. 19 (a) of Act No. 1 of 2015.]

(2) The main object of a company and the principal business of a close corporation referred to in subsection (1) shall, in the memorandum and founding statement respectively, be restricted solely to the requirements of the gambling business concerned.

(3) The memorandum of a company referred to in subsection (1) shall exclude the common powers of companies as contained in paragraphs (k), (l) and (m) of Schedule 2 of the Companies Act, 2008 (Act 71 of 2008) prior to its repeal by the Companies Act, 2008.

[Sub-s. (3) substituted by s. 8 of Act No. 8 of 2002 and by s. 19 (b) of Act No. 1 of 2015.]

(4) The provisions of subsections (2) and (3) shall not apply to an application for or holder of a totalisator licence or race course licence.

[Sub-s. (4) added by s. 6 of Act 6 of 1998.]

20. Applications.-(1) An application for a licence other than a licence contemplated in section 4 (1) (c) (xxx) or 38 or for registration shall be made as provided hereunder: Provided that-

- (a) where an application for a licence or registration has been refused on any ground referred to in section 31, or where a licence has been revoked on any ground referred to in section 39 or 79, no reapplication for a licence or registration shall be made within 12 months from the date of such refusal or revocation, and any prospective licensee or applicant for registration who has a direct or indirect interest of 5 percent or more in the business or premises of such applicant licensee or registrant may not apply for a licence within 12 months from the date of such refusal or revocation, if such person was the direct or effective cause of such refusal or revocation; and
- (b) any applicant whose application for a licence or registration has been refused more than once on any ground referred to in section 31, or whose licence has been revoked more than once on any ground referred to in section 39 or 79, may not reapply for a licence or registration within 3 years from the date of the latest refusal or revocation, and any prospective licensee or applicant for registration who has a direct or indirect interest of 5 percent or more in the business or premises of such applicant, licensee or registrant, may not apply for a licence or registration within 3 years from the date of the latest refusal or revocation, if such person was the direct or indirect or effective cause of such refusal or revocation.

[Sub-s. (1) amended by s. 7 (a) of Act 6 of 1998 and s. 20 (a) of Act No. 1 of 2015.]

(2) An applicant desiring to obtain a licence shall apply therefor by submitting an application in a form determined by the board to the chief executive officer.

(3) Any application for a licence shall-

- (a) be lodged with the chief executive officer in the prescribed form;
- (b) be accompanied by-
 - (i) such documents and information as prescribed or as determined by the board; and
 - (ii) the fee specified in Schedule II as adjusted by the responsible Member in terms of section 57 (8) which fee is not refundable.

[Sub-para. (ii) substituted by s. 20 (b) of Act No. 1 of 2015.]

(4) An applicant may in the application concerned identify any document or information included in the application which in the opinion of the applicant is confidential or should for any reason not be disclosed to the public, and show cause why the board may determine under section 25 (2) (a) that such document or information should not be open to public inspection.

(5) The applicant shall be liable for and pay to the board all reasonable expenses incurred by the board, if any, to conduct the investigations referred to in section 27: Provided that the board may before or while conducting such investigations require from an applicant any security for the payment of such expenses.

(6) The provisions of subsections (3), (4) and (5) and section 27 (1) shall apply *mutatis mutandis* to-

- (a) any application for registration in terms of this Act;
- (b) any application or investigation relating to a licence or registration contemplated in section 4 (1) (c) (xxx);
- (c) any application or investigation regarding a consent to hold a financial interest contemplated in section 40;

- (d) any application contemplated in sections 35, 36 37 or 38;
 - (e) any application or investigation regarding suitability contemplated in section 86; and
 - (f) an application for a licence or consent to conduct social gambling.
- [Sub-s. (6) added by s. 7 (b) of Act No. 6 of 1998, substituted by s. 9 of Act No. 3 of 2000 and by s. 9 of Act No. 8 of 2002.]

21. Representations by interested persons.-(1) The chief executive officer shall, within 14 days after lodgement of an application for a licence, cause notice of the application to be published-

- (a) in the *Provincial Gazette*, in any official language; and
- (b) in a newspaper circulating in the district in which the premises to which such application relates are situated, in any official language in which such newspaper is published.

(2) A notice contemplated in subsection (1) shall-

- (a) contain the material particulars of the application;
- (b) invite interested persons-
 - (i) to lodge their written representations in relation thereto with the chief executive officer within 1 month from the date of such notice; and
 - (ii) to state in any written representations whether or not they wish to make oral representations at the hearing of the application; and
- (c) be in the prescribed form.

(3) A person lodging representations may show cause why the board may determine under section 25 (2) (b) that his or her identity shall not be divulged.

(4) The chief executive officer shall, within 7 days after lodgement of any representations pursuant to a notice in terms of subsection (1), send by registered post or deliver, subject to section 25 (2) (b), a copy of such representations to the applicant concerned.

(5) The board may recover the cost of the advertisements contemplated in subsection (1) and section 28 (1) and any other advertisement the board may place regarding applications received from the applicant or applicants concerned.

[Sub-s. (5) added by s. 10 of Act No. 3 of 2000.]

22. Representations by local authority.-(1) The chief executive officer shall, within 14 days after lodgement of an application for a licence, excluding a licence referred to in paragraph (c) of the definition of "licence" in section 1, forward a copy of the application to the local authority in whose area of jurisdiction the relevant premises are situated.

(2) The local authority may, within 1 month from the date of publication of the notice contemplated in section 21 (1)-

- (a) lodge written representations with the chief executive officer in relation to the application; and
- (b) state in any such written representation whether or not it wishes to make oral representations at the hearing of the application.

(3) The local authority shall at the time of lodgement of its representations furnish proof to the satisfaction of the chief executive officer that it has sent by registered post or delivered a copy of such representations to the applicant concerned.

(4) The provisions of this section shall not apply to any premises in respect of which a valid licence, issued by the board to conduct gambling, is in existence at the time the application is received. unless the board directs otherwise.

[Sub-s. (4) inserted by s. 21 of Act No. 1 of 2015.]

23. Response by applicant to representations.-(1) The applicant shall lodge his or her written response, if any, to any representations lodged in terms of section 21 or 22 with the chief executive officer within 2 months of the date of the notice contemplated in section 21 (1), and the provisions of section 20 (4) shall *mutatis mutandis* apply in relation to any such response.

(2) The chief executive officer shall, within 7 days after lodgement of any response contemplated in subsection (1), send by registered post or deliver a copy of such response to the person who made the representations concerned.

24. Further information and oral representations.-(1) An applicant, or any person who, or local authority which, lodged representations as contemplated in section 21 or 22, may be required in writing by the chief executive officer to lodge with the board, within the period specified by the chief executive officer, such further information as may be reasonably necessary with a view to enabling the board properly to consider the application, representations or response concerned, and the provisions of sections 20 (4) and 21 (3), as the case may be, shall *mutatis mutandis* apply in relation to such further information.

(2) Where any person or the local authority indicates a desire to make oral representations at the hearing of the application as contemplated in section 21 (2) (b) (ii) or 22 (2) (b), respectively, the board shall-

- (a) with due regard to whether the making of such oral representations will be in the interest of the consideration of the application, grant or refuse the request; and
- (b) inform the person or local authority concerned and the applicant in writing of its decision.

(3) No information shall be required in terms of subsection (1), and no request shall be granted in terms of subsection (2), where the information or representations concerned would amount only to general objections regarding gambling and betting or the control thereof.

25. Application and representations to be open to public inspection.-(1) Any application, representations, responses and further information lodged in terms of section 20 to 24 shall, subject to subsection (2) be open to public inspection by interested persons during the normal office hours of the board-

- (a) in the case of applications from a date 14 days after the lodgement thereof;
- (b) in the case of representations, responses and further information, from a date 7 days, after the lodgement thereof;
- (c) for a period of three months from the date of publication of the notice contemplated in section 21 (1) and such further period thereafter as may be prescribed.

[Sub-s. (1) substituted by s. 11 (a) of Act No. 3 of 2000.]

(2) The board may determine that-

- (a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees, to the financial projections of the applicant or to the business plans of an applicant, shall not be open to public inspection, provided such information can be separated from the remainder of the application and is marked confidential; and
[Para. (a) substituted by s. 10 of Act No. 8 of 2002.]
- (b) the identity of any person who lodged representations in relation to an application shall not be divulged to any other person.

(3) The board shall, subject to subsection (2), at the request of any interested person, and on payment of such fees as may be prescribed, furnish him or her with a copy of, or extract from, any application, representations, responses or information contemplated in subsection (1).

[Sub-s. (3) added by s. 11 (b) of Act No. 3 of 2000.]

26. Inspection of premises to which application relates.-(1) The chief executive officer shall, on lodgement of an application for a licence other than a licence referred to in paragraph (c) of the definition of "licence" in section 1-

- (a) forthwith cause the premises to which the application relates to be inspected by an inspector with regard to the suitability thereof for the carrying on of the business to which the licence relates; and
- (b) within 14 days after such lodgement, give notice of the application to the local authority or other competent authority concerned, with a view to the conducting of an inspection by such authority with regard to compliance by the premises with the requirements of any law relating to town planning and the health and safety of the public which applies to those premises.

(2) The local authority or other competent authority shall, on receipt of a notice of the application, forthwith cause the premises to be inspected with regard to the matters contemplated in subsection 1 (b).

(3) On completion of an inspection contemplated in subsection (1) or (2), the inspector or authority concerned, as the case may be, shall furnish a report of such inspection to the chief executive officer within 1 month from the date of the notice contemplated in section 21 (1) in relation to the application concerned.

(4) The chief executive officer shall, within 7 days after the furnishing of a report contemplated in subsection (3), send by registered post or deliver a copy of such report to the applicant.

(5) The provisions of this section shall not apply to any premises in respect of which a licence, issued by the board to conduct gambling, is in existence at the time the application is received by the board unless the board directs otherwise.

[Sub-s. (5) inserted by s. 5 of Act No. 1 of 2015.]

27. Investigations and police report.-(1) In order to determine whether or not a licence should be granted to an applicant, the board may, subject to any other law, gather such information as it deems necessary from any source or person regarding the suitability of the applicant to hold such a licence under this Act and the suitability of the premises in respect of which the application is made.

(2) The chief executive officer shall, as soon as possible after receipt of an application for a licence, ask the South African Police Service for a report from a police officer of or above the rank of inspector covering-

- (a) particulars of any convictions recorded against any director in the case of a company, any member in the case of a close corporation or any other person in the case of a gambling machine site licence, or any person who will be involved in the business and in respect of whom the board deems it necessary to obtain a police report and such report shall include when deemed necessary the finger prints of the person concerned taken by the South African Police Service;
- (b) such matters as may be prescribed; and
- (c) such other matters which ought, in the opinion of the South African Police Service, to be taken into consideration in respect of the application concerned.

(3) A report contemplated in this section shall be furnished to the chief executive officer within 1 month of the date of the notice contemplated in section 21 (1) or within such period as the board may direct, in relation to the application concerned.

28. Hearing of application.-(1) The board shall, within 1 month after the lapse of the period of public inspection contemplated in section 25 (1) hold a hearing in respect of every application for a licence received by the board, on such date and at such time and place as may be determined by the board, and made known by notice published *mutatis mutandis* as provided in section 21 (1): Provided that the above-mentioned period may, in the discretion of the board, be extended by like notice.

[Sub-s. (1) substituted by s. 12 of Act No. 3 of 2000.]

(2) The provisions of sections 11 (3) to 11 (9) shall *mutatis mutandis* apply in relation to such a hearing.

(3) At such a hearing-

- (a) the applicant shall be afforded an opportunity to be heard;
- (b) any person or local authority permitted to make oral representations as contemplated in section 24 (2) shall be afforded an opportunity to be heard; and
- (c) the applicant and each such person and authority may be assisted or represented by any person of his or her choice.

(4) Any such hearing may be adjourned and resumed on such date and at such time and place as the board may determine.

(5) Notwithstanding the provisions of subsection (1) the board may hold the public hearing before the elapse of the time period set out therein if it has completed its investigations and-

- (a) no objections have been received; or
- (b) one or more objections have been received and the applicant has responded thereto or has had sufficient opportunity in terms of section 23 to respond thereto.

[Sub-s. (5) inserted by s. 11 of Act No. 8 of 2002.]

(6) Notwithstanding the provisions of subsection (1), the Board may dispense with the requirement for a public hearing and the requirement for the advertising of such hearing if-

- (a) no comment or objection pertaining to any application is received by the board; or
- (b) there are no grounds on which the application may be refused:

Provided that the board shall not refuse an application under such circumstances without giving the applicant an opportunity to be heard.

[Sub-s. (6) inserted by s. 23 of Act No. 1 of 2015.]

29. Accessibility of hearing to public.-(1) Subject to subsection (2), any hearing contemplated in section 28

shall be accessible to the public.

(2) The person presiding at the hearing may-

- (a) if the presence of any particular person is not conducive to the good order or conduct of the hearing, direct that such person may not attend, or shall leave, the hearing; and
- (b) if the board is considering any matter contemplated in section 25 (2) (a) or representations lodged by a person contemplated in section 25 (2) (b), or if it is otherwise in the interest of the consideration of the matter concerned, direct that the public or any member or category thereof may not attend, or shall leave, the hearing.

30. Witnesses and evidence.-(1) For the purpose of any hearing or enquiry the board may in writing summon any person who is or may be able to furnish information in relation to a particular matter to appear before it-

- (a) to give evidence; or
- (b) to produce any book, document or thing which is in his or her possession or under his or her control and which relates or may relate to a matter to be considered at such hearing or enquiry.

(2) Compliance with the obligation to produce a book, document or thing in terms of the preceding subsection shall not deprive the holder of any lien claimed with regard to such book, document or thing of any rights as lienholder.

(3) A person who has received a summons in terms of subsection (1) shall personally appear before the board on the date and at the time and place set out in the summons: Provided that if such a person is not competent so to appear, any person who by law is competent to act on his or her behalf or any person authorised thereto by the board may so appear on his or her behalf.

(4) Every person summoned in terms of subsection (1) shall be bound to obey the summons, and any person who, having been duly summoned to attend a hearing or an enquiry of the board, without sufficient cause, fails to attend personally or by representative as set out in the proviso to subsection (3) at the time and place specified in the summons or to remain in attendance until excused by the chairperson from further attendance, shall be guilty of an offence.

(5) The provisions of subsections (2) and (3) shall apply *mutatis mutandis* to any corporate body, organisation or institution.

(6) The board may require any person testifying at a hearing, investigation or an enquiry to give evidence on oath or affirmation, and any person qualified to administer an oath or accept an affirmation in terms of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963) may administer the oath or accept an affirmation from any such person.

(7) The law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law shall apply in relation to the examination of any such person or the production of any book, document or thing at a hearing, investigation or an enquiry held which is open to the public.

(8) Any person may be required to answer any question put to him or her at a hearing, investigation or an enquiry which is not open to the public, notwithstanding that the answer might tend to incriminate him or her, but the answer may not thereafter be used in evidence against such person in a court of law, save on a charge of which giving false evidence is an element.

(9) Any person who appears before the board at a hearing, investigation or an enquiry, whether as a party or a witness, shall be entitled to be represented by his or her legal representative.

(10) (a) Any person who has been summoned in terms of this section or who has given evidence at a hearing, investigation or an enquiry shall be entitled to the same witness fees as if he or she had been summoned to attend or had given evidence at a civil trial in a magistrate's court held at the place where the investigation is held.

(b) Any fees which may be payable in terms of paragraph (a) shall be paid from the funds of the board.

31. General disqualifications for licence.-(1) No application for a licence shall be granted if any director in the case of a company, any member in the case of a close corporation or any person-

- (a) is under the age of 18 years;
- (b) is a public servant or political office bearer;
- (c) is listed on the register of excluded persons contemplated in section 14 of the National Gambling Act;
- (d) is a family member, other than a brother or sister, of a person who is a member or employee of a regulatory authority exercising oversight over that licensee;
- (e) is an unrehabilitated insolvent;

- (f) is not a fit and proper person to be involved in the business concerned;
- (g) is subject to an order of a competent court holding that person to be mentally unfit or deranged;
- (h) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money;
- (i) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004, the Prevention of Organised Crime Act, 1998, the Financial Intelligence Centre Act, 2001, the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004, or an offence in terms of this Act or the National Gambling Act and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the amount prescribed under the National Gambling Act, unless the person has received a grant of amnesty or free pardon for the offence; or
- (j) has been convicted during the previous ten years of any computer or computer software related crime.

[Sub-s. (1) substituted by s. 24 (a) of Act No. 1 of 2015.]

(2) The board must refuse to issue a licence to an applicant-

- (a) who is disqualified from holding an interest in a licence, licence holder, licensed premises or the business to which a licence relates in terms of this Act or section 50 (2) of the National Gambling Act;
- (b) if after conducting the prescribed investigations, it has reason to believe that the applicant, any person who has a controlling interest in the applicant, any person who holds any of the total financial interest in the applicant or any manager of the business concerned is-
 - (i) a family member, other than a brother or sister, of a person who is a member of the board; or
 - (ii) is disqualified from holding an interest in a licence, licence holder or the business to which a licence relates, in terms of subsection (1).

[Sub-s. (2) substituted by s. 24 (b) of Act No. 1 of 2015.]

(3) No licence shall be granted unless the board is satisfied that-

- (a) subject to the provisions of section 55 of the National Gambling Act, the State, any organ of the State, any organisation in which the State has a financial interest, does not hold a financial interest in the gambling business of the applicant apart from taxes, fees or levies: Provided that, for the purposes of this section, "financial interest" does not include an interest arising out of an arms-length commercial transaction in respect of a lease, a sale of property or the granting of the option to purchase where the lessor, seller or granting of the option is the State, an organ of State or any organisation with which the State is concerned and, in the case of a lease, the rental payable is not determined by reference to the turnover of or profit from the gambling activity;

[Para. (a) substituted by s. 8 of Act No. 6 of 1998, by s. 13 (c) of Act No. 3 of 2000, by s. 12 of Act No. 8 of 2002 and by s. 24 (c) of Act No. 1 of 2015.]

- (b) subject to the provisions of section 54 of the National Gambling Act, the granting of such licence will not result in the applicant either alone or in conjunction with a related entity achieving market power in the gambling industry in the Republic or the Province unless there are overriding public interest reasons for this, including those set out in section 12A (3) of the Competition Act, 1998 (Act No. 89 of 1998): Provided that for purposes of this paragraph the words "market power" and "related person" shall have the meanings granted thereto in the Competition Act, 1998 and the National Gambling Act, respectively: Provided further that in the case of casinos this shall not be construed so as to prevent the acceptance of a lump sum payment as contemplated in section 41 (2) (e); and

[Para. (b) substituted by s. 24 (d) of Act No. 1 of 2015.]

- (c) the granting of such a licence will not result in-

- (i) the establishment of an unduly large gambling industry in the Province, having regard to the number of inhabitants of the Province and their financial means and the number of licences already granted in terms of this Act or any other law;
- (ii) the number of casino licences allocated to the Province from time to time by the National Gambling Act, being exceeded.

[Para. (b) amended by s. 24 (e) of Act No. 1 of 2015.]

(4) No licence shall be granted to a prospective licensee where a person who is subject to disqualification in terms of subsection (1)-

- (a) has a direct or indirect financial interest in the prospective licensee;
- (b) is a director, member or manager of the prospective licensee; or
- (c) is a director, member or trustee of such financial interest holder:

Provided that the applicant, prior to disqualification, shall be given a reasonable opportunity to rectify the disqualifying circumstances where this is possible without the substance of the application being changed.

[Proviso substituted by s. 13 (d) of Act No. 3 of 2000. Sub-s. (4) substituted by s. 24 (f) of Act No. 1 of 2015.]

(5) Any disqualified person contemplated in subsection (1) shall not accept more for his or her interest in the applicant than he or she paid, unless a greater amount is approved by the board.

32. Decision on application for licence, other than a casino licence.-(1) The board shall, subject to the provisions of section 31, and after having duly considered the application for a licence, any representations made in relation to the application, the applicant's written response thereto, if any, any further information furnished in terms of section 24 (1), the inspection and police reports contemplated in sections 26 and 27, and any other evidence tendered to the board in terms of sections 28 and 30 or otherwise in the case of a licence other than a casino licence-

- (a) grant the application;
- (b) refuse the application; or
- (c) postpone consideration of the application,

subject to any terms and conditions it may see fit.

[Sub-s. (1) substituted by s. 14 of Act No. 3 of 2000.]

(2) The chief executive officer shall on request furnish the written reasons for the decision of the board-

- (a) to the applicant, where the application has been refused or has been granted subject to conditions; and
- (b) to any person who lodged representations, where the application has been granted.

33. General conditions of licence.-(1) The board may in respect of any licence, in addition to any other conditions contained in this Act or any other legislation, impose such conditions as the board considers appropriate, and may in particular include conditions-

- (a) relating to the games that may be played;
- (b) relating to the method of operation of any game;
- (c) for the purpose of ensuring that the operation of any gambling accords with decency, dignity, good taste and honesty;
- (d) requiring the keeping of books, accounts, records and other information relating to the operation of any gambling;
- (e) requiring certain minimum standards in relation to the premises on which gambling is to take place;
- (f) requiring the submission to the board of such reports and returns relating to the operation of gambling as the board may from time to time require;
- (g) relating to the days on which and hours during which gambling may be carried on;
- (h) relating to the installation and maintenance of surveillance systems and where in the opinion of the board it is considered appropriate requiring a licence holder to link any gambling device, associated system or accounting system to a central electronic monitoring system approved by the board in terms of section 67;
- (i) relating to the provisions by the licensee of a guarantee, as determined by the board, for the liabilities of the licensee;

[Para. (i) substituted by s. 9 (a) of Act 6 of 1998.]

- (j) relating to the maximum number of gambling devices and the maximum number of each type of gambling device which the licence holder may keep on the licensed premises;

[Para. (j) added by s. 9 (b) of Act 6 of 1998 and amended by s. 25 (a) of Act No. 1 of 2015.]

- (k) relating to all matters in the public interest, including-
 - (i) the extent to which the applicant will procure labour, goods and services from within the Province in general for the conducting of the business to which the application relates;
 - (ii) compliance with bid undertakings;
 - (iii) the empowerment of historically disadvantaged individuals, including the extent to which the applicant intends to provide for participation in the ownership or profits of the business to which the application relates by historically disadvantaged persons, or groups or categories of

historically disadvantaged persons, permanently resident in the Province;

[Para. (k) inserted by s. 25 (b) of Act No. 1 of 2015.]

(2) The board may at any time suspend, withdraw or amend any condition imposed under subsection (1) by notice delivered or tendered to the holder of a particular licence.

(3) Where the board proposes to suspend, withdraw or amend any condition under subsection (2) the board shall serve a written notice on the licensee stating-

- (a) that the board proposes to suspend, withdraw or amend, as the case may be, any condition imposed under subsection (1);
- (b) that the licensee may, within 30 days after the date of the written notice-
 - (i) make written representations about the matter to the board; or
 - (ii) notify the board in writing of the intention of the licensee to make oral representations; and
- (c) the effect of subsection (4).

(4) If, within the period mentioned in subsection (3) (b), the board receives neither written representations nor written notification of the intention of the licensee to make oral representations, such suspension, withdrawal or amendment of a condition, as the case may be, shall take effect at the end of that period.

(5) Any condition imposed under subsection (1), or suspended, withdrawn or amended under subsection (2) in respect of a casino licence, gambling machine site licence or route operator licence-

- (a) shall be effected after consultation with the responsible Member; and
- (b) may not be effected retrospectively.

(6) The board may, if any circumstances come to its notice which increase the risks relating to the settlement by the holder of a licence of any liability contemplated in subsection (1) (i), require such holder to furnish guarantees other than or additional to any guarantee contemplated in that subsection.

(7) Subject to payment of the applicable annual fee and any other condition which may have an impact on the validity of a licence, the period of validity of-

- (a) a casino licence is the period referred to in section 45 (3);
 - (b) a bingo licence is determined by the board;
 - (c) a route operator licence is fifteen years;
 - (d) a gambling machine site licence is no longer than the remaining period of validity of the associated route operator licence;
 - (e) a race course licence is determined by the board;
 - (f) a totalisator licence is determined by the board; and
 - (g) a bookmaker licence is the period referred to in section 54 (2),
- and shall be recorded on the face of the licence.

[Sub-s. (7) inserted by s. 25 (c) of Act No. 1 of 2015.]

34. Issue of licence or provisional licence.-(1) When an application has been granted as contemplated in section 32 or 44, the chief executive officer shall, subject to subsection (2), cause a licence to be issued to the applicant within 1 month after such granting or such further time as the board may deem necessary, setting out the conditions subject to which the application was granted.

[Sub-s. (1) substituted by s. 15 (a) of Act No. 3 of 2000.]

(2) If an application for a casino licence, a gambling machine site licence, a bingo licence, a race course licence, a totalisator licence or a bookmaker licence is granted by the board in respect of premises not yet erected or premises requiring structural alteration, addition or reconstruction so as to make them suitable for the purposes for which they will be used under the licence, the board may, upon being furnished with the required forfeitable guarantee, in its discretion issue a provisional licence to the applicant concerned, subject to compliance with such conditions or requirements relating to those premises and referred to in the provisional licence, within a period determined by the board.

[Sub-s. (2) substituted by s. 15 (b) of Act No. 3 of 2000.]

(3) The board may at any time after the issue of such a provisional licence, on application by the applicant concerned-

- (a) extend the period determined under subsection (2);
- (b) extend or further extend the period determined under subsection (2) or the period so determined

and extended under paragraph (a) of this subsection, as the case may be, in respect of premises not yet erected at the time of the issue of the provisional licence, if the board is satisfied that a substantial part of the premises has since been erected.

(4) The period determined under subsection (2) or the period so determined and extended under subsection (3) (a), as the case may be, shall not be longer than 24 months, and the period extended or further extended under subsection (3) (b), as the case may be, shall not be longer than a further 24 months.

(5) When the board is satisfied that the premises in respect of which a provisional licence has been granted under subsection (2) have been substantially completed in accordance with the plan thereof approved by the board, the conditions and requirements determined by the board have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, the chief executive officer shall issue the licence in substitution for the provisional licence concerned.

[Sub-s. (5) substituted by s. 15 (c) of Act No. 3 of 2000.]

(6) If the licence is not issued before the expiration of the period determined under subsection (1) or (2), extended under subsection (3) (a) or further extended under subsection (3) (b), as the case may be, the provisional licence shall lapse, the application shall be deemed not to have granted, the guarantee referred to in subsection (2) shall be deemed to have been forfeited and any existing temporary licence issued in respect of that provisional licence shall lapse.

[Sub-s. (6) substituted by s. 15 (d) of Act No. 3 of 2000.]

(7) The provisions of this Act shall, subject to subsection (2), *mutatis mutandis* apply to all provisional licences, and in such application a reference in this Act to a licence shall, where applicable, also be construed as a reference to a provisional licence.

35. Amendment of licence.-(1) The holder of a licence may at any time make application for the amendment of the licence: Provided that no application shall be made for the amendment of the period of validity of a licence.

[Sub-s. (1) substituted by s. 26 of Act No. 1 of 2015.]

(2) The provisions of sections 19 to 33, in so far as they may be applicable, shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1).

(3) Where the application has been granted the chief executive officer shall cause an amended licence to be issued to the licence holder.

[Sub-s. (3) substituted by s. 13 of Act No. 8 of 2002.]

36. Transfer of licence to another person.-(1) The holder of a licence may at any time make application for the transfer thereof to a prospective transferee.

(2) The provisions of-

- (a) sections 19, 20, 21, 25 and sections 27 to 33, shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1); and
- (b) section 31 shall *mutatis mutandis* apply in relation to the prospective transferee of the licence concerned.

(3) When the application has been granted the chief executive officer shall cause the name of the holder of the licence to be changed on the licence.

37. Removal of business to other premises and addition or deletion of licensed premises.-(1) The holder of a licence may at any time make application for-

- (a) the removal, whether permanently or temporarily, of the gambling business concerned to other premises;
- (b) in the case of the holder of a racecourse licence, totalisator licence or bookmaker licence-
 - (i) additional premises to be added to the licence; or
 - (ii) premises to be deleted from the licence.

(2) Subject to subsection (3) the provisions of sections 19 to 26, 28 to 30, 32 and 33 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1) (a) and (1) (b) (i): Provided that in the case of a casino licence the provisions of sections 41, 42 and 43 shall likewise apply.

(3) Notwithstanding the provisions of subsection (2), the board may grant an application for the addition of premises to a totalisator licence or bookmaker licence or for deletion of any premises from such a licence without application of the provisions of sections 22 to 30 if-

- (a) in the case of addition of premises to the licence-
 - (i) the application is brought by an existing licence holder of a totalisator licence or bookmaker licence; and
 - (ii) the premises which the applicant seeks to add to its licence are, or in the previous 3 months were, licensed to the holder of a totalisator licence, race course licence or bookmaker licence; and
 - (iii) the board is of the opinion that the public interest does not require that the procedures contemplated in this Act are necessary in the specific circumstances;
- (b) in the case of deletion from the licence, the board so sees fit.

(4) Where the application has been granted the chief executive officer shall cause an amended licence reflecting the amended premises to be issued together with a copy of the licence in respect of each premises added.

(5) Where a business is removed to other premises or premises are deleted from a licence the licence holder shall, within 14 days of the issue of the amendment licence, deliver the original certificate relating to such premises to the chief executive officer.

[S. 37 substituted by s. 14 of Act No. 8 of 2002.]

38. Temporary licence.-(1) The board may, subject to the provisions of this Act, on payment of the required fees and on such conditions as it may impose, issue a temporary licence to cover-

- (a) the operation of a casino, bingo hall or limited gambling machine site with more than five gambling machines on incomplete or temporary premises by the holder of a provisional licence issued in respect of such casino or limited gambling machine site;
- (b) temporary continuation of business in respect of a site licence in the event of death, incapacity, sequestration or liquidation of the licensee by the executor, trustee, liquidator or judicial manager of such licence holder;
- (c) temporary continuation of business in respect of a site licence where-
 - (i) the licence holder is a natural person, trust or partnership;
 - (ii) the business to which the licence relates is sold;
 - (iii) the purchaser has submitted an application for a licence or for the transfer of the existing licence; and
 - (iv) the application referred to in sub-paragraph (iii) has not yet been disposed of:

Provided that such temporary licence shall lapse when the board has approved or declined the application contemplated in sub-paragraph (iii);

- (d) the temporary operation of a casino, bingo hall, limited gambling machine site, totalisator or bookmaking business on temporary premises by the holder of a casino licence, bingo licence, limited gambling machine site licence, totalisator licence or bookmaker licence respectively where-
 - (i) the licensed premises are destroyed; and
 - (ii) pending the outcome of an application for removal of the licence to other premises or amendment of the licence to include the new premises or the reconstruction of the premises concerned as the case may be;
- (e) social gambling.

[Sub-s. (1) substituted by s. 15 (a) of Act No. 8 of 2002 and by s. 27 of Act No. 1 of 2015.]

(2) For the purposes of such a licence the board may approve the use of premises on a temporary basis.

(3) Notwithstanding the provisions of section 20, an application for a temporary licence shall be made and disposed of in the manner and according to the procedure prescribed or determined by the board.

[Sub-s. (3) added by s. 10 (b) of Act No. 6 of 1998 and substituted by s. 16 (b) of Act No. 3 of 2000.]

39. Suspension and revocation of licence.-(1) The board in consultation with the responsible Member may, after giving the licensee concerned an opportunity to be heard, suspend for a specified time or revoke a licence if-

- (a) any information contained in any application made by the licence holder for the purpose of obtaining the granting, renewal, transfer or removal was, at the time when the information was furnished, false in any material respect or was subject to any material omission;
- (b) the holder of the licence, or any person in control of the holder, or any manager of the business concerned has been convicted of an offence in terms of this Act;

- (c) the holder of the licence or any person in control of the holder or any manager of the business concerned has become subject to any disqualification contemplated in section 31, and additionally section 42 in the case of a casino licence;
- (d) the licence holder, an employee of the licence holder or any other person acting on his or her behalf has failed to comply with any term or condition of the licence or any provision of this Act, or has not complied with such term, condition or provision within 30 days, or such further period as the board in writing may allow, after delivery of a written notice by the board to the licence holder requiring such failure to be remedied;
- (e) the licence holder has, without the prior written consent of the board, failed to carry on business under the licence for a period of at least 3 consecutive months;
- (f) the licence holder fails to pay the amounts specified in the Schedules within the required period;
- (g) the licence holder fails to pay out forthwith any prize legitimately won through any gambling conducted under the licence.

(2) The board may at any time revoke any order of suspension or revocation issued in terms of subsection (1) if the reasons for such suspension have been remedied to the satisfaction of the board.

(3) The board shall inform the licence holder in writing of any suspension or revocation of the licence in terms of subsection (1).

(4) When the licence is suspended or revoked in terms of subsection (1), no licence fee, or any portion thereof shall be refunded.

(5) Where the board proposes to revoke a licence, the board shall serve written notice on the licensee stating-

- (a) that the board proposes to revoke the licence;
- (b) the ground or grounds for revocation;
- (c) that the licensee may within 30 days after the date of the written notice-
 - (i) make written representations about the matter to the board; or
 - (ii) notify the board in writing of the intention of the licensee to make oral representations; and
- (d) the effect of subsection (6).

(6) If, within the period mentioned in subsection (5) (c), the board receives neither written representations nor written notification of the intention of the licensee to make oral representations, the revocation shall take effect at the end of that period.

(7) If, as a result of the revocation, suspension in terms of subsection (1), or in the case of the abandonment of the licence or if as a result of any enquiry performed in terms of this Act the board is of the opinion that it is for any reason desirable to do so, it may without notice to the licence holder concerned apply to the Eastern Cape Division of the High Court for the appointment of a curator to take control of and to manage the whole or any part of the business of the licence holder.

(8) Upon an application in terms of subsection (7) the court may-

- (a) provisionally appoint a curator to take control of and to manage the whole or any part of the business of that licence holder upon such conditions and for such period as it may deem fit; and
- (b) simultaneously grant a provisional rule calling upon the licence holder to show cause upon a day mentioned in the rule why the appointment of the curator should not be confirmed.

(9) Upon the application of the licence holder, the court may anticipate the return day if not less than 48 hours notice of such application has been given to the board.

(10) If, at the hearing pursuant to the provisional rule, the court is satisfied that it is desirable to do so, it may confirm the appointment of the curator.

(11) The curator shall act under the control of the court and he or she may apply to the court for instructions in regard to any matter arising out of or in connection with the control and management of the business of the licence holder.

(12) The curator shall furnish the board with such information concerning the affairs of the licence holder as it may from time to time require and shall give the board notice of any application which he or she intends to make to the court in terms of subsection (11).

(13) The licence holder is entitled to be heard personally or by a representative at any application by the curator in terms of subsection (11) and may make an application to the court with reference to the control and management of the business.

(14) The curator is entitled to receive such remuneration out of the funds of the licence holder concerned as the court may direct.

(15) The court may at any time cancel the appointment of the curator on good cause shown.

(16) A licence holder may at any time by notice in writing to the board abandon such licence: Provided that such abandonment shall not absolve a licence holder from liability for any fees, taxes or gambling debts payable in terms of this Act and no licence fee or portion thereof paid by such licence holder shall be refunded.

[Sub-s. (16) added by s. 11 of Act 6 of 1998.]

40. Financial and controlling interests.-(1) Any person who, directly or indirectly procures a controlling interest or a financial interest of five percent or more, or any lesser percentage as may be prescribed, in the business to which a licence or a registration in terms of section 61 relates, shall within the prescribed period and in the manner prescribed or determined by the board, apply for the consent of the board for the holding of such interest.

[Sub-s. (1) substituted by s. 17 (a) of Act No. 3 of 2000.]

(2) The board shall not grant consent under subsection (1) where-

- (a) in the case of a licence the person who is the subject of the application is disqualified in terms of section 31;
- (b) additionally, in the case of a casino licence, that person is disqualified in terms of section 42; and
- (c) in the case of a registration under section 61, the person who is the subject of the application is disqualified in terms of section 31 *mutatis mutandis*.

[Sub-s. (2) substituted by s. 12 of Act No. 6 of 1998 and by s. 17 (b) of Act No. 3 of 2000.]

(3) Where consent is not granted, the person concerned shall, within the period and in the manner prescribed or determined by the board, dispose of the interest in question.

(4) The provisions of sections 20, 24, 25, 27 and 32 shall, where applicable, *mutatis mutandis* apply to a person who wishes to procure an interest as contemplated in subsection (1): Provided that, in any case in which it believes it is in the public interest to do so, the board may require that the provisions of sections 21, 22, 23, 24, 25, 27, 28, 29, 30, and 32 shall be applied *mutatis mutandis* in respect of a particular application.

[Sub-s. (4) substituted by s. 16 (a) of Act No. 8 of 2002.]

(5) No person shall procure an interest contemplated in subsection (1) as nominee or agent of, or otherwise on behalf of, any principal or beneficiary if that person has not informed the holder of the licence concerned and the board in writing of the identity of such principal or beneficiary.

(6) If the holder of an interest of a kind contemplated in subsection (1) at any time becomes disqualified from holding such interest in terms of section 31, or additionally in the case of a casino licence, section 42, the board may, after giving such person an opportunity to be heard, suspend such person's ownership right or order such person to dispose of such interest within the period prescribed or determined by the board and may additionally order that such person may not dispose of such interest for more than he or she paid for it or such greater amount as the board may approve.

[Sub-s. (6) inserted by s. 16 (b) of Act No. 8 of 2002.]

(7) From the date the board issues an order contemplated in subsection (3) or (6) on the applicant, licence holder or person concerned, he or she shall not exercise, whether directly or through any trustee or nominee, any voting right conferred by the ownership of his or her interest in the licensee until such suspension is terminated or such interest disposed of, as the case may be.

[Sub-s. (7) inserted by s. 16 (b) of Act No. 8 of 2002.]

(8) A contravention of subsection (1), (3), (5) or (7) or an order made by the board in terms of subsection (6) shall constitute an offence.

[Sub-s. (8) inserted by s. 16 (b) of Act No. 8 of 2002.]

40A. National licence.-(1) The board may issue a national licence as contemplated in the National Gambling Act.

(2) Except as otherwise provided in the National Gambling Act, the provisions of this Act shall apply in respect of any national licence issued in terms of the National Gambling Act.

(3) Notwithstanding the provisions of this Act, the holder of a national licence shall be entitled to conduct the activities authorised thereby in the province as if such licence had been issued in terms of this Act.

[Sub-s. (3) inserted by s. 28 of Act No. 1 of 2015.]

41. Licence required to conduct casino.-(1) No person shall conduct a casino without a casino licence.

(2) An application for a casino licence may only be made in response to a notice published in the *Provincial Gazette* and the media by the board and which notice shall-

- (a) in accordance with the determination made by the responsible Member in terms of subsection (4), state the areas in which licences may be granted and the number of licences to be issued in each such area;

[Para. (a) substituted by s. 13 of Act 6 of 1998.]

- (b) state development and other requirements;
- (c) state the evaluation criteria to be applied;
- (d) state the period of validity of the licence;
- and may-
- (e) invite applicants to tender payment of a lump sum in consideration of the exclusive right to conduct a casino in the area concerned;
- (f) include any other matter related to casino licences.

(3) The responsible Member shall-

- (a) call on the board to submit an evaluation of the gambling potential in the Province and any other information and recommendation which the board considers to be of assistance in determining the areas in respect of which casino licences may be issued and the number of licences in each such area and in doing so the board shall have regard to the considerations referred to in section 43; and
- (b) by notice in the *Provincial Gazette* and the media invite the public to make recommendations as to the areas in which casinos may be located and the number of casinos that may be located in each such area.

(4) After consideration of all information and submissions received in terms of subsection (3), the responsible Member shall determine the areas in respect of which licences may be issued and the number of licences in each such area and shall advise the board accordingly.

42. Disqualifications for casino licences.- In addition to the general disqualifications contemplated in section 31-

- (a) no applicant shall be granted a casino licence or a provisional licence in respect of a casino if any person in control of such applicant-

- (i) at the relevant time is, or during the preceding 12 months was, employed as public servant in a post of or above the rank of director in a department which has a functional responsibility in the regulation policing and monitoring of gambling activities in the Province or in activities relating to regional planning and development;

[Sub-para. (i) substituted by s. 7 of Act 5 of 1999.]

- (ii) at the relevant time is, or during the preceding 12 months was, a political office bearer or employee of any party, movement, organisation or body of a party political nature; or

- (iii) is a family member of a person contemplated in subparagraph (i) or (ii); and

[Para. (a) amended by s. 18 of Act No. 3 of 2000 and by s. 17 (a) of Act No. 8 of 2002.]

- (b) no applicant shall be granted a casino licence-

- (i) if such applicant does not have access to sufficient experience and knowledge of the operation and management of a casino;
- (ii) if such applicant does not have access to capital resources which are adequate for the operation of a casino;
- (iii) if the granting of such licence will or may create or aggravate a monopoly situation as defined in the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979): Provided that this subparagraph shall not be construed so as to prevent the acceptance of a lump-sum payment as contemplated in section 41 (2) (e); or
- (iv) unless such applicant, on application for a casino licence shows proof that the applicant is or will be the owner or principal tenant of the whole of the premises on which the casino is located and the sole occupier of the area in which gambling takes place in terms of such casino licence with

such security of tenure as the board may deem adequate: Provided that the provisions of this subparagraph shall not be construed as preventing a licence holder from letting or subletting any part of such premises, excluding any part in which gambling takes place in terms of such casino licence, to other persons.

[S. 42 amended by s. 14 (a) of Act No. 6 of 1998 and sub-para. (iv) substituted by s. 14 (b) of Act No. 6 of 1998, by s. 17 (b) of Act No. 8 of 2002 and by s. 29 of Act No. 1 of 2015.]

43. Additional considerations in disposing of application for casino licence.-The board shall, in addition to the considerations mentioned in Chapter 3 when considering an application for or transfer of a casino licence, and when considering any conditions and requirements to which any such licence should advisably be made subject, take into consideration-

- (a) whether the casino will enhance the neighbourhood and environment;
- (b) the extent to which the casino will promote tourism at the place where the premises will be situated and in the Province in general;
- (c) the extent to which the casino will promote sustainable employment at such place and in the Province in general;
- (d) the extent to which the applicant will provide training and skills to its employees;
- (e) the extent to which the applicant will procure labour, goods and services from such place and the Province in general for the construction and conducting of the casino;
- (f) the extent to which the applicant intends to provide for participation in the ownership or profits of the casino by persons, or groups or categories of persons, previously disadvantaged by unfair discrimination;
- (g) any facility, advantage or contribution which the applicant intends to provide or furnish for the benefit of, or for utilisation or enjoyment by, any needy community at or near the place where the premises will be located, or any persons or groups or categories of persons contemplated in paragraph (f);
- (h) the extent to which the granting of the licence will promote the attainment of the objects of reconstruction and development projects and programmes referred to in section 3 (a) of the Reconstruction and Development Fund Act, 1994 (Act No. 7 of 1994);
- (i) whether the granting of the licence will result in the establishment of an unduly large number of casinos in the Province, having regard to the number of inhabitants of the Province and their financial means and the tourist potential of the Province;
- (j) the need for prioritisation of development in non-metropolitan areas; and
- (k) any other factors which may affect the question whether it is desirable to grant such application or to attach any such condition or requirement.

44. Decision on application for casino licence.-(1) Upon an application for a casino license, the board may, having considered the evidence and other matters referred to in sections 32 (1) and 43, postpone consideration of the application or resolve that-

- (a) either the application be approved in whole or in part, subject to any condition the board may deem advisable to impose; or
- (b) the application be refused,

and in every case furnish a written report containing reasons for its resolution to the responsible Member for submission to the Executive Council.

(2) [Sub-s. (2) deleted by s. 30 of Act No. 1 of 2015.]

(3) [Sub-s. (3) deleted by s. 30 of Act No. 1 of 2015.]

(4) [Sub-s. (4) deleted by s. 30 of Act No. 1 of 2015.]

(5) [Sub-s. (5) deleted by s. 30 of Act No. 1 of 2015.]

(6) [Sub-s. (6) deleted by s. 30 of Act No. 1 of 2015.]

(7)

[Sub-s. (7) deleted by s. 30 of Act No. 1 of 2015.]

(8)

[Sub-s. (8) deleted by s. 30 of Act No. 1 of 2015.]

[S. 44 substituted by s. 8 of Act 5 of 1999.]

45. Activities authorised by casino licence, lump sum payments and period of validity of licence.-(1) The granting of a casino licence shall, subject to any condition imposed under section 33, authorise-

- (a) the conducting and carrying on of such gambling games;
- (b) the keeping of such number of gambling devices; and
[Para. (b) substituted by s. 19 (a) of Act No. 3 of 2000.]
- (c) the conducting of such games of bingo,

as may be set out in such licence, on the licensed premises concerned.

(2) Where the board has accepted a lump sum payment contemplated in section 41 (2) (e) from the holder of a casino licence to conduct the casino concerned-

- (a) the board shall by notice in the *Provincial Gazette* make known that such a payment has been made, and the area and period for which it was made; and
- (b) no casino licence shall be granted to any other person to conduct a casino in that area for that period until the first-mentioned licence has lapsed or been revoked: Provided that the board may, after consultation with the responsible Member, and in the prescribed manner, extend such period of exclusivity against such further payment of a sum tendered by the licence holder and accepted by the board;
- (c) such payments shall be paid to the board at the time and in the manner determined by the board after consultation with the responsible Member;
[Para. (c) substituted by s. 15 (a) of Act 6 of 1998.]
- (d) such payments shall be paid into the Provincial Revenue Fund by the board.
[Para. (d) added by s. 15 (b) of Act No. 6 of 1998 and substituted by s. 19 (b) of Act No. 3 of 2000.]

(3) The period of validity of a casino licence shall, subject to the provisions of sections 33(7) and 39, be 20 years: Provided that the board may, when there is a delay in issuing a new casino licence, extend the period of validity thereof for such period as the board may determine.

[Sub-s. (3) substituted by s. 31 (a) of Act No. 1 of 2016.]

(4) Where-

- (a) the responsible Member has-
 - (i) divided the province into areas; and
 - (ii) has determined that only one casino licence may be granted in any such area, and
- (b) the successful applicant has not tendered a lump sum payment in terms of section 41 (2) (e),

the board may require the successful applicant to tender a lump sum payment in respect of such exclusivity: Provided that such lump sum payment shall not exceed 5 percent of the total project costs of the proposed casino.

[Sub-s. (4) added by s. 15 (c) of Act 6 of 1998 and substituted by s. 31 (b) of Act No. 1 of 2015.]

46. Use of word "casino".-(1) A company that holds a casino licence shall include the word "casino" in all references to the company and its casino business and shall prominently display the word "casino" on the exterior of the licensed premises.

(2) No corporate body or person shall trade or carry on a business as contemplated in this Act under a name or title in which the word "casino" forms a part whilst not the holder of a casino licence granted in terms of this Act.

(3) Any contravention of subsection (1) or (2) shall constitute an offence.

47. Licence required to conduct bingo games.-(1) No premises where the gambling game of bingo is played shall be maintained, without-

- (a) a casino licence; or
- (b) a bingo licence;

whether or not any such games are linked as contemplated in subsection (2).

(2) No person shall by any electronic or similar method of linking, link licensed premises to any other premises so as to provide for the game of bingo to be played at such other premises without a bingo licence in respect of each such premises.

48. Activities authorised by bingo licence.-(1) A bingo licence shall, subject to any condition imposed under section 33, authorise, in the case of a licence contemplated-

- (a) in section 47 (1), the conducting or providing of the game of bingo on the licensed premises concerned; and
- (b) in section 47 (2), the conducting or providing of the game of bingo on any licensed premises referred to in paragraph (a), and on any such premises as may be licensed as contemplated in that subsection.

(2) The maximum amount that may be charged to enable a person to play the game of bingo once, shall not exceed the prescribed amount, and the return to players in any game shall not be less than the prescribed percentage of the total amount staked in such game.

CHAPTER 6

ROUTE OPERATOR LICENCES AND GAMBLING MACHINE SITE LICENCES

49. Route operator licence.-(1)

[Sub-s. (1) deleted by s. 31A of Act No. 1 of 2015.]

(2) Applications for a route operator licence shall only be made in response to a notice published in the *Provincial Gazette* and the media by the board, after consultation with the responsible Member, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements.

(3) A route operator licence shall not be granted by the board-

- (a) unless the board is satisfied that the applicant-
 - (i) has appropriate knowledge and experience, or is able to acquire such knowledge and experience, to operate gambling machines; and
 - (ii) meets the prescribed requirements;
- (b) for the operation of more than the prescribed number of limited gambling machines.

(4) A route operator licence shall authorise, subject to any conditions imposed under section 33, the operation of not more than 5 limited gambling machines on the licensed premises of the holder of a gambling machine site licence, and for such purposes the holder of such a route operator licence may enter into an agreement with the holder of such a gambling machine site licence for the placement of such gambling machines on the premises concerned: Provided that in such special circumstances as determined by the board and subject to such conditions as may be prescribed, the abovementioned number of limited gambling machines may be increased in respect of one or more limited gambling machines sites.

[Sub-s. (4) substituted by s. 18 (a) of Act No. 8 of 2002.]

(5) The holder of a route operator licence shall link all the gambling machines in respect of which the licence has been granted to an electronic monitoring system as contemplated in section 67.

(6) The provisions of section 44 shall apply *mutatis mutandis* to a route operator licence.

[Sub-s. (6) substituted by s. 18 (b) of Act No. 8 of 2002.]

(7) A route operator shall ensure that-

- (a) the maximum charge for playing on any such gambling machine shall not exceed the prescribed amount;
- (b) the prize in respect of any one game played by means of any such gambling machine does not in the aggregate exceed in value the prescribed amount;

- (c) the return to players of any gambling machine shall not be less than the prescribed percentage;
- (d) there shall be displayed on the screen of any such gambling machine the value of the maximum prize prescribed under paragraph (b) which can be won by playing a game once by means of such a gambling machine; and
- (e) fees and taxes in respect of the limited gambling machines operated by it are paid.
[Sub-s. (7) substituted by s. 18 (c) of Act No. 8 of 2002.]

(8) A licensed route operator may not carry on a business contemplated in section 61 (1) other than that of maintenance and repair of any limited gambling machine, unless such operator has, on application been registered by the board.

50. Gambling machine site licences.-(1) No person shall maintain any premises in or on which limited gambling machines are kept or operated without a gambling machine site licence.

(2) A gambling machine site licence may only be granted by the board-

- (a) for a licence referred to in section 49 (1) (b), subject to any provisions as referred to in section 49 (4); or
- (b) to an independent site operator, who complies with the requirements as prescribed, and subject to any conditions which the board may determine.

(3) A gambling machine licence shall only be granted-

- (a) to a person who meets the prescribed requirements; and
- (b) if the board is satisfied that the premises in respect of which the licence is to be granted will not be primarily used for the operation of gambling machines.

(4) No gambling machine shall be operated without-

- (a) a casino licence;
- (b) a bingo licence; or
- (d) a gambling machine site licence.

(Editorial Note: Numbering as per original *Provincial Gazette*.)
[S. 50 substituted by s. 31B of Act No. 1 of 2015.]

CHAPTER 7

TOTALISATORS AND POOLS

51. Licence required to conduct totalisator or pool.-The business of a totalisator or betting pool shall not be conducted without a totalisator licence.

52. Activities authorised by totalisator licence.-(1) A totalisator licence shall, subject to any condition which the board may impose, authorise the conducting of the categories of totalisators specified in the licence and at premises specified in the licence.

(2) The holder of a totalisator licence shall conduct totalisators in accordance with rules made by the board or by such holder and which have been approved by the board.

(3) The return to players shall not be less than the prescribed percentage.
[Sub-s. (3) added by s. 16 of Act 6 of 1998.]

CHAPTER 8

BOOKMAKERS

53. Licence required to conduct business of bookmaker.-The business of a bookmaker shall not be conducted without a bookmaker licence.

54. Activities authorised by a bookmaker licence.-(1) A bookmaker licence shall authorise, subject to any conditions which the board may impose, the conducting of the business of a bookmaker in or on the premises by laying fixed odds and open bets.

(2) A bookmaker licence shall attach to the premises specified in the licence and shall, subject to the provisions of section 39 (16) and 79, be valid for 5 years.

[Sub-s. (2) substituted by s. 17 of Act No. 6 of 1998 and by s. 19 of Act No. 8 of 2002.]

CHAPTER 9

RACE MEETINGS

55. Prohibition of unauthorised race meetings.-(1) No person shall-

(a) hold, organise, arrange, attend or in any manner take part in or assist at a horse race; or

(b) print, publish, possess, sell or offer for sale or in any manner circulate or distribute a race card,

unless the relevant horse race takes place at a licensed race course.

(2) Any person who contravenes subsection (1) or any of the conditions of a race course licence shall be guilty of an offence.

(3) In any prosecution for an offence referred to in subsection (2), any person who without lawful reason was present at the race course concerned shall be deemed to have attended such horse race.

55A. Prohibition of dog races.-(1) No person shall-

(a) hold, organise, arrange, attend or in any manner take part in or assist at a dog race; or

(b) print, publish, possess, sell or offer for sale or in any manner circulate or distribute a race card.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) In any prosecution for an offence referred to in subsection (2), any person who was present at the dog race course concerned shall be deemed to have attended such dog race.

[S. 55A inserted by s. 32 of Act No. 1 of 2015.]

56. Race course licence.-A race course licence-

(a) is required for the conducting of horse racing on any premises in the Province;

(b) shall attach to the premises specified in the licence; and

(c) shall authorise, the holding of race meetings on the premises specified in the licence,

subject to any conditions which the board may impose.

CHAPTER 10

FEEES, TAXATION AND FINANCIAL ARRANGEMENTS

57. Imposition of fees and taxes.-(1) An applicant for a licence shall pay the licence application fee contemplated in Part A of Schedule II and the licensee shall pay the annual licence fee and the annual board administration fee contemplated in Part B of Schedule II, subject to any adjustment of the fees contemplated in Parts A and B of Schedule H in terms of subsection (8).

[Sub-s. (1) substituted by s. 33 (a) of Act No. 1 of 2015.]

(2) An applicant for registration contemplated in this Act shall pay the registration fee contemplated in Part C of Schedule II and the registrant or the licence holder to whom a gambling device, gambling machine or limited gambling machine is registered shall pay the annual registration fee contemplated in Part C of Schedule II subject to any adjustment of the fees contemplated in Parts C and D of Schedule II in terms of subsection (8).

[Sub-s. (2) substituted by s. 20 of Act No. 3 of 2000 and by s. 33 (b) of Act No. 1 of 2015.]

(3) All fees set out in Schedule II shall be paid to the board: Provided that the annual licence fees set out in Part B and annual registration fees set out in Part D that are paid to the board by a licensee, registrant or the licence holder to whom a gambling device, gambling machine or limited gambling machine is registered, shall be paid

to the Provincial Revenue Fund.

[Sub-s. (3) substituted by s. 33 (c) of Act No. 1 of 2015.]

(4) There shall be paid from time to time and in the manner prescribed into the Provincial Revenue Fund fees and betting taxes on the bases, at the rates, at the times, in the amounts (if applicable) and by the holders of licences provided for in Schedules III and IV.

(5) The recovery of the taxes contemplated in subsection (4), the penalties and interest payable on such taxes, the calculation of such interest and penalties, the offences in regard to the evasion of such taxes, the schemes for obtaining undue tax benefits and the powers of the responsible Member to conclude tax agreements shall be as provided for in Part C of Schedule III, and in Schedule IV.

(6) The provisions of Schedules II, III and IV shall be administered by the chief executive officer on behalf of the board and the powers of the board under this Act shall be applicable thereto.

(7) The fees set out in Parts B and D of Schedule II shall-

- (a) be payable annually in advance;
- (b) in the case of an applicant for a licence or registration, be paid within 14 days of the notification of the applicant of the success of such application;
- (c) not be refundable, in whole or in part, where such licence or registration is terminated for any reason:

Provided that the provisions of paragraph (a) shall not be applicable to a temporary licence or registration.

[Sub-s. (7) added by s. 18 of Act 6 of 1998.]

(8) The responsible Member may, by way of notice in the *Provincial Gazette*, adjust the licences and fees in respect of licences set out in Parts A and B of Schedule II provided that-

- (a) the responsible Member gives 30 days notice of his or her intention to adjust the fees referred to in this section in the *Provincial Gazette* and two newspapers circulated widely within the Province;
- (b) the notice of the intention to adjust shall-
 - (i) indicate the intended adjustment of each fee payable in terms of this section; and
 - (ii) call for inputs and comments within 30 days of publication of the said notice on the intended adjustment of fees.
- (c) The responsible Member shall publicise the intention to adjust the fees referred to in this section in at least two community radio stations.
- (d) The responsible Member shall consider inputs and comments received Pursuant to the notice of intention to adjust the said fees.

[Sub-s. (8) added by s. 18 of Act 6 of 1998 and substituted by s. 33 (d) of Act No. 1 of 2015.]

58. Tax payable on conviction.-Notwithstanding any other provision of this Act, a court convicting a person of a contravention of section 60 shall, where applicable, in addition to any penalties it may impose in terms of the law, order such person to pay the relevant duty or tax which would be due in terms of this Act if such person were the holder of a licence.

CHAPTER 11

GENERAL PROVISIONS RELATING TO GAMBLING AND GAMBLING DEVICES

59. Rules of gambling games or betting.-(1) No gambling game shall be played, or betting conducted, otherwise than in accordance with the rules approved therefor.

(2) The holder of any licence shall in respect of any gambling game or betting authorised by such licence for which no rules have been made by the board make rules relating to the playing of such gambling game or the conducting of such betting and submit such rules to the board for approval.

(3) The rules of each gambling game or betting shall be displayed as prescribed, and a licence holder shall at the request of any player make available for examination a copy of the approved rules of any gambling game or betting.

60. Prohibition in respect of gambling and presumptions relating thereto.-(1) No person shall without an appropriate licence-

- (a) conduct or permit the playing of any gambling game or conduct or permit any gambling in or on any premises under his or her control or in his or her charge; or
- (b) be directly or indirectly involved in the operation of any gambling business.
[Sub-s. (1) amended by s. 21 (a) of Act No. 3 of 2000.]

(2) No person shall without the approval of the board have any direct or indirect financial interest of 5 per cent or more in any gambling business or establishment within the Province: Provided that the provisions of this subsection shall not apply to any person who acquires an interest in a licence holder in the province and-

- (a) the time contemplated in section 40 within which such person must apply to the board for consent to hold such interest has not yet elapsed; or
- (b) such application has been submitted to the board and the board has not granted or refused to grant such consent; or
- (c) the board has refused to grant the consent and the time contemplated in section 40 within which such person must dispose of such interest has not yet elapsed.
[Sub-s. (2) substituted by s. 20 of Act No. 8 of 2002.]

(3) No person shall, without the appropriate licence or without the prior approval of the board, in any manner share directly or indirectly in the profits of any gambling.

(4) No person other than a member or an authorised officer of the board or a police officer, acting in the performance of his or her duties under this Act, or any person specifically authorised thereto by the chief executive officer shall play any gambling game or take part in any betting in or on, or visit, with the object of playing any gambling game or taking part in any betting, any premises which are not appropriately licensed under this Act.
[Sub-s. (4) substituted by s. 21 (b) of Act No. 3 of 2000.]

(5) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding 2 million rand or imprisonment for a period of not more than 10 years or to both such fine and such imprisonment.

(6) Any person supervising or directing or assisting at or acting as a banker, dealer, croupier or in any like capacity at the playing of any gambling game or the conducting of any betting in or on any premises, other than licensed premises, and any person acting as porter, doorkeeper or servant or holding any other office in or on any such premises where any gambling game is played or betting is conducted shall be deemed to be in control or in charge of such premises.

61. Manufacture, assembly, sale, distribution, importation, acquisition, marketing, alteration and modification of gambling devices.-(1) No person shall, without being appropriately registered and having paid the fee set out in Schedule II for such purpose as adjusted by the responsible Member in terms of section 57 (8)-

- (a) manufacture, assemble, maintain, repair, sell, distribute, import, acquire, market, rent or lease any-
 - (i) gambling device other than playing cards or dice;
 - (ii) amusement machine which contains reels or a video depiction of reels similar to those in a gambling machine;
 - (iii) device which was manufactured as a gambling machine, and which has been converted any time, whether a player is capable of using such device to win a prize or not;
 - (iv) device which, but for the removal of certain of its parts or the reprogramming thereof, would constitute a gambling machine;
 - (v) amusement machine on which a player is able to play roulette, bingo, twenty-one, blackjack, chermin de fer, baccarat, poker, chinese roulette, keno or games of similar type usually played on gambling machines or deviants thereof;
 - (vi) computer software used in connection with gambling or betting; or
[Para. (a) substituted by s. 22 (a) of Act No. 3 of 2000.]
- (b) alter or otherwise modify any gambling device or any associated equipment in a manner that-
 - (i) affects the result by determining win or loss; or
 - (ii) alters or affects the normal criteria of random selection which determines the outcome of a gambling game.
[Sub-s. (1) amended by s. 34 of Act No. 1 of 2015.]

(2) No application for registration shall be granted if the applicant is subject to any disqualification contemplated in section 31 which shall apply *mutatis mutandis*.

(3) An application for registration shall be made to the board in the prescribed form which shall state the

purpose for which registration is required and shall be accompanied by-

- (a) a complete set of fingerprints of the applicant taken in the prescribed manner;
- (b) such documents, particulars or information as may be prescribed; and
- (c) the prescribed application fees.

(4) If the board is satisfied that the applicant is a suitable person to be so employed, the board shall grant the application subject to such conditions as the board may determine.

(5) The board shall when considering an application for registration have due regard to-

- (a) the age, character, reputation and financial and employment background of the applicant;
- (b) any offences which the applicant or any director or other key person associated with the applicant has been convicted and of which dishonesty is an element; and
[Para. (b) substituted by s. 22 (b) of Act No. 3 of 2000.]
- (c) any other matter which may be relevant to establish whether the applicant is a suitable person to be so employed.

(6) The board shall not refuse an application for registration without giving the applicant the opportunity of being heard.

(7) Where the board refuses an application for registration, the chief executive officer shall on request furnish the applicant concerned in writing with the reasons for such refusal.

(8) Where the board grants an application for registration, the board shall issue to the applicant a certificate of registration for the respective purpose in the prescribed form.

(9) (a) Registration in terms of this section shall, subject to the provisions of this subsection endure indefinitely.

(b) The board may determine that any particular applicant shall be registered for a specified period only, but then-

- (i) the board shall on request furnish the applicant in writing with the reasons for such determination; and
- (ii) the period so specified shall be stated in the certificate of registration issued in terms of subsection (8).

(c) A person who has been registered for a specified period may apply for the extension of such period or the substitution for such registration or registration for an indefinite period, and if the board grants such extension or substitution, the board shall make the necessary alteration on the certificate of registration.

(10) The board shall keep and maintain a register of the names and prescribed particulars of each person to whom a certificate of registration has been issued in terms of this section.

(11) No person who holds a certificate of registration contemplated in subsection (8) and no key person or gambling employee of such a person shall in a casino or bingo hall, as the case may be, with which such person is associated-

- (a) participate in or play any gambling game in the Republic: Provided that such a person may participate in such gambling if it is necessary for the performance of his or her functions as such an employee; or
- (b) solicit any tip, gratuity, consideration or other benefit from any player or customer in that casino or bingo hall, otherwise than as prescribed.

[Sub-s. (11) amended by s. 22 (c) of Act No. 3 of 2000.]

(12) The board may at any time suspend for a specified period or revoke the registration of any person concerned after affording such person an opportunity of being heard if-

- (a) any information contained in the application for registration was false in any material respect or was subject to any material omission;
- (b) the person registered has become subject to a disqualification contemplated in section 31;
- (c) the person registered has been convicted of an offence in terms of this Act.

(13) Notwithstanding the provisions of subsection (1)-

- (a) the holder of a licence, any person whose licence has been suspended or revoked or the trustee, liquidation or judicial manager of such licence holder or person may-
 - (i) with the prior written approval of the board dispose of all or any of the devices contemplated in subsection (1) for which such licence holder holds or has held an appropriate licence in a manner approved by the board; and

(ii) with the prior written approval of the board and subject to such conditions as the board may impose, possess such devices pending disposal or destruction;

(b) the holder of a licence may maintain or repair, to the extent prescribed or determined by the board all or any such gambling devices or computer software lawfully in the possession of such licence holder.

[Sub-s. (13) substituted by s. 22 (d) of Act No. 3 of 2000.]

(14) No person registered in terms of this section shall-

(a) possess more gambling devices than the board has, on application approved to be in the possession of such person;

(b) supply or lease a gambling machine to or repair or modify a gambling machine for any person within the Province who does not hold an appropriate licence or is not registered in terms of section 61 (1): Provided that the provisions of this section shall not apply to a gambling machine being exported to a place outside the Province or which shall be removed from the Province immediately after such repairs or modifications;

(c) subject to paragraph (b), supply a gambling device other than a gambling machine or playing cards or dice to or repair or modify such a gambling device for any person other than a licence holder holding an appropriate licence, a person registered in terms of section 61 (1) or a person authorised by the board to conduct social gambling;

(d) allow or permit any person to use any gambling device or amusement machine in his or her possession to gamble while such gambling device or amusement machine is not on appropriately licensed premises;

(e) repair or modify any gambling device which is required to be registered and is not so registered.

[Sub-s. (14) added by s. 22 (e) of Act No. 3 of 2000.]

(15) The provisions of sections 21, 24, 27 and 30 shall apply *mutatis mutandis* to any application contemplated in this section.

[Sub-s. (15) added by s. 22 (e) of Act No. 3 of 2000.]

(16) Any person who contravenes a provision of this section shall be guilty of an offence.

[Sub-s. (16) added by s. 22 (e) of Act No. 3 of 2000.]

62. Cheating and cheating devices.-(1) No person shall-

(a) allow anyone to conduct or carry on cheating or to operate any cheating device or provide any person with information or with a device to cheat in any gambling game or betting;

(b) conduct, allow or expose for play any gambling game played with cards which have, or with any gambling device which has, been marked, tampered with, placed in a condition or operated in a manner that tends to deceive the licensee, the players or the public, or to alter the normal random chance of the gambling game, or to determine or alter the result of the gambling game;

(c) make use of any counterfeit chip or token or contravene the rules of any gambling game or interfere in any way with any gambling device or any other device used for gambling with the intention of obtaining any direct or indirect pecuniary advantage, whether for himself or herself or any other person;

(d) alter or misrepresent the outcome of a casino game or other event on which wagers have been made after the outcome is determined but before it is revealed to the players;

(e) place, increase or decrease a bet or determine the course of play after acquiring knowledge not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject to the bet, or aid anyone in acquiring such knowledge, for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;

(f) generally, cheat at any gambling game;

(g) claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from any gambling activity, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;

(h) place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet;

(i) reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet;

(j) manipulate, with the intent to cheat, any component of a gambling device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation

affects the outcome of the game or with knowledge of any event that affects the outcome of the game or the amounts won or lost;

- (k) administer or cause to be administered to any horse which is in training for the purpose of participating in a horse race, by invasive or non-invasive routes including oral, rectal, transdermal, intradermal, subcutaneous, intramuscular, intravenous or any other route whatsoever-
 - (i) any endocrine or hormonal substance, whether natural or synthetic;
 - (ii) any medical substance, chemical or drug; or
 - (iii) any other substance which may act as a stimulant or depressant thus affecting the speed, stamina, courage, conduct or performance of a horse during an horse race or prior to such race; or
- (l) use, or cause to be used in or on any horse which is in training for the purpose of participating in any horse race any electronic, electric, galvanic, reflective, fluorescent or laser equipment or apparatus that may cause injury or affect the performance of such horse during the course of an horse race or prior to such race:

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

[Sub-s. (1) substituted by s. 23 of Act No. 3 of 2000.]

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

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

and "cheat" has a corresponding meaning.

63. Prohibition of gambling by certain persons.-(1) No person who is in any way concerned with the management, supervision, control or administration of a casino or any gambling game played at the casino shall directly or indirectly participate in such gambling game or in gambling at that casino or at any other casino operated by the same licence holder in the Province, save in so far as he or she may be required to do so by the nature of his or her employment in the operation of such gambling game so as to enable other persons to participate in the gambling game.

(2) No person under the age of 18 years shall-

- (a) enter any designated area;
[Para. (a) substituted by s. 35 (a) of Act No. 1 of 2015.]
- (b) take part in any gambling or betting or handle or operate a gambling machine; or
- (c) be entitled to enforce any gambling debt, notwithstanding the provisions of section 87.

(3) No licence holder or employee of a licence holder shall permit any person who is-

- (a) under the age of 18 years; or
- (b) subject to an order in terms of subsection (4) which has been served on such licence holder in terms of subsection (5) or included in a list issued in terms of subsection (7) which has been delivered to the licence holder in the manner prescribed;
[Para. (b) substituted by s. 24 (a) of Act No. 3 of 2000.]

to enter or remain in any designated area or to take part in any gambling or betting or to handle or operate a gambling machine.

[Sub-s. (3) substituted by s. 35 (b) of Act No. 1 of 2015.]

(4) Where the court which has convicted a person of any offence is of the opinion that, by reason of the nature of the offence or the circumstances under which it was committed, it is desirable in the interest of public order, public morals or fair play that such person should not be permitted to enter any or specific premises licensed under this Act or any designated area or to make a bet or wager by way of teletransmission as contemplated in section 74, the court may issue a written order prohibiting him or her from entering any such premises or designated area or making such bet or wager specified in the order for a period to be stated in the order.

[Sub-s. (4) substituted by s. 24 (b) of Act No. 3 of 2000 and by s. 35 (c) of Act No. 1 of 2015.]

(5) Where a court makes an order under subsection (4), the clerk of the court shall submit a copy thereof to the chief executive officer who shall cause a copy thereof to be delivered to the licence holder or licence holders named in the order.

(6) The holder of a licence or an employee of such a licence holder may-

- (a) request proof of age from any person on the designated area or who attempts to gain access to the designated area;
- (b) request proof of identity from any person whom he or she reasonably suspects is included in the list contemplated in subsection (7);
- (c) refuse to permit access to the designated area to any person unable to provide proof of age or identity contemplated in paragraphs (a) and (b) respectively;
- (d) require any person contemplated in paragraph (a) or (b) to leave the designated area; and
- (e) request a police officer or inspector to remove or assist in removing from the designated area any person contemplated in paragraph (a) or (b) who is unable to provide proof contemplated therein.

[Sub-s. (6) substituted by s. 35 (d) of Act No. 1 of 2015.]

(7) The board may, in the prescribed manner, compile a list of persons who are to be excluded or ejected from the designated area specified in the list or prohibited from participating in such gambling specified in the list where the board is of the opinion that it is in the public interest or the interest of that person that he or she be included on the list.

[Sub-s. (7) substituted by s. 24 (c) of Act No. 3 of 2000 and by s. 35 (e) of Act No. 1 of 2015.]

(8) A person may be included on the list contemplated in subsection (7) if he or she-

- (a) has contravened the gambling laws of any country;
- (b) has contravened or conspired to contravene the provisions of this or any similar Act;
- (c) has failed to pay any gambling debt;
- (d) is prohibited by a court order from entering any or specific designated areas;
- (e) has been declared a prodigal by a competent court;
- (f) has requested the board to place his or her name on such list;
- (g) requests the board to place his or her name on the list, is registered as an excluded person in terms of section 14 of the National Gambling Act in the national register of excluded persons or has had his or her name placed on a similar list contemplated in the similar legislation of another province of the Republic;

[Para. (g) substituted by s. 35 (g) of Act No. 1 of 2015.]

(h) is considered by the board, after application by an interested person, to suffer from a gambling problem, in that he or she regularly-

- (i) gambles more than he or she can afford to lose; and
 - (ii) uses household funds to gamble to the serious detriment of his or her dependants in that such gambling causes such dependants to be deprived of food or shelter;
- (i) in the opinion of the board, after application by an interested party and consideration of a report by a registered psychiatrist or psychologist, suffers from a pathological gambling addiction in that he or she has a gambling addiction and-
- (i) is unable to appreciate that he or she has a gambling addiction; or
 - (ii) appreciates that he or she has a gambling addiction but is unable to act in accordance with such appreciation; or
- (j) whilst gambling leaves a child under the age of 10 years unattended for a period which is, in the circumstances, unreasonable taking into account-
- (i) the age of the child;
 - (ii) the period the child was left unattended;
 - (iii) the weather and time of day;
 - (iv) the location at which the child was left;
 - (v) any provision for the entertainment of the child.

[Sub-s. (8) added by s. 24 (d) of Act No. 3 of 2000 and substituted by s. 21 (a) of Act No. 8 of 2002.]

(9) licence holder shall not allow a person whose name is included on the list contemplated in subsection (7) to enter any [gambling] designated area or licensed premises from which he or she is excluded or to participated in any gambling from which he or she is excluded.

[Sub-s. (9) added by s. 24 (d) of Act No. 3 of 2000 and substituted by s. 35 (h) of Act No. 1 of 2015.]

(10) The holder of a licence or any key person in the employ of such licence holder may, for any justifiable reason-

- (a) refuse to admit any person other than a member of the board, inspector, police officer or person specifically authorised thereto by the board to the designated area;
- (b) request any person other than a member of the board, inspector, police officer or person specifically authorised thereto by the board who is on any part of the designated area to leave that part; and
- (c) request any police officer to remove or assist in removing from the designated area any person other than a member of the board, inspector, police officer, person authorised by the board to be in such designated area.

[Sub-s. (10) added by s. 24 (d) of Act No. 3 of 2000 and substituted by s. 35 (i) of Act No. 1 of 2015.]

(11) Any person who contravenes the provisions of subsections (1), (2), (3) or (9) or the terms of an order granted in terms of subsection (4) shall be guilty of an offence.

[Sub-s. (11) added by s. 24 (d) of Act No. 3 of 2000.]

(12) Any money won by a minor or person whose name has been included on the list contemplated in subsection (7) shall be forfeited to the Provincial Revenue Fund.

[Sub-s. (12) inserted by s. 21 (b) of Act No. 8 of 2002 and substituted by s. 35 (j) of Act No. 1 of 2015.]

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

65. Gambling machines and gambling devices to be recorded.-(1) Subject to subsection (3) no holder of a licence shall keep or maintain any-

- (a) (i) roulette table;
- (ii) roulette wheel;
- (iii) blackjack table;
- (iv) craps table;
- (v) baccarat table;
- (vi) punto banco table;
- (vii) poker table;
- (viii) a table used for playing a gambling game similar to or derived from a game contemplated in paragraphs (i) to (vii);
- (ix) gambling machine; or
- (x) gambling device which the board determines must be recorded,

which has not been separately recorded by the board and, in the case of a gambling machine and a gambling device, which does not comply with the standards determined by section 19 of the National Gambling Act and not certified by a licensed testing agent as contemplated in section 25 of the National Gambling Act, as meeting the applicable standards;

[Para. (a) substituted by s. 36 (b) of Act No. 1 of 2015.]

- (b) card used in connection with the playing of bingo or any casino game which is not identical in form to a card which has on application been approved, registered or otherwise authorised by the board; or
- (c) game E-Prom not approved, registered or otherwise authorised by the board;

subject to section 66.

(2) Any holder of a licence who acquires or intends to obtain possession of a gambling device which is required to be registered in terms of the National Gambling Act shall, before taking delivery of such device-

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

[Sub-s. (2) amended by s. 36 (c) of Act No. 1 of 2015.]

(3) No person shall expose for play by the public or any part thereof a gambling device contemplated in subsection (1) (a) which has not been separately recorded by the board.

[Sub-s. (3) substituted by s. 36 (d) of Act No. 1 of 2015.]

(4) An application for a recording shall be made in the manner determined by the board.

[Sub-s. (4) substituted by s. 36 (e) of Act No. 1 of 2015.]

(5) No person shall remove a registered gambling device from the licensed premises of the licence holder to whom such device is registered unless the consent of the board has first been obtained and-

- (a) such device is seized or attached in terms of this Act or any other law;
- (b) such device is permanently removed from the Province;
- (c) such device is removed to the premises of a person registered in terms of section 61 or the apposite legislation of another province for repair purposes;
- (d) the registration of the gambling device has been transferred in terms of subsection (2);
- (e) such device is inoperative to the satisfaction of the board and the registration thereof is cancelled;
- (f) such device is removed for temporary operation in terms of a temporary licence; or
- (g) the board has upon application in the manner determined by the board, approved the purpose of such removal.

[Para. (g) substituted by s. 36 (g) and sub-s. (5) substituted by s. 36 (f) of Act No. 1 of 2015.]

(6) No gambling device which does not meet the prescribed standards shall be-

- (a) recorded; or

[Para. (a) substituted by s. 36 (h) of Act No. 1 of 2015.]

- (b) exposed for play.

(7) (a) The provisions of this section shall not apply to playing cards or dice.

(b) The provisions of subsection (2) shall not apply to-

- (i) gambling devices being returned to such licence holder after being temporarily removed for repairs;
- (ii) gambling devices other than gambling machines which are removed for the purposes of social gambling for which the board has issued a temporary licence or permission.

(8) For the purposes of this section, "gambling machine" shall include a limited gambling machine.

(9) Notwithstanding the provisions of this section, a limited gambling machine shall be recorded in respect of the route operator concerned and may be removed 2-

- (a) from a licensed site or the premises of such licensed route operator to a licensed site; or
- (b) from a licensed site to the premises of such licensed route operator,

if the route operator concerned informs the board of such removal prior to such removal.

[Sub-s. (9) amended by s. 36 (i) of Act No. 1 of 2015.]

(10) The holder of a licence shall not modify the games on or programming of any recorded gambling machine without the consent of the board.

[Sub-s. (10) substituted by s. 36 (j) of Act No. 1 of 2015.]

(11) Any holder of a licence who contravenes a provision of subsection (1), (2) or (3) and any person who contravenes a provision of subsection (3), (5) or (6) (b) shall be guilty of an offence.

[Sub-s. (11) inserted by s. 36 (k) of Act No. 1 of 2015.]

[S. 65 substituted by s. 25 of Act No. 3 of 2000.]

66. National requirements.-If in terms of an Act of Parliament or regulations promulgated thereanent-

- (a) the make, model or type of any gambling machine, roulette wheel, gambling device, other apparatus or card contemplated in section 65 (1) is required to be approved or licensed or otherwise authorised in terms of such Act, the board shall not register any machine, wheel, device, apparatus or card in terms of that section which is not of a make, model or type which has been so approved, licensed or authorised; and
- (b) the manufacture, sale, lease, making available, distribution, import, marketing, maintenance or repair of any machine, wheel, device or apparatus contemplated in section 65 is restricted to persons who

are approved, licensed or otherwise authorised in terms of such Act, the board shall not register any person in terms of that section who has not been so approved, licensed or otherwise authorised.

67. Electronic monitoring systems.-(1) (a) The board may in respect of a casino licence require from any such licence holder to link any gambling device to a central electronic monitoring system for purposes of the monitoring and detecting of significant events associated with each gambling device, including a system for continuous on-line real time recording, monitoring and control of any significant game play transaction as may be prescribed, or determined by the board.

(b) All limited payout machines operated in the Province shall be linked to a central electronic monitoring system contemplated in section 27 of the National Gambling Act.

[Sub-s. (1) substituted by s. 37 (a) of Act No. 1 of 2015.]

(2) The board may-

(a) require from any licence holder referred to in subsection (1), to conduct such electronic monitoring; or

(b) on application, approve any other person to conduct, on behalf of such licence holder, such electronic monitoring subject to the requirements determined and conditions imposed by the board.

[Sub-s. (2) substituted by s. 37 (b) of Act No. 1 of 2015.]

(3) No person shall link to any central electronic monitoring system a device which has not on application been approved and recorded or registered in terms of this Act.

[Sub-s. (3) substituted by s. 37 (c) of Act No. 1 of 2015.]

(4) Any person who contravenes subsection (2) or subsection (3) shall be guilty of an offence.

(5) For purposes of this section "electronic monitoring system" means any electronic or computer or communications system or device that is so designed that it may be used, or adapted, to send or receive and store data from gambling devices in relation to the security, accounting or operation of gambling devices.

[Sub-s. (5) inserted by s. 37 (d) of Act No. 1 of 2015.]

CHAPTER 12

REGISTRATION OF CERTAIN PERSONNEL

68. Key personnel to be registered.-(1) Every executive and agent, including a junket agent associated with a gambling business or any person in the employ of a holder of a licence issued under this Act who may execute control over gambling operations in or on any premises where gambling is conducted in the Province and, in the case of a person registered in terms of section 61, a person contemplated in subsection (2) (f) of this section is required to be registered in terms of this section.

[Sub-s. (1) substituted by s. 19 (a) of Act 6 of 1998 and by s. 38 (a) of Act No. 1 of 2015.]

(2) Persons employed in any of the following or substantially similar positions shall be registered as key persons for the purposes of the section:

(a) managers;

(b) supervisors;

(c) pit bosses;

(d) in house inspectors;

(e) surveillance personnel;

(f) in the case of a company or close corporation registered in terms of section 61, the directors or members thereof respectively; and

(g) any person who holds a prescribed position; and

[Para. (g) inserted by s. 38 (b) of Act No. 1 of 2015.]

(h) any other position considered by the board to be that of a key person generally or in relation to any gambling business in particular.

[Para. (h) renumbered by s. 38 (c) of Act No. 1 of 2015.]

[Sub-s. (2) substituted by s. 19 (b) of Act 6 of 1998.]

(3) Any person desiring to be registered as contemplated in subsection (1) shall make application for such registration to the board.

(4) No application for registration shall be granted if the applicant is subject to any disqualification contemplated in section 31 (1) (a), (b), (c), (g), (h) or (i).

[Sub-s. (4) substituted by s. 26 of Act No. 3 of 2000 and substituted by s. 38 (d) of Act No. 1 of 2015.]

(5) The board shall not refuse an application for registration without giving the applicant opportunity of being heard.

(6) When the board refuses an application for registration the board shall, on request, furnish the applicant concerned in writing with the reasons for such refusal.

(7) Where the board grants an application for registration, the board shall, on payment of the respective fees set out in Schedule II as adjusted by the responsible Member in terms of section 57 (8), issue to the applicant a certificate of registration.

[Sub-s. (7) substituted by s. 38 (e) of Act No. 1 of 2015.]

(8) Registration shall endure for such period determined by the board: Provided that such period may, on request, be extended in the discretion of the board.

(9) The chief executive officer shall keep and maintain a register in which are entered the name and required particulars of each person to whom a certificate of registration has been issued in terms of this section.

(10) The provisions of this chapter shall come into operation 90 days after the coming into operation of the Act in respect of any gambling business contemplated in section 91 (1).

(11) In determining whether or not a person is a key person the board shall not be restricted by the job title or designation of such person, but may consider the functions and responsibilities of such person in making its decision.

(12) A licensee shall, within 14 days of termination of the employment of a key person, notify the board in writing of such termination and the reasons therefor.

(13) If the board considers that an employee of any licence holder is a key person, it shall serve written notice to that effect on the licence holder by whom such employee is employed.

[Sub-s. (13) inserted by s. 22 of Act No. 8 of 2002.]

(14) The holder of a licence shall within 30 days of receipt of such written notice present to the board an application in the form required by the board for the registration of such employee as a key person or provide proof that such person is no longer employed by him or her.

[Sub-s. (14) inserted by s. 22 of Act No. 8 of 2002.]

(15) An employee who is subject to disqualification for registration as a key person in terms of this section may make written representation to the board to reconsider his or her status within the business concerned, and if the board thereupon determines that the employee is not a key person, such employee shall be allowed to withdraw his or her application and, if so, the application fee shall be refunded.

[Sub-s. (15) inserted by s. 22 of Act No. 8 of 2002.]

(16) The provisions of section 20 shall apply *mutatis mutandis* to any person who has been disqualified from registration in terms of this section.

[Sub-s. (16) inserted by s. 38 (f) of Act No. 1 of 2015.]

69. Gambling employees to be registered.-(1) Every person who, in the Province, is employed-

- (a) at or by a gambling business; or
- (b) by a business registered in terms of section 61 (1),

and who is directly involved in the operation of such a business or the activities performed thereanent, is required to be registered in terms of this section.

(2) Persons employed in any of the following or substantially similar positions shall be regarded as gambling employees for the purposes of this section:

- (a) cashiers and ticket-sellers;
- (b) counting room personnel;
- (c) dealers and croupiers;
- (d) machine mechanics;
- (e) bookmaker clerks;
- (f) security personnel; and

- (g) any other position prescribed or considered by the board to be that of a gambling employee generally or in relation to any gambling business in particular:

[Para. (g) substituted by s. 39 (a) of Act No. 1 of 2015.]

Provided that if the board is of the opinion that an employee of any licence holder is a gambling employee, it shall serve written notice to that effect upon the licence holder by whom such employee is employed whereupon the provisions of section 68 (11), (13), (14), (15) and (16) shall *mutatis mutandis* apply.

[Sub-s. (2) substituted by s. 23 of Act No. 8 of 2002. Proviso substituted by s. 39 (b) of Act No. 1 of 2015.]

(3) No person required to be registered as a gambling employee shall be employed by or assist any licence holder before he or she has been so registered, and in respect of such registration the provisions of section 68 (3), (4), (5), (6), (7), (8), (9) and (10) shall *mutatis mutandis* apply.

(4) Persons registered as key personnel shall not be required to register as gambling employees.

(5) A licensee shall within 14 days of the termination of the employment of a gambling employee, notify the board in writing of such termination and the reasons therefor.

69A. Casual gambling employees.-(1) Notwithstanding the provisions of section 69 any person performing any activity contemplated in section 69 in the employ of the holder of a totalisator licence or bookmaker licence, if that person performs those activities on less than nine days or part thereof, of which no more than two such days shall be consecutive, per calendar year, shall be deemed to be registered in terms of section 69 if the requirements of subsections (2) and (3) are complied with.

[Sub-s. (1) substituted by s. 40 of Act No. 1 of 2015.]

(2) Every licence holder which employs an employee on the basis contemplated in subsection (1) shall, no less than forty-eight hours prior to each performance by that employee of any activity referred to in section 69, enter into or cause to be entered into a register specifically kept on an annual basis for that purpose-

- (a) the full names and identity number of such employee;
- (b) the date on which the activity or service to be performed by that employee will be performed;
- (c) the nature of the activity or service to be performed;
- (d) the location at which that activity or service will be performed;
- (e) the amount of remuneration to be paid to such employee;
- (f) the number of occasions in the calendar year to which the register relates, upon which that employee has performed any activity or service in terms of this section for the licence holder; and
- (g) the date of entry of the particulars required in terms of this section into the register,

and shall simultaneously advise the board of such employment by telefax transmission.

(3) A register kept by a licence holder in terms of subsection (2) shall at all times be available for inspection by the board or any of its authorised officers and shall be kept by the licence holder for a period of two calendar years from the date on which it was opened.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

[S. 69A inserted by s. 27 of Act No. 3 of 2000.]

69B. Temporary key person or employee registration.-(1) Notwithstanding the provisions of section 68 and 69 of the Act, the board may issue a temporary [gambling employee] key person registration for purposes of section 68 or temporary gambling employee registration for purposes of section 69-

- (a) where a person has applied for permanent registration in terms of section 68 or 69 for temporary registration pending the outcome of such application for permanent registration; or
- (b) where such person is to be employed by a licensee for a temporary period of no more than one month for training purposes or such other purposes as the board may approve.

[S. 69B heading inserted by s. 41 (a) of Act No. 1 of 2015. Sub-s. (1) substituted by s. 41 (c) of Act No. 1 of 2015.

Para. (b) substituted by s. 41 (c) of Act No. 1 of 2015.]

(2) The temporary registration contemplated in subsection (1) shall be subject to-

- (a) conditions prescribed or determined by the board; and
- (b) payment of the prescribed application, registration and board administration fees.

[S. 69B inserted by s. 24 of Act No. 8 of 2002.]

69C. Interactive gambling employee to be registered.-(1) Every person who, in the Province, is employed by or is a member of the management staff of an interactive gambling provider who is the holder of an interactive gambling licence issued under the National Gambling Act, and who is directly involved in the operation of the business which the licence authorises or the activities performed thereunder, is required to be registered in terms of this section.

(2) A person who is required to be registered in terms of subsection (1) must apply to the board for such registration in the manner and form prescribed under the National Gambling Act and pay the fees prescribed under the National Gambling Act.

[S. 69C inserted by s. 42 of Act No. 1 of 2015.]

CHAPTER 13

RESTRICTIONS, LIMITATIONS AND PROHIBITIONS

70. Advertising.-(1) A person may only advertise the gambling business of a licence holder in the manner prescribed, and in accordance with this Act and the National Gambling Act.

[Sub-s. (1) amended by s. 43 of Act No. 1 of 2015.]

(2) No person shall within the province advertise the gambling business of any business offering gambling to members of the public or any part thereof unless-

- (a) the gambling business concerned is a licence holder;
- (b) the gambling business concerned is licensed to conduct gambling in terms of the law of another Province of the Republic of South Africa; or
- (c) the gambling business concerned is licensed to conduct gambling in terms of the law of a jurisdiction outside of South Africa and-
 - (i) the advertisement is published, or transmitted, from outside the republic of South Africa and persons resident in South Africa are not the sole or main audience for whom the advertisement is intended; or
 - (ii) the advertisement complies with the prescribed requirements and persons responding to the advertisement will have to travel out of the Eastern Cape to participate in the gambling contemplated in the advertisement.

(3) Any person who contravenes the provisions of subsections (1) or (2) shall be guilty of an offence.

[S. 70 substituted by s. 25 of Act No. 8 of 2002.]

71. Restrictions on gambling credit.-(1) Save as provided for by regulation, a licence holder shall not extend any credit to a player in respect of any gambling game or betting.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

72. Events and contingencies on which gambling may take place and bets may be made.-(1) Subject to provisions contained in any Act of Parliament and the provisions of this Act or any other law a person may only gamble or bet on the result of:

- (a) a gambling game;
- (b) a bingo game;
- (c) the operation of a gambling machine;
- (d) a horse race; or
- (e) a lawful contingency.

[Para. (e) substituted by s. 44 of Act No. 1 of 2015.]

(2) A person may only gamble or make a bet on the result of an event or contingency contemplated in subsection (1) with the holder of a licence who is authorised by such licence to gamble or take bets on the event or contingency concerned.

(3) Any person who contravenes a provision of subsection (1) or (2) shall be guilty of an offence.

73. Restriction on gambling through agent, and unlawful inducement to gamble.-(1) Subject to subsection (3) (a), no person shall-

- (a) act as an agent for the holder of a licence for the purpose of gambling, whether or not for gain; or
- (b) for gain act as an intermediary between-
 - (i) any holder of a licence and any other person; or
 - (ii) two members of the public, neither of whom are licensed bookmakers.

[Para. (b) substituted by s. 45 (a) of Act No. 1 of 2015.]

(2) Subject to subsection (3) (b), no person shall, directly or indirectly, give or undertake to give to any other person money or other valuable consideration, other than the amount of a wager won by such other person, to induce that person to gamble.

(3) The provisions of-

- (a) subsection (1) shall, subject to the provisions of section 40, not apply to-
 - (i) a junket agent registered in terms of section 68 in respect of a particular casino;
 - (ii) any agent for the holder of a totalisator licence which takes totalisator bets on behalf of such licence on premises specified in such licence if the agent is the holder of a licence issued in terms of the Act or has obtained a certificate of suitability in terms of section 86 and the natural person taking such bet on behalf of that agent is registered in terms of section 68 or 69;
[Sub-para. (ii) substituted by s. 26 (a) of Act No. 3 of 2000 and by s. 26 of Act No. 8 of 2002.]
 - (iii) any holder of a totalisator licence issued in terms of the laws of another province who operates a totalisator on behalf of the holder of a totalisator licence issued by the board where such operator has obtained a certificate of suitability in terms of section 86;
[Para. (a) substituted by s. 28 of Act No. 3 of 2000.]
 - (iv) the holder of a bookmaker licence issued in terms of this Act or the similar legislation of another province or a certificate of suitability, who for gain acts as an intermediary between-
 - (aa) two licensed bookmakers, whether such bookmakers are licensed in terms of this Act or similar legislation of another province; or
 - (bb) a licensed bookmaker and a member of the public where the party to the bet wagering that the selection will not be successful is the licensed bookmaker;

(b) subsection (2) shall not apply to-

- (i) a holder of a licence who gives or undertakes to give accommodation, meals, gambling vouchers or similar facilities to persons who may gamble on the licensed premises concerned;
- (ii) a junket agent in respect of a junket to a casino.

[Para. (b) substituted by s. 26 (b) of Act No. 8 of 2002. Sub-s. (3) substituted by s. 45 (b) of Act No. 1 of 2015.]

(4) Any person who contravenes a provision of subsection (1) or (2) shall be guilty of an offence.

74. Place of gambling and settling of gambling debts.-(1) No person shall gamble or make or place a bet at any place other than on appropriately licensed premises: Provided that gambling by means of the placing of a voice or data telephone bet on a lawful [sporting event] contingency where the holder of a bookmaker or totalisator licence issued in terms of this Act or similar legislation of another province accepts and records the bet at the licensed premises shall be deemed to have occurred at the licensed premises.

[Sub-s. (1) substituted by 46 (a) of Act No. 1 of 2015.]

(2) A gambling debt may only be settled-

- (a) at licensed premises;
- (b) at a place authorised by the board on application by the holder of the licence concerned;
- (c) at a place where a debt is ordinarily paid in such circumstances when the debt is paid pursuant to a court order or the terms of settlement of legal proceeding instituted for its recovery;
- (d) in the case of a debt owed by a holder of a totalisator licence or bookmaker licence or a member of the public to the holder of a totalisator licence or bookmaker licence-
 - (i) at a place contemplated in paragraph (a), (b) or (c);
 - (ii) by a crossed cheque marked not transferrable sent by post;

(iii) by credit card payment; or

(iv) by electronic funds transfer.

[Para. (d) substituted by s. 46 (b) of Act No. 1 of 2015.]

(e)

[Para. (e) substituted by s. 46 (c) of Act No. 1 of 2015.]

(3) No licence holder contemplated in this section shall accept a bet from-

(a) person under the age of 18 years;

(b) any person whose name is included on the list of excluded persons contemplated in section 63 which has been delivered to such licence holder in the manner prescribed; or

(c) any person by way of voice or data telephone transmission if the placing of such bet by such person will constitute a crime by such person in the jurisdiction from which the bet is so placed.

(4) (a) No person physically present in the Province shall participate in a gambling game by way of telephone, telefax, interactive television, electronic mail or internet transmission or any such communications medium.

(b) No person shall, in relation to any person who he or she knows to be physically present in the Province or should reasonably suspect is so present, invite such person to participate in a gambling game or enter into a gambling game with such person if the gambling game concerned is conducted wholly or partially by way of telephone, telefax, interactive television, electronic mail or internet transmission or any such communications medium.

(c) The provisions of paragraphs (a) and (b) shall not apply-

(i) to a bet taken with or by a bookmaker or totalisator licensed in a Province of the Republic who is licensed to accept such bet; or

(ii) where the person playing the gambling game is physically present on the licensed premises of the licensee offering the game when the game is played.

[Sub-s. (4) substituted by s. 27 (a) of Act No. 8 of 2002.]

(5) A person resident in the province may place a bet with a bookmaker or totalisator licensed in a jurisdiction other than South Africa and such bookmaker or totalisator may lay the bet of such person, subject to the following-

(a) the transaction must comply with the legislation of the Republic relating to foreign exchange; and

(b) the jurisdiction from which the licensed bookmaker or totalisator operates must allow a bookmaker or totalisator licensed in the province to enter into a similar betting transaction with any person resident in that jurisdiction-

(i) on the same basis as a bookmaker or totalisator in that jurisdiction, as the case may be; and

(ii) without the need for separate licensing or approval in that jurisdiction; and

(c) the bookmaker in the other jurisdiction must not act as an intermediary to allow the resident of the province to lay or place a bet with a person who is not a licensed bookmaker; and

(d) the betting transaction concerned must not involve a gambling game.

[Sub-s. (5) inserted by s. 27 (b) of Act No. 8 of 2002 and substituted by s. 46 (d) of Act No. 1 of 2015.]

(6) Any person who-

(a) contravenes a provision of subsection (1), (2), (3) or (4); or

(b) enters into, or advertises to enter into, a transaction contemplated in subsection (5) but does not comply with the all the conditions in that section,

shall be guilty of an offence.

[S. 74 substituted by s. 29 of Act No. 3 of 2000. Sub-s. (6) inserted by s. 46 (e) of Act No. 1 of 2015.]

CHAPTER 14

INSPECTIONS AND ENQUIRIES

75. Appointment of inspectors.-(1) The board may appoint any person in its service as an inspector for the purposes of this Act.

(2) If in terms of an Act of Parliament no person shall perform any inspection function in relation to gambling

without being registered in terms of that Act, no inspector shall be appointed in terms of subsection (1) unless he or she has been so registered.

(3) No person shall be appointed as an inspector if he or she is subject to any disqualification contemplated in section 12 (5) or 31 (1) (a), (b), (c), (d), (e), (f), (g) or (i), which shall apply *mutatis mutandis*.

[Sub-s. (3) substituted by s. 20 of Act 6 of 1998.]

(4) A person who is not in the full-time service of the State or the board and who is appointed as an inspector shall be appointed on such conditions and at such remuneration as the board, with the concurrence of the responsible Member, may determine.

(5) An inspector shall be provided with a certificate of appointment signed by or on behalf of the chairperson of the board and in which it is stated that he or she has been appointed as an inspector under this Act.

(6) When an inspector performs any function in terms of this Act, he or she shall have such certificate of appointment in his or her possession and show it at the request of any person affected by the performance of that function.

(7) An inspector shall not accept any donation, reward or other benefit in connection with the performance of his or her functions from any person, and no person shall give or offer such donation, reward or benefit to an inspector.

(8) Any person who contravenes a provision of subsection (7) shall be guilty of an offence.

76. Powers of inspectors.-(1) For the purposes of this Act an inspector may at any time enter any licensed or unlicensed premises, where, in the opinion of the inspector, gambling is taking place, and may-

- (a) inspect or search those premises;
- (b) examine, or make copies of or take extracts from, any document found in or upon those premises and which refers or is suspected to refer to any gambling or betting activity, and request from the owner or person in charge of those premises or from any person in whose possession or charge that document is, an explanation of any entry therein;
- (c) to obtain any information, programme or data which refers to or is suspected to refer to gambling or betting or any activities incidental thereto stored on a computer by-
 - (i) personally operating or instructing a computer; or
 - (ii) requesting a competent person on the premises to operate or instruct the computer to produce a printout or electronic copy of any such information, programme or data;
- (d) examine any article found in or upon those premises which refers or is suspected to refer to any such activity, and request from the owner or person in charge of those premises or from any person in whose possession or charge that article or object is, information in regard thereto;
- (e) seize, against the issue of a receipt any document or object referred to in paragraphs (a), (b), (c) or (d) if it appears to provide proof of a contravention of this Act, or if he or she wishes to retain it for further custody or for safe custody: Provided that a person from whose possession or charge any such document is taken shall, as long as it is in the possession or charge of the inspector concerned, at such person's request be allowed, at his or her own expense and under supervision of such inspector, to make copies thereof or take extracts therefrom at any reasonable time.

[Sub-s. (1) amended by s. 30 (a) and (b) of Act No. 3 of 2000 and substituted by s. 28 (a) of Act No. 8 of 2002.]

(2) An inspector may, if so authorised by a warrant or in the company of an officer of the South African Police Service so authorised or acting in terms of section 22 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and subject to the provisions of any other law-

- (a) enter any premises on or in which any article, document or other object connected with gambling or betting is or is suspected to be or which are occupied or used or suspected to be occupied or used for the purposes of any gambling or betting activity;
- (b) in respect of such premises, do everything set out in subsection (1) (a), (b), (c), and (d), which shall apply *mutatis mutandis*;
- (c) inspect any account of any person at any bank or other financial institution which may afford evidence of the commission of an offence in terms of this Act; and
- (d) seize, against the issue of a receipt, any document or object referred to in subsection (1) (b), (c) and (d), if it appears to provide proof of a contravention of a provision of this Act, or if he or she wishes to retain it for further examination or for safe custody: Provided that a person from whose possession or charge any such document has been taken shall, as long as it is in the possession or charge of the inspector concerned, at such person's request be allowed, at his or her own expense and under the supervision of such inspector, to make copies thereof or to take extracts therefrom at any reasonable times.

[Sub-s. (2) amended by s. 21 of Act No. 6 of 1998 and substituted by s. 28 (b) of Act No. 8 of 2002.]

(3) An inspector may, in accordance with the uniform rules of court, at any time deliver such summonses as the board is authorised to issue in terms of this Act or its rules and regulations.

(4) Any person who-

- (a) obstructs or hinders an inspector in the performance of his or her functions under this section;
- (b) when asked by an inspector for an explanation or information relating to a matter within his or her knowledge, gives an explanation or information which is false or misleading, knowing it to be false or misleading; or
- (c) falsely represents himself or herself to be an inspector,

shall be guilty of an offence.

77. Duty to produce licence or certificate of registration.-(1) The holder of a licence, a certificate of registration or other written authority issued in terms of this Act, shall on demand produce such licence, certificate or authority to an inspector or officer of the South African Police Service.

(2) A licence issued in terms of this Act shall be prominently displayed in a conspicuous place in the licensed premises.

(3) Every key person and gambling employee shall have his or her registration card or certificate available for inspection in such manner as the board may determine at all times when such person is on duty.

(4) Any person who contravenes a provision of this section shall be guilty of an offence.

(5) A licensee shall in respect of every employee required to be registered in terms of this Act, keep a copy of such employee's registration card or certificate on the employment record of that employee.

78. Enquiries by board.-(1) The board may from time to time conduct an enquiry into any matter falling within the scope of its functions.

(2) The provisions of section 30 shall *mutatis mutandis* apply in relation to any enquiry contemplated in subsection (1).

79. Suspension and revocation of registration or licence.-(1) Unless otherwise provided the board may at any time suspend for a specified period or revoke the registration or licence of any person or thing required to be registered or licensed in terms of this Act after affording such person, or in the case of such thing the licensee concerned, or the registered or licensed owner thereof, an opportunity of being heard if-

- (a) any information contained in the application for registration or licence was false in any material respect or was subject to any material omission;
- (b) the person registered has become subject to a disqualification contemplated in section 31, *mutatis mutandis*;
- (c) the person registered has been convicted of an offence of such a nature and seriousness that in the opinion of the board such person poses a threat to the integrity of licensed gambling; or
- (d) the said thing no longer meets with the provisions of this Act, or the rules of the board.

(2) Every key person or gambling employee registered in terms of this Act who-

- (a) has his or her registration revoked by the board, the licensee by whom such a person is employed shall summarily terminate the employment of that person in any capacity in which he or she is required to be so registered; or
- (b) has his or her registration suspended by the board, the licensee by whom such a person is employed shall summarily suspend the employment of that person in any capacity in which he or she is required to be so registered, for the period of suspension by the board,

without liability on the part of the licensee.

(3) The provisions of subsection (2) shall be a condition of employment.

CHAPTER 15

MISCELLANEOUS PROVISIONS

80. Regulations.-(1) The responsible Member may, after consultation with the board, by notice in the *Provincial Gazette* make regulations regarding-

- (a) any matter pertaining to the board;
- (b) any matter pertaining to an application for a licence;
- (c) the management and control of licensed premises;
- (d) the take-out, commissions or other charges which the holder of the licence may charge;
- (e) the stakes for which any gambling game may be played;
- (f) the management and control of horse racing;
- (g) registration in terms of this Act;
- (h) designated areas;
[Para. (h) substituted by s. 47 (a) of Act No. 1 of 2015.]
- (i) any matter which in terms of this Act is required to or may be prescribed;
- (j) any matter which is authorised or mandatory to be prescribed, regulated or controlled by a provincial licensing authority in terms of the National Gambling Act;
[Para. (j) substituted by s. 47 (b) of Act No. 1 of 2015.]
- (k) the specifications relating to gambling devices including chips and tokens;
- (l) monitoring and surveillance systems and the operation thereof;
- (m) the keeping of records;
- (n) the number, distribution and location of limited gambling machines;
- (o) factors the board must take into account in considering applications for licences;
- (p) disqualifications and prohibitions in respect of licences and registrations;
[Para. (p) inserted by s. 47 (c) of Act No. 1 of 2015.]
- (q) in general, any matter in respect of which it is necessary or expedient to make regulations for achieving the objects of this Act:
[Para. (q) renumbered by s. 47 (d) of Act No. 1 of 2015.]

Provided that any regulation with financial implications shall be made with the concurrence of the member of the Executive Council responsible for finance.

[Sub-s. (1) substituted by s. 29 (a) of Act No. 8 of 2002.]

(2) A regulation made under this section may for a contravention thereof or failure to comply therewith, prescribe a fine not exceeding one million rand or imprisonment for a period not exceeding 2 years or both such fine and imprisonment.

[Sub-s. (2) substituted by s. 29 (b) of Act No. 8 of 2002.]

(3) Different regulations may be made under this section in respect of different kinds of licence, licences of the same kind having different characteristics, different categories of persons or different areas.

(4) Not less than 2 months before any regulation is made under this section, the responsible Member shall cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish any comments thereon or any representations which they may wish to make in regard thereto, to the responsible Member.

(5) The provisions of subsection (4) shall not apply in respect of-

- (a) any regulation which has been amended by the responsible Member in consequence of comments or representations received in response to the invitation there mentioned; or
- (b) any regulation in respect of which the public interest requires it to be made without delay.

81. Rules of the board.-The board may, after consultation with the responsible Member, and by notice in the *Provincial Gazette*, make rules not inconsistent with the provisions of this Act relating to the exercise of its powers and the performance of its functions, including-

- (a) any matter pertaining to an application for a licence or registration;
[Para. (a) substituted by s. 31 (a) of Act No. 3 of 2000.]
- (b) the management and control of licensed premises and gambling operations;

- (c) rules for playing of any gambling game or betting; and
- (e) internal control measures for licence holders;
[Para. (d) substituted by s. 31 (b) of Act No. 3 of 2000.]
- (f) the books, accounts and records to be kept and furnished;
[Para. (e) added by s. 31 (c) of Act No. 3 of 2000.]
- (g) any matter which in terms of this Act is required or permitted to be determined;
[Para. (f) added by s. 31 (c) of Act No. 3 of 2000.]
- (h) the licensing registration, possession and conduct of and requirements and specifications for amusement operators, amusement games and amusement machines contemplated in section 4 (1) (c) (xxx);
[Para. (g) added by s. 31 (c) of Act No. 3 of 2000.]
- (i) methods of operation of licensees;
- (j) gambling by licensees and their employees;
- (k) collection of credit by licensees;
- (l) organisational structure and jobs compendiums of licensees;
- (m) maintenance of machines and devices;
- (n) surveillance requirements relating to licensees;
- (o) gambling monitoring and control systems;
- (p) machine and device standards and approvals;
- (q) wide area progressive jackpots; and
[Para. (i) to (q) inserted by s. 48 (c) of Act No. 1 of 2015.]
- (r) any other matter pertaining to the functions of the board.
[Para. (h) added by s. 31 (c) of Act No. 3 of 2000 and renumbered by s. 48 (d) of Act No. 1 of 2015. S. 81 amended by s. 48 (a) and (b) of Act No. 1 of 2015.]

(Editorial Note: Numbering as per original *Provincial Gazette*.)

82. Annual report and publication of information on gambling activities.-(1) The board shall as soon as practicable after 31 March in each year but not later than 5 months thereafter submit to the responsible Member and the Provincial Treasury a report on its activities during the year ending on that date together with the audited financial statements referred to in section 18 and the reports of the Auditor-General on those statements.

[Sub-s. (1) substituted by s. 32 of Act No. 3 of 2000 and s. 30 (a) of Act No. 8 of 2002.]

(2) The responsible Member shall lay a copy of the annual report, audited financial statements and the report of the Auditor-General submitted to him or her in terms of subsection (1) upon the table in the Provincial Legislature within 1 month after its receipt.

[Sub-s. (2) substituted by s. 30 (b) of Act No. 8 of 2002.]

(3) The responsible Member shall submit the report referred to in subsection (1) to the appropriate national gambling authority within 14 days after it is submitted to the responsible Member.

(4) The board may publish general information or statistics on gambling and betting activities in the Province.

83. Patron disputes.-If a licence holder refuses payment of alleged winnings to a player and the licence holder and the player are unable to resolve the dispute to the satisfaction of the parties, the dispute shall be resolved in accordance with the prescribed procedure.

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

85. Vicarious responsibility.-(1) When the manager of the business to which the licence relates, or the

agent or employee of the holder of a licence, does or omits to do any act which would be an offence in terms of this Act for the holder concerned to do or omit to do, that holder shall be deemed himself or herself to have done or omitted to do that act, unless he or she satisfies the court that-

- (a) he or she neither connived at nor permitted the act or omission by the manager, agent or employee concerned;
- (b) he or she took all reasonable steps to prevent the act or omission; and
- (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition and under no circumstances fell within the scope of the authority or employment of the manager, agent or employee concerned.

(2) For the purpose of subsection (1) (b), the fact that a holder issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he or she took all reasonable steps to prevent the act or omission.

(3) For the purpose of this section the term "agent" shall include a junket agent.

86. Suitability of third parties.-(1) The board may-

- (a) prohibit a licensee from contracting with any person for the acquisition by such licensee or any goods or services or for the borrowing or lending of money or the letting or hiring of any movable or immovable property until; or
- (b) require any person acquiring, or holding a financial interest of five percent or more in the holder of a certificate of suitability to alienate such financial interest unless such supplier, lender, lessor or person has obtained a certificate of suitability from the board and paid the fees and expenses of the board.

[Sub-s. (1) substituted by s. 33 of Act No. 3 of 2000, by s. 31 (a) of Act No. 8 of 2002 and by s. 49 of Act No. 1 of 2015.]

(2) The board may at any time, after affording a supplier or lender an opportunity of being heard, revoke the certificate of suitability granted in terms of subsection (1), if in the opinion of the board, such supplier or lender is deemed to be no longer suitable.

(3) The provisions of sections 27 and 78 shall *mutatis mutandis* apply to an application contemplated in subsection (1) or a revocation in terms of subsection (2).

(4) When considering an application contemplated in subsection (1) or revocation in terms of subsection (2), the board shall have regard to the grounds of disqualification contemplated in section 31.

[Sub-s. (4) inserted by s. 31 (b) of Act No. 8 of 2002.]

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

88. Offences and penalties.-(1) Any person who-

- (a) makes any false statement in any application or return under this Act;
- (b) contravenes any condition of a licence;
- (c) in or on any licensed premises conducts any gambling game or betting or keeps any gambling device which is not approved under this Act or conducts any gambling game or betting otherwise than in accordance with the approved rules of such gambling game or betting;
- (d) hinders or obstructs any member of the board, authorised officer or police officer whilst taking steps for the prevention or investigation of an offence under this Act;
- (e) fails to comply with an order made under section 63 (4) or knowingly permits such person to enter the premises or part thereof;
- (f) having been summoned to give evidence at a hearing or an enquiry, without sufficient cause fails to attend such hearing or investigation at the time and place specified in the summons, or to remain in attendance until the conclusion of the hearing or investigation at the time and place specified in the summons, or to remain in attendance until the conclusion of the hearing or investigation or until excused by the board from further attendance, or to produce any book, document or thing in his or her possession or custody or under his or her control, which he or she has been summoned to produce;
- (g) having been summoned under section 30 or any section in respect to which the provisions of section

30 apply-

- (i) without sufficient cause refuses to take the oath or to make an affirmation as a witness after he or she has been directed by the member of the board presiding at the enquiry to do so, or refuses to testify or, subject to the law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law, refuses or fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her; or
 - (ii) after having taken the oath or having made an affirmation, gives false evidence before the board at any enquiry on any matter, knowing such evidence to be false or not knowing or not believing it to be true;
- (h) is in possession of any gambling device, other than playing cards or dice, which is used without an appropriate licence or registration or not in accordance with the provisions of the Act;
[Para. (h) substituted by s. 34 (a) of Act No. 3 of 2000.]
- (i) is in possession of-
 - (i) a gambling machine;
 - (ii) a reel tape designed for use in a gambling machine;
 - (iii) any device which would be a gambling machine but for the removal of any of its parts or the reprogramming thereof;
 - (iv) any device which is capable of electronically representing the reels used in a gambling machine;
 - (v) any device which was manufactured as a gambling machine and which has been converted at any time so that it is unable to pay out cash or tokens, whether such device enables a player to win a prize or not;
 - (vi) any computer software which enables a player to download any credits won on a gambling game to another computer or to an external data storage device; or
 - (vii) any computer hardware which is primarily designed or constructed for use in playing of games contemplated in subparagraph (v) on a computer,without an appropriate licence, without being registered in terms of section 61 (1) and without being authorised by the board to transport such device in or through the Province;
[Para. (i) substituted by s. 34 (b) of Act No. 3 of 2000 and s. 32 (a) of Act No. 8 of 2002.]
- (j) is in possession of any gambling device contemplated in section 65 (1) (a) or a table layout for a game contemplated in section 65 (1) (a) (i) to (viii) and who is not either-
 - (i) the holder of an appropriate licence;
 - (ii) registered in terms of section 61 (1);
 - (iii) authorised by the board to use such device for social gambling; or
 - (iv) authorised by the board to transport such device in or through the Province;[Para. (j) added by s. 34 (c) of Act No. 3 of 2000.]
- (k) uses a gambling device or amusement machine otherwise than in accordance with the provisions of the Act;
[Para. (k) added by s. 34 (c) of Act No. 3 of 2000.]
- (l) exposes a gambling machine for play by members of the public without being the holder of an appropriate licence.
[Para. (l) added by s. 34 (c) of Act No. 3 of 2000 and substituted by s. 32 (b) of Act No. 8 of 2002.]
- (m) is the holder of a route operator licence or limited gambling machine site licence and exposes for play or allows to be exposed for play-
 - (i) a gambling machine which does not comply with the provisions of section 49 (7); or
 - (ii) more limited gambling machines than such licence holder is licensed for.[Para. (m) added by s. 34 (c) of Act No. 3 of 2000 and substituted by s. 32 (c) of Act No. 8 of 2002.]
- (n) otherwise than in accordance with the provisions of this Act, in the case of a computer-
 - (i) uses such computer to play a gambling game; or
 - (ii) exposes such computer for play by members of the public or any section thereof and allows such computer to be used for the playing of gambling games whether on such premises or by way of internet or intranet transmission;[Para. (n) added by s. 34 (c) of Act No. 3 of 2000 and substituted by s. 32 (d) of Act No. 8 of 2002.]

- (o) possesses an amusement machine otherwise than in accordance with the rules issued by the board in terms of section 4 (1) (c) (xxx);
[Para. (o) added by s. 34 (c) of Act No. 3 of 2000.]
- (p) transports any device contemplated in paragraph (i) or (j) within or through the Province without-
- (i) the prior written permission of the board; and
 - (ii) an appropriate licence; or
 - (iii) being registered in terms of section 61 of the Act;
- [Para. (p) added by s. 34 (c) of Act No. 3 of 2000.]

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

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

[Para. (q) added by s. 34 (c) of Act No. 3 of 2000 and substituted by s. 32 (e) of Act No. 8 of 2002.]

- (r) exposes for play by members of the public on any section thereof an amusement machine which, in terms of a rule issued in terms of section 4 (1) (c) (xxx) is required to be registered, which is not so registered;

[Para. (r) added by s. 34 (c) of Act No. 3 of 2000.]

- (s) in terms of a rule issued in terms of section 4 (1) (c) (xxx), required to be licensed or to hold an appropriate category of amusement licence and who-

- (i) is not so licensed; or
- (ii) holds an inappropriate category of amusement licence;

[Para. (s) added by s. 34 (c) of Act No. 3 of 2000.]

- (t) directly or indirectly provides credit to any person for the playing of an amusement game: Provided that this paragraph shall not apply to persons who provide such credit to their family members;

[Para. (t) added by s. 34 (c) of Act No. 3 of 2000.]

- (u) without an appropriate licence utilises one or more machines of a kind contemplated in paragraph (i) to distribute one or more prizes (other than an opportunity to play a single further game) to persons who have paid a subscription to play such machine;

[Para. (u) added by s. 34 (c) of Act No. 3 of 2000.]

- (v) utilises the results of more than one game played on one or more amusement machines or limited gambling machines to pay a player a prize additional to that which would have been won by that player if such player had only played such machines: Provided that this paragraph shall not apply to games which involve a substantial element of skill, one or more tickets which cumulatively entitle or enable the player to receive a non-cash prize on the premises concerned and which are not transferable to any other person: Provided that no accumulation of tickets shall entitle or enable a player to receive a prize having a higher retail value than 15 times the prescribed maximum prize for an amusement game and at least 20 tickets shall be required in respect of each Rand of the retail value of such non-cash prize: Provided further that no more than 15 tickets may be won in respect of any single such game;

[Para. (v) added by s. 34 (c) of Act No. 3 of 2000, substituted by s. 32 (f) of Act No. 8 of 2002 and by s. 50 (a) of Act No. 1 of 2015.]

- (w) possesses or exposes for play by members of the public or any section thereof an amusement machine capable of playing games such as roulette, bingo, twenty-one, blackjack, chermin de fer, baccarat, poker, Chinese roulette, keno and other games of similar type usually played on gambling machines or derived from such games;

[Para. (w) added by s. 34 (c) of Act No. 3 of 2000 and substituted by s. 32 (g) of Act No. 8 of 2002.]

- (x) exposes for play by members of the public or any section thereof a computer and uses such computer as an amusement machine to play amusement games of the kind contemplated in paragraph (w);

[Para. (x) inserted by s. 32 (h) of Act No. 8 of 2002.]

- (y) distributes or makes available computer software in the province which is intended to be used by persons in the province to link to gambling businesses located outside the province which offer gambling games on the internet;

[Para. (y) inserted by s. 32 (h) of Act No. 8 of 2002.]

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

[Para. (z) inserted by s. 32 (h) of Act No. 8 of 2002.]

commits an offence and on conviction (unless otherwise expressly provided elsewhere in this Act) be liable to a fine determined by the board in rules made in accordance with section 81 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

[Sub-s (1) amended by s. 32 (i) of Act No. 8 of 2002 and by s. 50 (b) of Act No. 1 of 2015.]

(2) Any person who contravenes or fails to observe a rule made in terms of section 81 shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 6 months.

[Sub-s. (2) substituted by s. 32 (j) of Act No. 8 of 2002 and by s. 50 (c) of Act No. 1 of 2015.]

(3) All fines imposed in terms of this Act shall accrue to the Provincial Revenue Fund: Provided that the fines imposed in terms of a rule contemplated in sections 59 and 81 shall accrue to the board.

(4)

[Sub-s. (4) added by s. 34 (d) of Act No. 3 of 2000 and deleted by s. 50 (d) of Act No. 1 of 2015.]

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

[Sub-s. (5) added by s. 34 (d) of Act No. 3 of 2000.]

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

[Sub-s. (6) added by s. 34 (d) of Act No. 3 of 2000 and substituted by s. 32 (l) of Act No. 8 of 2002.]

(7) If the board finds that a holder of a licence has contravened the provisions of the Act or any Regulation, Rule or licence condition made in terms of the Act, the board may instead of referring that matter to the South African Police Service or Office of the Director for Prosecutions for prosecution impose an administrative fine on such licence holder and in doing so may impose any such fine which a court of law could have imposed if it had found such licence holder guilty of an offence in respect of such violation.

[Sub-s. (7) inserted by s. 32 (m) of Act No. 8 of 2002.]

(8) A fine shall not be imposed in terms of subsection (7) unless-

- (a) such licence holder has had an opportunity to be heard; or
- (b) such licence holder has stated its case in writing and has agreed that oral argument is not necessary.

[Sub-s. (8) inserted by s. 32 (m) of Act No. 8 of 2002.]

89. Magistrates' jurisdiction.-Notwithstanding any law to the contrary, a magistrate shall have jurisdiction to impose any penalty provided for by or under this Act.

90. Forfeiture.-(1) A court may, upon conviction of a person for any offence in terms of section 59, 60 or 88, declare to be forfeited to the board-

- (a) all monies, coins, cheques, bills or promissory notes or other documentation securing or evidencing an undertaking for the payment of money found in or on any unlicensed premises or on any person who was in or on such premises;
- (b) all books, lists, cards, documents or other papers, or any instrument, machine or thing relating to or

used or capable of being used in connection with gambling found in or on such premises; and

(c) any vehicle, vessel or aircraft used in connection with the offence,

whereupon the provisions of section 35 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply, *mutatis mutandis*, to anything forfeited in terms of this section.

[Sub-s. (1) substituted by s. 51 of Act No. 1 of 2015.]

(2) Upon payment by a person of an admission of guilt fine in terms of section 57 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) in respect of a charge of contravention of sections 60 (1) (a), 61 (1) (a) or subparagraphs (i), (j), (k), (o) or (p) of section 88 (1) of this Act, any item contemplated in subsection (1) which was seized in terms of this Act or the Criminal Procedure Act, 1977 (Act No. 51 of 1977) shall be forfeited to the board, whereupon the provisions of section 35 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) shall apply *mutatis mutandis* to anything forfeited in terms of this section.

[Sub-s. (2) substituted by s. 35 (a) of Act No. 3 of 2000.]

(3) The proceeds of the sale of anything declared forfeited under subsection (1) or (2) shall be paid to the board.

[S. 90 substituted by s. 22 of Act No. 6 of 1998. Sub-s. (3) added by s. 35 (b) of Act No. 3 of 2000.]

91. Transitional provisions.-(1) The board for the Development of the Horse Racing Industry for the Province of the Eastern Cape established by section 11B of the Ordinance, shall, notwithstanding the provisions of subsection (7), continue to exist until the date on which the payment of an equitable portion contemplated in paragraph 2 of Part 2 of the Schedule to the President's Proclamation, No. R25 of 7 April 1995 has been effected.

(2) The Horse Racing Industry Development Fund established by section 11A of the Ordinance, shall, notwithstanding the provisions of subsection (7), continue in operation until the date of the payment referred to in subsection (2).

(3) All assets (other than Government Property), liabilities, rights, and obligations of the Casino Board established by section 3 (1) of Decree No. 17 (Casinos) of 1990 of Transkei and any other official body or structure established or constituted in terms of any law repealed by this Act shall be transferred to the board on the date of repeal of the legislation relating thereto, respectively.

(4) The Premier may by proclamation in the *Provincial Gazette* provide for such further transitional and saving provisions relating to the operation of any provision of this Act as are necessary or expedient: Provided that the number, date and title of the proclamation and the number and date of the *Provincial Gazette* in which it was published shall be laid upon the table in the Legislature of the Eastern Cape within 14 days after such publication if the Legislature is then in session, or if the Legislature is not then in session within 14 days after the commencement of its next ensuing session.

[S. 91 amended by s. 52 of Act No. 1 of 2015.]

92. Repeal of laws.-The laws mentioned in Schedule I are hereby repealed as indicated in the third column thereof: Provided that the provisions of this section shall not affect the continued operation of Decree No. 4 (Orderly Control of Gambling) of 1990 of Transkei and the Gambling Act 1979 (Act No. 6 of 1979) of Transkei in respect of gaming apparatus licences contemplated in section 3 (1) (e) of the said Act.

93. Short title and commencement.-(1) This Act shall be called the Eastern Cape Gambling Act, 1997 and shall come into operation on a date to be fixed by the Premier by proclamation in the *Provincial Gazette*.

[Sub-s. (1) substituted by s. 24 of Act 6 of 1998 and by s. 53 of Act No. 1 of 2015.]

(2) Different dates may be so fixed in respect of different sections of this Act.

SCHEDULE I

(Section 92)

STATUTES OF THE FORMER PROVINCE OF THE CAPE OF GOOD HOPE

A. Ordinances

<i>Number and year</i>	<i>Short title</i>	<i>Extent of repeal</i>
34 of 1968	Horse Racing and Betting Ordinance. 1968	The whole, subject to the provisions of sections 91 and 92

16 of 1971	Horse Racing and Betting Amendment Ordinance, 1971	"
17 of 1972	Horse Racing and Betting Amendment Ordinance, 1972	"
14 of 1973	Horse Racing and Betting Amendment Ordinance, 1973	"
5 of 1975	Horse Racing and Betting Amendment Ordinance, 1975	"
3 of 1976	Horse Racing and Betting Amendment Ordinance, 1976	"
3 of 1980	Horse Racing and Betting Amendment Ordinance, 1980	"
19 of 1981	Horse Racing and Betting Amendment Ordinance, 1981	"
8 of 1982	Horse Racing and Betting Amendment Ordinance, 1982	"
8 of 1983	Horse Racing and Betting Amendment Ordinance, 1983	"
9 of 1984	Horse Racing and Betting Amendment Ordinance, 1984	"
7 of 1986	Horse Racing and Betting Amendment Ordinance, 1986	"

B. Administrator's Proclamations

<i>Number and year</i>	<i>Number of Provincial Gazette and date</i>	<i>Extent of repeal</i>
46 of 1988	4538 of 1 July 1988	The whole, subject to the provisions of sections 91 and 92
109 of 1989	4620 of 20 December 1989	"
61 of 1990	4660 of 14 September 1990	"
67 of 1991	4716 of 30 September 1991	"
5 of 1994	4840 of 28 January 1994	"
29 of 1994	4850 of 31 March 1994	"

C. Acts and Decrees

<i>Number and year</i>	<i>Short title</i>	<i>Extent of repeal</i>
51 of 1965	Gambling Act 1965	The whole, subject to the provisions of sections 91 and 92

STATUTES OF THE FORMER REPUBLIC OF TRANSKEI

A. Ordinances

<i>Number and year</i>	<i>Short title</i>	<i>Extent of repeal</i>
34 of 1968	Horse Racing and Betting Ordinance, 1968	The whole, subject to the provisions of sections 91 and 92
16 of 1971	Horse Racing and Betting Amendment Ordinance, 1971	"
17 of 1972	Horse Racing and Betting Amendment Ordinance, 1972	"
14 of 1973	Horse Racing and Betting Amendment Ordinance, 1973	"
5 of 1975	Horse Racing and Betting Amendment Ordinance, 1975	"
3 of 1976	Horse Racing and Betting Amendment Ordinance, 1976	"

B. Acts and Decrees

<i>Number and year</i>	<i>Short title</i>	<i>Extent of repeal</i>
D17 of 1990	Decree No. 17 (Casinos) of 1990 (of Transkei)	The whole, subject to the provisions of sections 91 and 92

STATUTES OF THE FORMER REPUBLIC OF CISKEI**A. Ordinances**

<i>Number and year</i>	<i>Short title</i>	<i>Extent of repeal</i>
34 of 1968	Horse Racing and Betting Ordinance. 1968	The whole, subject to the provisions of sections 91 and 92

B. Acts and Decrees

<i>Number and year</i>	<i>Short title</i>	<i>Extent of repeal</i>
20 of 1980	Ciskeian Horse Racing and Betting Act, 1980	The whole, subject to the provisions of sections 91 and 92
23 of 1982	Gambling Act, 1982 (of Ciskei)	"

SCHEDULE II

[Schedule II substituted by s. 25 of Act No. 6 of 1998, by s. 36 of Act No. 3 of 2000 and by P.N. 309 in PG 3972 dated 18 December, 2017.]

APPLICATION, LICENCE AND OTHER FEES PAYABLE**A. The fees payable for applications in respect of licences are:**

<i>Kinds of licences:</i>	<i>Application fee with effect from 1 December 2017: R</i>
Casino Licence	
(a) Receipt of draft Request for Proposal (if made available by the board)	1 300,00
(b) Attendance Fee: Bidders conference arranged by the board	6 300,00
(c) Receipt of Request for Proposal	6 300,00
(d) Application fee: Casino to be located within a radius of 75km of Port Elizabeth harbour or East London harbour	350 000,00
(e) Application fee: Casino to be located outside the area contemplated in (d)	248 900,00
(f) Application fee: Transfer of licence	124 400,00
(g) Application fee: Amendment of licence or removal to other premises	6 300,00
(h) Application fee: Consent for procurement of interest in licensee	6 300,00
(i) Application fee: Temporary licence	24 900,00
Route Operator Licence	
(a) Receipt of draft Request for Proposal (if made available by the board)	700,00
(b) Attendance fee: Bidders conference arranged by the Board	3 200,00
(c) Receipt of Request for Proposal	3 200,00
(d) Application fee: Route Operator Licence	100 000,00
(e) Application fee: Transfer of Licence	62 300,00
(f) Application fee: Amendment of Licence	800,00

(g) Application fee: Consent for procurement of interest in licensee	3 200,00
(h) Application fee: Temporary licence	6 300,00
Gambling Machine Site Licence	
(a) Application for licence	1 500,00
(b) Application for transfer of licence	800,00
(c) Application for amendment of licence or removal to other premises	200,00
(d) Application for procurement of interest in licensee	400,00
(e) Application for temporary licence	400,00
Bingo Licence	
(a) Application for licence	22 400,00
(b) Application for transfer of licence	11 200,00
(c) Application for amendment of licence or removal to other premises	800,00
(d) Application for procurement of interest in licensee	400,00
(e) Application for temporary licence	700,00
Race Course Licence	
(a) Application for licence	1 500,00
(b) Application for transfer of licence	800,00
(c) Application for amendment of licence or removal of other premises	200,00
(d) Application for procurement of interest in licensee	400,00
(e) Application for temporary licence	400,00
Totalisator Licence	
(a) Application of licence	29 900,00
(b) Application for transfer of licence	12 500,00
(c) Application for amendment of licence or removal to other premises	700,00
(d) Application for procurement of interest in licensee	800,00
(e) Application for temporary licence	700,00
Bookmaker Licence	
(a) Application for licence	1 500,00
(b) Application for transfer of licence	800,00
(c) Application for amendment of licence or removal to other premises	200,00
(d) Application for procurement of interest in licensee	400,00
(e) Application for temporary licence	400,00
Temporary licence other than those stipulated above	200,00
Certificate of Suitability	1 300,00

B. The annual fees payable by licensees are

<i>Kinds of Licences:</i>	<i>Annual licence fee with effect from 1 December 2017: R</i>	<i>Annual board administration fee with effect from 1 December 2017: R</i>
1. Casino licence or Provisional licence		
(a) casino licence	250,00	81 000,00
(b) provisional licence for a casino	250,00	31 000,00
(c) temporary licence for a casino	250,00	49 000,00
2. Route operator licence	250,00	37 500,00

3. Gambling machine site licence and provisional gambling machine site licence (per site)	50,00	1 500,00
4. Bingo licence and provisional bingo licence (per bingo hall)	250,00	8 600,00
5. Race course licence and provisional race course licence (per race course)	50,00	3 000,00
6. Totalisator licence and provisional totalisator licence (per licensed premises)	50,00	1 500,00
7. Bookmaker licence and provisional bookmaker licence (per licensed premises)	50,00	1 500,00

C. Application fees in respect of registration are as follows:

<i>Kinds of Registration:</i>	<i>Application fee with effect from 1 December 2017</i> R
Gambling device registration:	
(a) Roulette wheels (per wheel)	700,00
(b) Roulette tables (per table)	700,00
(c) Electronic player terminals linked to a table game (per terminal)	120,00
(c) Gambling tables other than roulette tables (per table)	1 300,00
(d) Multiplayer gambling machines (per machine)	1 300,00
(e) Single player gambling machines other than limited gambling (per machine)	120,00
(f) Limited gambling machines (per machine)	600,00
(g) Devices to be registered not set out above (per device or class of device)	15,00
Transfer of registration not set out above (per device or class of device)	15,00
Section 61 registration:	
(a) Manufacturers, importers and distributors who do not only manufacture, import or distribute computer software used in connection with gambling and betting	14 900,00
(b) Creators, manufacturers, importers and distributors of only computer software used in connection with gambling and betting	3 000,00
(c) Persons performing only activities other than those contemplated in (a) or (b)	1 300,00
(d) Transfer of registration: Persons contemplated in (a)	6 300,00
(e) Transfer of registration: Persons contemplated in (b)	1 300,00
(f) Transfer of registration: Persons contemplated in (c)	700,00
(g) Amendment of registration: Persons in (b) wanting to perform activities contemplated in (a)	8 000,00
(h) Amendment of registration: Persons in (c) wanting to perform activities in (a)	11 200,00
(i) Amendment of registration: Persons in (c) wanting to perform activities contemplated in (b)	1 300,00
(j) Amendment of registration other than those in (g), (h) and (i)	1 500,00
(j) Procurement of interest in registrant in terms of section 61	800,00

D. Annual fees payable for registration are as follows:

<i>Kinds of Registration:</i>	<i>Annual registration fee with effect from 1 December 2017</i> R	<i>Annual board administration fee from 1 December 2017</i> R
Gambling device registration:		
(a) Roulette wheels (per wheel)	50,00	1 900,00

(b) Roulette tables (per table)	50,00	1 900,00
(c) Electronic player terminals linked to a table game (per terminal)	50,00	1 300,00
(d) Gambling tables other than roulette tables (per table)	150,00	3 000,00
(e) Multiplayer gambling machines (per machine)	150,00	2 500,00
(f) Single player gambling machines other than limited gambling machines (per machine)	50,00	1 300,00
(g) Limited gambling machines (per machine)	50,00	600,00
Section 61 registration:		
(a) Manufactures, importers, and distributors	250,00	14 800,00
(b) Creators, manufacturers, importers and distributors of computer software used in connection with gambling and betting	250,00	2 900,00
(b) Persons performing only tasks other than those contemplated with gambling and betting	-	1 300,00
Section 68 registration (per key person)	-	700,00
Section 69 registration (per gambling employee)	-	200,00

SCHEDULE III

PART A

Tax, Penalties and Interest

1. Definitions.-For the purpose of the various parts of this Schedule, unless the context indicates otherwise-"adjusted gross revenue" means-

- (a) except in regard to any game contemplated in paragraphs (b), (c), (d), (e) and (f), the total amount of all bets accepted in the Province and received by or accruing to a licence holder, including the face value of any credit instrument accepted less winnings paid out by a licence holder, and a bet shall in this instance be deemed to have been accepted by a licence holder at the licensed premises of such licence holder, if acceptance of the bet by the licence holder concludes the transaction;
- (b) in relation to any game in which the licence holder is not a party to a bet, all amounts received by or accruing to the licence holder as compensation for conducting such a game in the Province;
- (c) in relation to any table games, other than those contemplated in paragraph (b), conducted by a licence holder in the Province, the closing bankroll plus credit slips for cash, chips or tokens returned to the casino cashier, plus drop, plus the face value of coupons, less the opening bankroll and fills to the table;
- (d) in relation to gambling machines including limited gambling machines, other than those contemplated in paragraph (e) below operated by a licence holder in the Province, the drop, less fills to the machine and winnings paid out: Provided that the initial hopper load shall not constitute a fill and shall not affect the calculation of adjusted gross revenue;
- (e) in relation to gambling machines operated by a licence holder in the Province which are linked via a wide-area progressive system, the drop, less fills to the machine, less any contributions made by the licence holder which are payable in consequence of such wide-area progressive system in respect of such gambling machines during the tax period, and less any winnings paid out which are not recoverable from the central fill and shall not affect the calculation of adjusted gross revenue: Provided that the initial hopper load shall not constitute a fill and shall not affect the calculation of adjusted gross revenue: Provided further that where any surplus amount is distributed from the central fund to a licence holder or where any licence holder withdraws from a wide-area progressive system and in consequence of such distribution or withdrawal recovers or recoups during any tax period any contribution previously deducted under this paragraph, such contribution so recovered or recouped shall be included in the licence holder's adjusted gross revenue in the tax period in which the contribution is recovered or recouped; and
- (f) in relation to any bingo game the total amount of money staked by players on a bingo game, including participation fees, less the total amount returned to players by way of prizes.
[Definition of "adjusted gross revenue" substituted by s. 1 (a) (i) of Act 9 of 1997.]

"admissible deductions" means-

- (a) the amount of any debts due to the licence holder which have during the tax period become bad in

consequence of any form of insolvency referred to in the Insolvency Act, 1936 (Act No. 24 of 1936), on condition that such amount is included in the current tax period or was included in previous tax periods in the licence holder's adjusted gross revenue; and

- (b) the aggregate amount of any loss or losses sustained in a previous tax period or periods which has not previously been deducted under this paragraph: Provided that no such loss may be deducted by any licence holder against other taxable revenue derived in consequence of any other licence held by the licence holder;

[Definition of "admissible deductions" substituted by s. 1 (a) (ii) of Act 9 of 1997.]

"bankroll" means the total amount of cash and cash equivalents maintained at the licensed premises or immediately accessible from amounts on deposit at a licensee's financial institution;

"bookmaker's commitment" means the amount which a licensed bookmaker will have to pay out or which such bookmaker anticipates to pay out in respect of a bet or bets laid by such bookmaker, irrespective of the stakes held by such bookmaker in respect of such bet or bets;

[Definition of "bookmaker's commitment" inserted by s. 2 (a) of Act No. 7 of 2002.]

"central fund" means a central, common fund established in terms of a wide-area progressive system to ensure that adequate financial provision is made to pay jackpot winnings;

"contributions" means a payment made by a licence holder by virtue of his or her participation in a wide-area progressive system to the central fund of such system solely for the purpose of making financial provision for the payment of jackpot winnings;

"drop" means-

- (a) in relation to table games, other than those referred to in paragraph (b) of the definition of "adjusted gross revenue" the total amount of money, chips and tokens contained in the drop boxes; and
- (b) in relation to gambling machines, the total amount of money and tokens removed from the drop box, or for cash-less gambling machines, the amount deducted from player's slot accounts as a result of gambling machines play;

"drop box" means-

- (a) in relation to table games, a locked container permanently marked with the game, shift and number corresponding to a permanent number of the table, into which all currency exchanged for chips or tokens or credit instruments at the table and all other documents pertaining to transactions at the table must be placed; and
- (b) in relation to gambling machines, a container in a locked portion of the machine or its cabinet used to collect the money and tokens which are retained by the machine and are not used to make automatic payouts from the machine, which container is permanently marked with the number of the machine;

"fills" means-

- (a) in relation to table games, the issue of additional chips to the table; and
- (b) in relation to gambling machines, the replenishment of coins or tokens in the hopper;

"hopper" means a receptacle within a gambling machine which receives, until full, coins or tokens inserted into the machine and from which winnings are paid out if there are sufficient coins to do so;

"licence holder" means any person who holds a casino licence, a route operator licence, a totalisator licence, a bingo licence or a bookmaker licence issued under this Act, or who is required to be licensed as such in terms of this Act;

"mobile casino" means a casino which is situated in or on any form of conveyance or vehicle which moves between different localities, including, without being limited to, a motor vehicle, train or boat;

"month" means any calendar month;

"prescribed rate" in relation to any interest payable in terms of this Schedule, means-

- (a) in the case of interest payable in terms of the provisions of paragraph (1) (a) (ii) of Part C, a rate of two per cent for each month or part of a month contemplated in the said provision; or
- (b) in the case of interest payable in terms of the provisions of paragraph 6 (2) of Part C, a rate of twenty four per cent per annum;

or, in either case, such other rate as the responsible Member may from time to time fix by notice in the *Provincial Gazette*;

"progressive jackpot" means a prize that increases over time or as gambling machines that are linked to a progressive system are played. Upon conditions established by the board, a progressive jackpot may be paid by annuity;

"progressive system" means one or more gambling machines linked to one or more common progressive jackpots. A "local area progressive system" shall consist solely of gambling machines located at a single licensed establishment. A "wide area progressive system" may link gambling machines at multiple licensed establishments;

"table game" means any game played in a casino with playing cards, dice or any device other than a gambling

machine;

"take-back bet" means any bet taken by a licensed bookmaker with any other licensed bookmaker or licensed totalisator carrying on business within the Republic of South Africa, where such bet is solely for the *bona fide* purpose of covering the whole or any portion of the bookmaker's commitment in respect of any bet or bets laid or to be laid by such bookmaker, provided that any such bet or bets are taken on the outcome of the same event or contingency.

[Definition of "take-back bet" inserted by s. 2 (b) of Act No. 7 of 2002.]

"tax" means the gambling tax imposed in terms of section 57;

"taxable revenue" means adjusted gross revenue less admissible deductions as determined under this Act;

"winning bet" means any bet laid by a licensed bookmaker with any other person including any other licensed bookmaker where the other person or bookmaker who took the bet correctly predicted the result of the event or contingency or combination thereof in respect of which the bet was taken;

[Definition of "winning bet" inserted by s. 1 (a) (iii) of Act 9 of 1997.]

"winnings" means that total amount of-

- (a) any cash;
- (b) the monetary value stated on every token, chip, voucher or stamp redeemable for money or value;
- (c) the value of any credits won as a result of obtaining a winning result on a gambling device and transferred onto any smart card in a cashless gaming system;
- (d) the cost to the licence holder of any asset,

paid or granted by the licence holder to or for the benefit of any person as winnings in consequence of any stake accepted by the licence holder: Provided that where any winnings are paid out in the form of an annuity, only the amount of such annuity payment made by the licence holder or the cost of a purchased annuity, where such an annuity is purchased by the licence holder, may be excluded in the determination of adjusted gross revenue.

[Definition of "winnings" substituted by s. 2 (c) of Act No. 7 of 2002.]

PART B

Gambling Tax

1. The gambling tax payable in terms of section 57 by the holders of the undermentioned licences shall be calculated as follows, respectively:

Casino licence or Provisional Licence

- (a) In respect of the taxable revenue in any tax period, an amount of tax calculated in accordance with the table below:

<i>TAXABLE REVENUE</i>	<i>RATES OF TAX IN RESPECT OF CASINO LICENCE</i>
Where the taxable revenue in the tax period-	
does not exceed R4 million	3% of each R1 of the taxable revenue;
exceeds R4 million but does not exceed R8 million	R120 000 plus 5% of the amount by which the taxable revenue exceeds R4 million;
exceeds R8 million	R320 000 plus 10% of the amount by which the taxable revenue exceeds R8 million.

Route operator licence

- (b) In respect of the taxable revenue in any tax period an amount of tax calculated at the rate of 10% of each R1 of the taxable revenue.

Bingo licence

- (c) In respect of the taxable revenue in any tax period an amount of tax calculated at the rate of 10% of each R1 of the taxable revenue.

Totalisator licence

- (d) In respect of the taxable revenue in any tax period an amount of tax calculated at the rate of 10% for each R1 of the taxable revenue.

[Para. (d) substituted by s. 1 (b) (ii) of Act 9 of 1997 and by s. 26 of Act 6 of 1998.]

Bookmaker licence

- (e) (i) A total of 6% on winning bets payable as 3% to the Provincial Revenue Fund and 3% to be divided as prescribed between holders of race course licences in the Province shall be charged, levied and collected and shall be payable by every person who placed a winning bet on any event or contingency, including a horse race.
- (ii) The amount payable in terms of subparagraph (i) shall be calculated on the amount payable to such person excluding the amount staked in respect of such bet.
- (iii) The tax payable by any person in terms of paragraphs (i) and (ii) shall be deducted by the bookmaker who is liable to pay such person the sum on which such tax has become due and that bookmaker shall pay it over to the board for payment into the Provincial Revenue Fund and to the holder of race course licences as provided in subparagraph (i).
- (iv) For the purpose of this section "**person**" shall include a bookmaker who places a bet with another bookmaker.
- (v) A bookmaker liable to deduct and pay over tax in terms of subparagraph (iii) may deduct from the amount to be paid to the board in terms of subparagraphs (i), (ii) and (iii) all gambling tax which such bookmaker can prove was deducted from the amount won by such bookmaker in respect of betting tax on a valid take-back bet placed by such bookmaker-

(i) with a licensed bookmaker in the Republic; and

(ii) which was deductible in terms of a law relating to gambling and betting:

Provided that the amount which can be deducted in terms of this subparagraph shall not exceed the amount of gambling tax collected by such bookmaker on the winning bets the relevant take-back bet was intended to cover.

[Item 1 amended by s. 1 (b) (i) of Act No. 9 of 1997, para. (e) substituted by s. 1 (b) (iii) of Act No. 9 of 1997, by s. 37 (a) of Act No. 3 of 2000 and by s. 3 of Act No. 7 of 2002.]

Tax Period

2. (1) The tax period shall be a period of one month, ending on the last day of each of the twelve months of the calendar year: Provided that any tax period may, subject to the prior written approval of the responsible Member, end within 5 days before or after such last day: Provided further that the first tax period of any licence holder shall commence on the date on which such licence holder becomes licensed under this Act or on the date on which he or she would have become so licensed had he or she qualified for licensing.

(2) Notwithstanding the provisions of subitem (1), the tax period for the holder of a bookmaker licence shall be one week ending at 23h59 on the Sunday of each week.

[Item 2 substituted by s. 37 (b) of Act No. 3 of 2000.]

Returns and payment of tax

3. (a) Every licence holder shall, within 10 days after the end of a tax period relating to such licence holder furnish the chief executive officer with a return (in such form as the chief executive officer may require) reflecting such information as may be required for the purpose of the calculation of the licence holder's tax, whether or not tax is payable.

(b) If tax is payable it shall accompany such return.

PART C

Penalty and interest for failure to pay tax or fee when due

1. (1) (a) If any licence holder who is liable for the payment of tax or a fee fails to make such payment in the prescribed manner, the licence holder shall, in addition to such amount of tax or fee, be liable for-

- (i) a penalty equal to one percent of the said amount of tax or fee per day or part thereof that the amount remains outstanding: Provided that the maximum penalty shall not exceed one hundred percent of the said amount of tax or fee; and
- (ii) where payment of the said amount of tax or fee is made after the first day following the period allowed for payment of the tax or fee, interest on the said amount of tax or fee, shall be calculated daily at the prescribed rate until the date on which payment is received by the chief executive officer.

(b) Where any amount of tax has, in relation to any tax period of any licence holder, been refunded to the licence holder in the prescribed manner or has in relation to that period been set off against unpaid tax as prescribed and such an amount was in whole or in part not properly refundable to the licence holder, so much of such amount as was not properly so refundable shall for the purposes:

- (i) of paragraph (a) (i), if the repayment was made due to a fraudulent representation by the licence holder, be deemed to be an amount of tax required to be paid by the licence holder within the said period; and
- (ii) of paragraph (a) (ii), be deemed to be an amount of tax required to be paid by the licence holder.

(2) If the said amount of tax or fee is not paid within forty-five days after the date the said tax period ended, the chief executive officer shall give the licence holder fourteen days written notice to effect payment of the said tax or fee, and if such tax or fee is not paid prior to the expiration of the said fourteen days, the board may suspend or

revoke the licence of the said licence holder.

(3) Where the chief executive officer is satisfied that the failure on the part of any licence holder to make payment of the tax or fee by due date was not due to an intent to avoid or postpone liability for the payment of the tax, the chief executive officer may remit in whole or in part any penalty payable in terms of this paragraph: Provided that the decision of the chief executive officer will be subject to objection and appeal.

Estimated Assessments

2. (1) In every case in which a licence holder makes default in furnishing any return or information, or the chief executive officer is not satisfied with the return or information furnished by the licence holder, the chief executive officer may estimate either in whole or in part the taxable revenue in relation to which the return or information is required.

(2) Any such estimate of the taxable revenue shall be subject to objection and appeal: Provided that if it appears to the chief executive officer that a licence holder is unable from any cause to furnish an accurate return of his or her revenue, the chief executive officer may agree with such a licence holder as to what amount of such revenue shall be taxable revenue and any amount so agreed upon shall not be subject to any objection or appeal.

Recovery of tax

3. (1) Any amount of tax, fee, penalty or interest payable in terms of this Act shall, when it becomes due and payable, be a debt due to the Province and shall be recoverable for the benefit of the Provincial Revenue Fund by the chief executive officer as hereafter provided.

(2) (a) If any licence holder fails to pay any tax, fee, penalty or interest in terms of this Act when due or payable, the chief executive officer may after demand, file with the clerk or registrar of any competent court a certified statement setting forth the amount due or payable by that licence holder, and such statement shall thereupon have all the effect of a civil judgement lawfully given in that court in favour of the chief executive officer for a liquid debt of the amount specified in the statement.

(b) The chief executive officer may by notice in writing addressed to the aforesaid clerk or registrar withdraw the statement referred to in paragraph (a), and such statement shall thereupon cease to have any effect: Provided that the chief executive officer may institute proceedings afresh under that paragraph in respect of any tax, fee, penalty or interest referred to in the withdrawn statement.

(c) The chief executive officer may institute proceedings for the liquidation of any company or close corporation or the sequestration of the estate of any person and shall for the purposes of such proceedings be deemed to be a creditor in respect of any tax, fee, penalty or interest by such licence holder under a provision of this Act.

(3) Notwithstanding anything contained in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), a statement for any amount whatsoever may be filed in terms of paragraph (2) (a) with the clerk of the magistrates' court having jurisdiction in respect of the licence holder by whom such amount is payable in accordance with the provisions of this Act.

(4) Where, in addition to any tax or fee which is due or payable by any licence holder in terms of this Act, any interest or penalty is payable by the licence holder in terms of paragraph 1 (1), any payment made by the licence holder which is less than the total amount due shall, for the purposes of this Act, be deemed to be made-

- (a) in respect of such penalty;
- (b) to the extent that such payment exceeds the amount of such penalty, in respect of such interest; and
- (c) to the extent that such payment exceeds the sum of the amounts of such penalty and interest, in respect of such tax or fee.

(5) It shall not be competent for any licence holder in proceedings in connection with any statement filed in terms of paragraph (2) (a) to question the correctness of any assessment upon which such statement is based, notwithstanding that an objection and appeal may have been lodged against such assessment.

(6) Any Common Law remedies normally applicable in these circumstances, are not excluded by this section.

Objections to certain decisions or assessments

4. (1) Any person who is dissatisfied with any decision given in writing by the chief executive officer or any assessment made upon him or her under the provisions of this Act, may lodge an objection thereto with the chief executive officer.

(2) Every objection shall be in writing and shall specify in detail the grounds upon which it is made.

(3) No objection shall be considered by the chief executive officer which is not delivered at his office or posted to him or her in sufficient time to reach him or her within 30 days after the date on which notice of any decision or assessment against which such objection is lodged was given by the chief executive officer, unless the chief executive officer is satisfied that reasonable grounds exist for delay in lodging the objection: Provided that any decision of the chief executive officer in the exercise of his or her discretion under this subsection shall be subject to objection and appeal.

(4) After having considered the objection, the chief executive officer may-

- (a) alter any decision pursuant thereto; or
- (b) alter or reduce any assessment pursuant thereto; or
- (c) disallow the objection,

and shall send to the objector a written notice, setting out the reasons of such alteration, reduction or disallowance, as the case may be.

(5) Where no objection is lodged against any decision or assessment by the chief executive officer, or where any objection has been disallowed or withdrawn or any decision has been altered or any assessment has been altered or reduced, as the case may be, such decision or altered decision to such assessment or altered or reduced assessment, as the case may be, shall, subject to the right of appeal hereinafter provided, be final and conclusive.

Appeals to special court

5. (1) An appeal against any decision or assessment of the chief executive officer, as notified in terms of section 5 (4), shall lie to the special court constituted under the provisions of section 83 of the Income Tax Act, 1962 (Act No. 58 of 1962) for the Province of the Eastern Cape for hearing income tax appeals.

(2) Every appeal shall be by way of a notice in writing and shall be lodged with the chief executive officer within 30 days after the date of the notice mentioned in section 5 (4): Provided that the chief executive officer may, on good cause shown, condone any delay in the lodging of any such notice of appeal within the said period: Provided further that any decision of the chief executive officer in the exercise of his discretion under this subsection shall be subject to objection and appeal.

(3) At the hearing of any appeal to the special court-

- (a) the appellant shall be limited to the grounds of objection stated in the notice of objection referred to in section 5 (2) unless the chief executive officer agrees to the amendment of such grounds or the appellant, on good cause shown prior to or at such hearing, is given leave by the special court to amend such grounds of objection within a reasonable period and on such terms as to any postponement of such hearing and costs which may result from such postponement as the court may order;
- (b) the special court may inquire into and consider the matter before it and may confirm, cancel or vary any decision of the chief executive officer under appeal or make any other decision which the chief executive officer was empowered to make at the time the chief executive officer made the decision under appeal or, in the case of any assessment, order that assessment to be altered, reduced or confirmed or, if it thinks fit, refer such matter back to the chief executive officer for further investigation and reconsideration in the light of principles laid down by the court.

(4) The provisions of section 83 (8), (9), (10), (11), (12), (14), (15), (16), (17), (18) and (19), 84 and 85 of the Income Tax Act, 1962 (Act No. 58 of 1962) and any regulations under that Act relating to any appeal to the special court shall *mutatis mutandis* apply with reference to any appeal under this section.

Payment of tax or fee pending appeal

6. (1) The obligation to pay and the right to receive and recover any tax or fee chargeable under this Act shall not, unless the chief executive officer so directs, be suspended by any appeal or a decision pending before a court of law.

(2) If any assessment is altered on appeal or in conformity with any decision referred to in paragraph (1) or a decision by the chief executive officer to concede the appeal to the board, a due adjustment shall be made, amounts paid in excess being refunded with interest at the prescribed rate, calculated from the date proved to the satisfaction of the chief executive officer to be the date on which such excess was received, and amounts short-paid being recoverable with interest calculated as provided in paragraph 1 (1), and provided that the short payment is due to fraudulent representation by the licence holder, penalties calculated as provided for in paragraph 1 (1).

Offences and penalties in regard to evasion of tax or fees

7. (1) Any person who with intent to evade payment of any tax or fee levied under this Act, or to obtain a refund of any tax or fee to which such person is not entitled or with intent to assist any other person to evade the payment of tax or fee payable by such other person or to obtain a refund of any tax under this Act to which such other person is not entitled-

- (a) makes or causes or permits to be made any false statement or entry in any return rendered in terms of the regulations or signs any statement or return so rendered without reasonable grounds for believing such statement or return to be true;
- (b) gives any false answer, whether verbally or in writing, to any request for information made by the chief executive officer or any person duly authorised by the chief executive officer;
- (c) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or authorises the falsification of any books of account or other records;
- (d) makes any false statement for the purpose of obtaining a refund of any tax or fee; or
- (e) makes use of any fraud, art or contrivance whatsoever, or authorises the use of such fraud, art or contrivance,

shall be guilty of an offence and liable on conviction by a court of law to a fine not exceeding two million rand or imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Whenever, in any proceedings under this paragraph, it is proved that any false statement or entry has been made by or on behalf of any person in any books of account or other records of any person, that person shall be presumed, unless the evidence raises a reasonable doubt, to have made that false statement or entry or to have caused or permitted that false statement or entry to be made in any return rendered under the regulations

with the intent to evade the payment of tax or fee or to obtain a refund of any tax or fee to which the person is not entitled, as the case may be, and any other person who made any such false statement or entry shall be presumed, unless the evidence raises a reasonable doubt, to have made such false statement or entry with intent to assist the first-mentioned person to evade the payment of such tax or fee or to obtain a refund of such tax or fee to which he or she is not entitled.

(3) A conviction for an offence in terms of this paragraph shall not exempt the person convicted from the payment of any tax, fee, penalty or interest payable in accordance with the provisions of this Act.

Schemes for obtaining undue tax benefits

8. (1) Notwithstanding any provision of this Act, whenever the chief executive officer is satisfied that any scheme-

- (a) has been entered into or carried out which has the effect of granting a tax benefit to any person; and
- (b) having regard to the substance of the scheme-
 - (i) was entered into or carried out by any means or in a manner which would not normally be employed for genuine business purposes other than the obtaining of a tax benefit; or
 - (ii) has created rights or obligations which would not normally be created between persons dealing at arm's length; and
 - (iii) was entered into or carried out solely or mainly for the purpose of obtaining a tax benefit;

he or she shall determine the liability for any tax imposed under this Act and the amount thereof as if the scheme had not been entered into or carried out, or in such manner as in the circumstances of the case he or she deems appropriate for the prevention or diminution of such tax benefit.

(2) For the purpose of this paragraph-

"scheme" includes any transaction, operation, scheme or understanding (whether enforceable or not), including all steps and transactions by which it is carried into effect; and

"tax benefit" includes-

- (a) any reduction in the liability of any person to pay any tax or fee imposed by this Act;
- (b) any increase in the entitlement of any person to a refund of any tax or fee imposed by this Act; or
- (c) any other avoidance or postponement of liability for the payment of any tax or fee imposed by this Act.

(3) Any decision by the chief executive officer under this paragraph shall be subject to objection and appeal, and whenever in proceedings relating thereto it is proved that the scheme concerned does or would result in a tax benefit, it shall be presumed, until the contrary is proved, that such a scheme was entered into or carried out solely or mainly for the purpose of obtaining a tax benefit.

Tax agreements

9. (1) The responsible Member may enter into an agreement with the provincial government of any other province whereby arrangements are made with that government with a view to-

- (a) the prevention, mitigation or discontinuance of the levying of gambling tax or any similar tax under this Act and the laws of such other province, if the gambling operations are subject to such other tax in either the Province or such other province and such operations are also subject to tax in the other province which is a party to the agreement;
- (b) the regulation or co-ordination of any matter with regard to the levying and collection under this Act and the laws of such other province of gambling tax or any similar tax; or
- (c) the rendering of reciprocal assistance in the administration and collection of gambling tax or any similar tax under this Act and the laws of such other province, or in respect to the execution of the arrangements provided for in any agreement entered into in terms of this paragraph.

(2) As soon as may be possible after the conclusion of any such agreement, the arrangement thereby made shall be notified by the responsible Member by notice in the *Provincial Gazette*, whereupon, until such notice is withdrawn by the responsible Member, the arrangements notified therein shall, in relation to gambling tax in the Province, have effect as if enacted by this Act.

(3) The responsible Member may at any time withdraw any such notice by notice in the *Provincial Gazette*, and the arrangement notified in such earlier notice shall cease to have effect upon a date fixed in such later notice, but withdrawal of any notice shall not affect the validity of anything previously done thereunder.

(4) As soon as may be possible after the publication in the *Provincial Gazette* of any notice under this paragraph, copies thereof shall be tabled in the Provincial Legislature.

(5) The duty imposed by any law to preserve secrecy with regard to such tax shall not prevent the disclosure to any authorised officer of the Province mentioned in any notice issued in terms of paragraph (2) of any information necessary for the proper execution of the agreement notified in such notice.

Treatment of cross-border transactions

10. Where any person derives adjusted gross revenue from conducting any gambling activities in any mobile

casino which crosses the border of the Province, the tax liability of such person shall be determined in terms of any tax agreement entered into with any other province under paragraph 9: Provided that where no tax agreement is applicable, the tax liability of the person shall be determined by the chief executive officer in terms of section 57, which determination shall be subject to objection and appeal.

SCHEDULE IV

[Schedule IV substituted by s. 2 of Act 9 of 1997.]

Tax on betting (section 57)

Any taxes, duties or levies payable in terms of the Ordinance and not referred to in Schedule III shall be calculated, administered and paid by the holder of a totalisator licence, race course licence or bookmaker licence, including any licence deemed in terms of this Act to be either of such last-mentioned licences, until 10 May 1999, as if the relevant provisions of that Ordinance (and any regulations) had not been repealed: Provided that any amounts which in terms of the Ordinance (and any regulation issued in terms thereof) would be payable to the Horse Racing Industry Development Fund, established by section 11A of the Ordinance by the holder of a totalisator licence, a race course licence, bookmaker licence or a licence deemed to be any one of such licences shall be paid to the East Cape Racing Club.