

Certified correct as passed by the
Northern Cape Provincial Legislature

Secretary to the Legislature

NORTHERN CAPE PROVINCE

NORTHERN CAPE GAMBLING ACT, 2008 (ACT NO. 3 OF 2008)

The ENGLISH text of this Act has been assented

to by me on 26th NOVEMBER 2008

Peters
CHIEF MINISTER, NORTHERN CAPE PROVINCE

ACT

To provide for the establishment of a Gambling Board, for the licensing of persons conducting gambling and betting and for the certification of persons engaged in gambling, betting and the manufacture and sale of gambling machines and gambling devices; to provide for hearings, investigations and enquiries; to provide for the restriction, regulation and control of gambling and betting; to provide for fees for applications and investigations; to repeal certain legislation pertaining to gambling and betting; and to provide for matters connected therewith.

PREAMBLE

WHEREAS gambling and racing can contribute substantially to the economy of the Northern Cape Province and to the welfare of its inhabitants;

AND WHEREAS the growth and success of gambling and racing are dependent on public confidence and trust that gambling and racing are conducted transparently, honestly and competitively and free from criminal or corruptive elements;

AND WHEREAS it is recognized that public confidence and trust of the inhabitants of the Province are dependent upon the strict regulation of all persons, premises, practices, associations and activities relating to gambling and racing;

AND WHEREAS it is recognized that opportunities for gambling, betting and racing entail particular risks to the inhabitants of the Province which justify the imposition of appropriate restrictions, regulations and controls;

AND WHEREAS no applicant for a license or for an approval in respect of gambling or racing has any right to a license or approval;

BE IT THEREFORE enacted by the Provincial Legislature of the Northern Cape Province, as follows:-

ARRANGEMENT OF ACT

Chapter I DEFINITIONS

Section

1. Definitions

Chapter II
NORTHERN CAPE GAMBLING BOARD

Section

2. Establishment of Northern Cape Gambling Board
3. Composition of the Board
4. Term of office of members of Board
5. Eligibility to serve on the Board
6. Conflicting interests
7. Removal from office
8. Meetings of the Board
9. Committees of Board
10. Staff of Board and remuneration
11. Remuneration of members of Board
12. Delegation
13. Finances
14. Accountability, audits and reports
15. Powers and functions of the Board

Chapter III
HEARINGS, INVESTIGATIONS AND ENQUIRIES

16. Powers and procedure for hearings and investigations
17. Investigation costs in respect of licenses or certificates
18. Enforcement enquiries
19. Witnesses and evidence

Chapter IV
LICENSING AND APPROVAL

20. Right to conduct gambling
21. Kinds of licenses and limitations
22. National licenses
23. Disqualifications and restrictions for licenses
24. Disqualification after license issued
25. Acquisition of interest by disqualified person
26. Decisions of the Board
27. Further applications
28. Licensing procedure
29. Hearing of application for license
30. Procedure provided for by National Gambling Act to take precedence
31. Economic and social development issues to be considered
32. Competition issues to be considered
33. State interests

Section

- 34. License requirements
- 35. External probity reports
- 36. License criteria, categories and conditions
- 37. Renewal of licenses
- 38. Suspension or revocation of license
- 39. Transfer and removal of license and acquisition of certain interest in licensee
- 40. Duty to produce and display licenses
- 41. License application and annual license fees
- 42. Death, insolvency or incapability of a licensee

Chapter V SPECIFIC LICENSES

- 43. Casino operator license
- 44. Junket agent license
- 45. Route operator license
- 46. Site operator license
- 47. Independent site operator license
- 48. Bingo operator license
- 49. Horse racing license
- 50. Bookmaker license
- 51. Totalisator operator license

Chapter VI GAMBLING EMPLOYEES

- 52. Disqualification for employment certificates
- 53. Key employee certificate
- 54. Gambling employee certificate
- 55. Notice of termination of service
- 56. Bookmaker's manager and bookmaker's clerk certificate
- 57. Suspension or revocation of certificate of employment
- 58. Temporary employment certificates
- 59. Restrictions applicable to employees

Chapter VII OPERATIONAL MATTERS

- 60. Monitoring systems
- 61. Collateral security
- 62. Restriction of betting through agent and unlawful inducement to bet
- 63. Rules of gambling games
- 64. Availability of rules
- 65. Gambling devices
- 66. Standards for gambling devices

Section

- 67. Books, accounts and records
- 68. Restrictions on advertising and promotion of gambling activities and granting of discount
- 69. Restrictions on granting credit to gamblers
- 70. Approval of certain contracts
- 71. Non-compliance

Chapter VIII
ENFORCEMENT AND OFFENCES

- 72. Appointment of inspectors by Board
- 73. Powers and functions of inspectors
- 74. Reward for informers
- 75. Control of entry to certain premises
- 76. Offences and penalties

Chapter IX
PROHIBITED GAMBLING, RESTRICTED ACTIVITIES AND
STATUS OF GAMBLING DEBTS

- 77. Gambling in relation to illegal activities unlawful
- 78. Unlicensed gambling activities unlawful
- 79. Unlicensed dealing in machines and devices unlawful
- 80. Unlicensed use of premises unlawful
- 81. Protection of minors
- 82. Enforceability of gambling debts and forfeiture of unlawful winnings
- 83. Cheating and cheating devices
- 84. Prohibition of gambling by persons concerned with gambling business

Chapter X
GAMBLING ACTIVITIES

- 85. Gambling activities generally
- 86. Bets and wagers
- 87. Gambling games
- 88. Pay-out and opportunity to play further game

Chapter XI
GENERAL AND TRANSITIONAL PROVISIONS

- 89. Regulations
- 90. Compliance with certain laws a condition of license
- 91. Repeal of laws
- 92. Transitional provisions
- 93. Short title and commencement

Chapter I DEFINITIONS

Definitions

1. In this Act, unless the context otherwise indicates - 5
- “**amusement game**” means a game that has a restricted prize;
- “**amusement machine**” means a machine or device on which an amusement game may be played; 10
- “**applicant**” means any person who, or entity which requests the Board or any of its members, officers, appointees or delegates to exercise a power, and in the case of a company, corporation, association, partnership or trust, includes each director, member, partner, beneficiary or trustee thereof; 15
- “**associate**” means –
- (a) an employer; 20
 - (b) a partner in terms of a partnership agreement;
 - (c) a co-shareholder of a private company contemplated in section 20 of the Companies Act, 1973 (Act No. 61 of 1973);
 - (d) a co-member of a close corporation contemplated in section 2 of the Close Corporations Act, 1984 (Act No. 69 of 1984); or 25
 - (e) a person to whom another person has granted or from whom another person has received a general power of attorney;
- “**authorized officer**” means a person authorized by delegation in terms of section 12; 30
- “**bingo**” means a game, including a game played in whole or in part by electronic means -
- (a) that is played for consideration, using cards or other devices – 35
 - (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; 40
 - (b) in which an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match each such number, picture or symbol on the card or device as it is called or displayed; and 45

- (c) in which the player who is first to match all the spaces on the card or device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize,
- or any other substantially similar game declared to be bingo in terms of section 6(4) of the National Gambling Act; 5
- “bingo operator license”** means any license contemplated in section 48;
- “Board”** means the Northern Cape Gambling Board established by section 2; 10
- “bookmaker”** means any person who directly or indirectly lays or takes fixed-odds, bets or open bets with members of the public or takes such bets with other bookmakers; 15
- “bookmaker license”** means any license contemplated in section 50;
- “casino”** means premises where gambling games are played, or are available to be played, but does not include premises in which – 20
- (a) only bingo and no other gambling game is played or available to be played;
- (b) only limited pay-out machines are available to be played; or
- (c) limited pay-out machines and bingo, but no other gambling game are played or available to be played; 25
- “casino operator license”** means any license contemplated in section 43;
- “chairperson”** means a person appointed as chairperson of the Board in terms of section 3(5); 30
- “chief executive officer”** means the chief executive officer of the Board appointed in terms of section 10(1)(a);
- “Companies Act”** means the Companies Act, 1973 (Act No. 61 of 1973); 35
- “Competition Act”** means the Competition Act, 1998 (Act No. 89 of 1998);
- “consideration”** means –
- (a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar object; or 40
- (b) any other thing, undertaking, promise, agreement or assurance, regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly; 45

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“designated area” –

- (a) in relation to a site, means an area at that site in which any limited pay-out machine is authorized to be played; and 5
- (b) in any other case, means an area within licensed premises where any gambling game is available to be played; 10

“electronic monitoring system” means an electronic or computer or communications system or device that is so designed that it may be used or adapted to send or receive data concerned with gambling, including but not limited to, data from gambling machines in relation to the security, accounting or operation of gambling machines; 15

“event or contingency” means any occurrence of which the outcome is uncertain or unknown to any person until it happens;

“excluded person” means a person who has been registered as such in terms of section 14 of the National Gambling Act in order to be prevented from engaging in any gambling activity; 20

“Executive Council” means the Executive Council of the Province contemplated in section 132 of the Constitution; 25

“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; 30

“Financial Intelligence Centre Act” means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), and the regulations made in terms of that Act; 35

“financial interest” means –

- (a) a right or entitlement to share in profits or revenue;
- (b) a real right in respect of property of a company, corporation or business;
- (c) a real or personal right in property used by a company, corporation or business; or 40
- (d) a direct or indirect interest in the voting shares, or voting rights attached to shares, of a company or an interest in a close corporation;

“fixed-odds bet” means a bet on one or more contingencies in which odds are agreed at the time the bet is placed; 45

- “**gambling activity**” means any activity described as such in section 85;
- “**gambling device**” means equipment or any other thing that is used, or at the time of its manufacture was designed to be used, in determining the result of a gambling activity; 5
- “**gambling employee certificate**” means a certificate contemplated in section 54;
- “**gambling game**” means an activity described as such in section 87; 10
- “**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 15
 - (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;
- “**independent site operator license**” means a license contemplated in section 47; 20
- “**inspector**” means an inspector appointed under section 72;
- “**junket agent license**” means a license contemplated in section 44;
- “**key employee certificate**” means a certificate contemplated in section 53; 25
- “**license**” means a license referred to in section 21(1);
- “**licensed premises**” means any premises in or on which gambling or racing or any related activity is conducted under a license in terms of this Act; 30
- “**limited pay-out machine**” means a gambling machine with a restricted prize, described in section 26 of the National Gambling Act;
- “**municipality**” means a municipality contemplated in section 8, 9 or 10 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); 35
- “**National Gambling Act**” means the National Gambling Act, 2004 (Act No. 7 of 2004) or a regulation made under that Act; 40
- “**National Gambling Board**” means the National Gambling Board retained and constituted by Part B of Chapter 4 of the National Gambling Act;
- “**National license**” means a license issued in terms of the National Gambling Act;

“open bet” means –

- (a) a bet, other than a totalisator bet, taken by a bookmaker on one or more contingencies, in which no fixed-odds are agreed at the time the bet is placed; or 5
- (b) a bet in respect of which the pay-out 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; 10

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

“person” includes a partnership, association, trust or a juristic person established by or in terms of any law; 15

“political office-bearer” means –

- (a) a member of the National Assembly or the National Council of Provinces or the Cabinet;
- (b) a member of a provincial legislature; 20
- (c) a diplomatic representative of the Republic who is not a member of the public service;
- (d) a member of a house or council of traditional leaders;
- (e) a member of a local government body; or
- (f) a national or provincial office-bearer of any political party; 25

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

“prescribed” means prescribed by regulation in terms of this Act; 30

“prize” means any prize or benefit or anything of value, which is offered to be won in a gambling activity in terms of this Act, including any movable or immovable property and any cash prize; 35

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

“Province” means the Northern Cape Province as referred to in section 103 of the Constitution; 40

“Provincial Legislature” means the Provincial Legislature of the Province as contemplated in section 104 of the Constitution;

“public servant” means a person employed within an organ of state, or within a court, or a judicial officer; 45

“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 horse racing license; and 5

(b) any race or contest of a private nature at which no betting takes place; 10

“register of excluded persons” means the register required to be maintained by the National Gambling Board in terms of section 14 of the National Gambling Act;

“regulatory authority” means the Board or the National Gambling Board; 15

“responsible Member” means the Member of the Executive Council of the Province responsible for gambling matters;

“restricted gambling activity” means a gambling activity other than an informal bet; 20

“route operator license” means a license contemplated in section 45;

“rules” means the rules made by the Board in terms of section 63; 25

“site” means premises at which one or more limited pay-out machines are placed and made available for play by the holder of a site operator license;

“site operator license” means a license contemplated in section 46; 30

“spouse” means a person’s –

- (a) partner in a marriage or civil union;
- (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; 35

“temporary license” means any license contemplated in section 36(2)(b);

“this Act” includes any regulation or rule made or issued under it; 40

“totalisator operator license” means a license contemplated in section 51; and

“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. 45

Chapter II NORTHERN CAPE GAMBLING BOARD

Establishment of Northern Cape Gambling Board

2. There is hereby established a juristic person to be known as the Northern Cape Gambling Board to control and regulate, subject to this Act, the National Gambling Act or any other law activities related to racing, gambling and wagering in the Province.

5

Composition of the Board

10

3. (1) The Board consists of no more than 8 members appointed by the responsible Member, with due regard to women and disabled persons, of whom –

15

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

20

- (b) one member must be qualified as an accountant or auditor in the Republic and has, for a cumulative period of at least five years after having so qualified, practised as an accountant or auditor;

25

- (c) not more than three members must, with due regard to regional, social, religious and other community interest in the Province –

- (i) have proven business acumen or applicable knowledge or experience in the field of community and socio-economic development; and

30

- (ii) be fit and proper to represent the community at large; and

35

- (d) not more than three must be appointed by virtue of their proven business acumen and knowledge of the gambling industry.

- (2) The –

40

- (a) chief executive officer;

- (b) police officer, designated from time to time by the provincial commissioner to represent the police service;

45

- (c) officer designated by the Provincial Department of Economic Affairs to represent that department; and

- (d) officer designated by the Provincial Department of Social Services and Population Development to represent that department,

are entitled to be present and take part in the discussions at meetings of the Board, but are not members of the Board and may not vote at such meetings. 5

- (3) A member contemplated in subsection (1) may be appointed only after the responsible Member has, by notice in the *Provincial Gazette* and in not less than two newspapers circulating in the Province, invited interested parties to nominate persons suitable for appointment as members of the Board. 10

- (4) Members appointed in terms of subsection (1) are non-executive members of the Board. 15

- (5) The responsible Member appoints a member of the Board as chairperson and another member as deputy chairperson.

- (6) The chairperson presides at all meetings of the Board and the deputy chairperson presides at meetings in the absence of the chairperson. 20

- (7) Before being appointed a member of the Board the candidate must submit to the responsible Member an affidavit in which such candidate declares that he or she – 25

(a) is eligible for such appointment; and

(b) is not disqualified in terms of this Act from such appointment.

- (8) The responsible Member is at any time entitled to call for proof to his or her satisfaction of the continued eligibility of any member or prospective member of the Board, or to undertake or cause to be undertaken any investigation or enquiry in that regard. 30

Term of office of members of Board 35

4. (1) A member of the Board may be appointed for a term not exceeding 3 years and may be reappointed at the lapse of the initial term.

- (2) No person may be appointed as a member of the Board for more than two terms. 40

Eligibility to serve on the Board

5. (1) To be eligible for appointment as a member of the Board, and to continue to hold that office, a person must –
 - (a) be a natural person; 5
 - (b) not be subject to any disqualification set out in subsection (2);
 - (c) have submitted to the responsible Member a written declaration stating that – 10
 - (i) the person is not disqualified in terms of subsection (2); and
 - (ii) the person does not have any interests referred to in subsection (2)(c); and 15
 - (d) be a citizen of the Republic and ordinarily residing in the Province.
- (2) A person may not be a member of the Board if that person – 20
 - (a) is a political office-bearer;
 - (b) is listed in the register of excluded persons in accordance with section 14 of the National Gambling Act; 25
 - (c) personally or through a spouse, partner or associate –
 - (i) has or acquires a direct or indirect financial interest in a license issued in terms of this Act, or in premises used for an activity that must be licensed in terms of this Act; or 30
 - (ii) has or acquires an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of a member of the Board; 35
 - (d) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;
 - (e) was once, or is removed from an office of trust on account of misconduct; 40
 - (f) is subject to an order of a competent court holding that person to be mentally deranged;

- (g) within the previous ten years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) or an offence involving dishonesty; or 5
- (h) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine. 10
- (3) For the purpose of subsection (2)(c), a financial interest does not include an indirect interest held in any fund or investment if the person contemplated in that subsection has no control over the investment decisions of that fund or investment. 15
- (4) The provisions of subsections (1), (2) and (3), read with the changes required by the context, apply to any official referred to in section 3(2). 20

Conflicting interests

- 6. (1) A member of the Board must promptly inform the responsible Member in writing after acquiring an interest that is, or is likely to become, an interest contemplated in section 5(2)(c)(ii). 25
- (2) A member of the Board must not - 30
 - (a) engage in any activity that may undermine the integrity of the Board;
 - (b) attend, participate in or influence the proceedings during a meeting of the Board, if, in relation to the matter before the Board, that member has an interest - 35
 - (i) contemplated in section 5(2)(c)(ii); or
 - (ii) that precludes the member from performing the duties of a member of the Board in a fair, unbiased and proper manner; 40
 - (c) vote at any meeting of the Board in connection with a matter contemplated in paragraph (b);

- (d) make private use of, or profit from, any confidential information obtained as a result of performing that person's duties as a member of the Board; or
- (e) divulge any information referred to in paragraph (d) to any third party, except as required as part of that person's official functions as a member of the Board. 5
- (3) If, at any time, it appears to a member of the Board that a matter before the Board concerns an interest of that member referred to in subsection (2)(b), the member must - 10
 - (a) immediately and fully disclose the nature of that interest to the meeting; and 15
 - (b) withdraw from the meeting to allow the remaining members to discuss the matter and determine whether the member should be prohibited from participating in any further proceedings concerning that matter. 20
- (4) A disclosure by a member in terms of subsection (3)(a) and the decision by the Board in terms of subsection (3)(b) must be expressly recorded in the minutes of the meeting at which the disclosure is made. 20
- (5) The provisions of subsections (1), (2), (3) and (4), read with the changes required by the context, apply to any official referred to in section 3(2). 25

Removal from office

- 7. (1) The responsible Member may, by written notice, remove any member of the Board from office - 30
 - (a) on the grounds of misconduct or incompetence;
 - (b) if the member becomes subject to a disqualification contemplated in section 5(2); 35
 - (c) if the member is absent from more than two meetings of the Board in one year without sound reason, or, in the case of absence due to medical reasons, without presenting a valid medical certificate, 40
- and inform the Board accordingly.

- (2) A decision to remove a member of the Board on the grounds of misconduct or incompetence must be based on a finding to that effect by an investigating tribunal appointed by the responsible Member.
- (3) A notice contemplated in subsection (1) must state the reasons for the removal of the member. 5
- (4) The responsible Member may at any time disband the Board if he or she is, on reasonable grounds, convinced that the Board is not functioning properly or that it will be in the community's or public interest to do so. 10

Meetings of the Board

- 8. (1) The chairperson may determine the date, time and place for the first meeting of the Board, and the chairperson, in consultation with the Board, may determine the date, time and place for each subsequent meeting. 15
- (2) The chairperson, in consultation with the Board, may determine procedure at meetings of the Board, after due consideration of the principles of openness and transparency. 20
- (3) A majority of the members of the Board contemplated in section 3(1) is a quorum for a meeting of the Board.
- (4) The Board must attempt to reach its decision by consensus. 25
- (5) If the Board is unable to reach a consensual decision in any matter before it, the Board may resolve the matter by a simple majority vote on a motion.
- (6) Each member present at a meeting has 1 vote on any matter before the Board, and in the event of a tie of votes, the chairperson has a casting vote. 30
- (7) Subject to subsections (4) and (5), the Board may establish rules for its own proceedings. 35
- (8) The chief executive officer must take minutes or cause minutes to be taken at meetings of the Board.
- (9) Minutes of the proceedings of meetings of the Board must be retained at the offices of the Board and must be open to the public for inspection. 40
- (10) No person who has access to any information classified by the Board as confidential, may, without permission of the Board, divulge such information.

- (11) If a particular person is able to assist the Board in the consideration of a particular matter, the Board may co-opt that person for that purpose.
- (12) A person so co-opted is not entitled to vote at any meeting of the Board or a committee of the Board. 5
- (13) The Board must meet at least once every 3 months to, amongst other things, consider the report referred to in section 14(3).
- (14) The responsible Member may call a meeting of the Board if the Board fails to comply with subsection (13). 10
- (15) The chairperson must call an extraordinary meeting of the Board, if so requested by the chief executive officer, to discuss an urgent matter or a matter referred to the Board by the responsible Member. 15

Committees of Board

- 9. (1) The Board may from time to time appoint one or more committees – 20
 - (a) to consider and make recommendations to the Board regarding any matter that may be considered and decided by the Board; or
 - (b) to deal with any matter delegated to it by the Board. 25
- (2) A committee may comprise only persons who are members of the Board, except to the extent required to comply with the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (3) The Board - 30
 - (a) may designate any number of its members to sit on a committee;
 - (b) must designate which member will chair the committee; and 35
 - (c) may issue directives to the committee, but any such directives must –
 - (i) be consistent with this Act; and 40
 - (ii) not impede the discretion of the committee.

Staff of Board and remuneration

10. (1) The Board –
- (a) must appoint a suitably qualified and experienced person as chief executive officer, who -
 - (i) subject to the direction and control of the Board, is responsible for all financial and administrative responsibilities pertaining to the functions of the Board; and 10
 - (ii) is accountable to the Board;
 - (b) must determine a staff establishment for the Board; and 15
 - (c) may appoint staff as may be necessary to enable the Board to perform its functions.
- (2) Section 5(1) and (2) and section 6, read with the changes required by the context, apply to the chief executive officer and each staff member to be appointed in terms of this Act. 20
- (3) The Board, with the concurrence of the Provincial Treasury, may determine the remuneration, allowances, employment benefits and other terms and conditions of appointment of a person appointed in terms of subsection (1). 25
- (4) The Board may delegate its powers in terms of subsection (1)(c) to the chief executive officer.
- (5) The responsible Member must, before a chief executive officer is appointed by the Board, make regulations regarding - 30
- (a) the procedure to be followed by the Board when appointing a chief executive officer; 35
 - (b) the term of office of the chief executive officer;
 - (c) the employment contract and performance agreement to be entered into by the chief executive officer on appointment by the Board; and 40
 - (d) the removal from office of the chief executive officer.

Remuneration of members of Board

11. (1) A member of the Board must be paid such reasonable remuneration and allowances out of the funds of the Board as the responsible Member, in consultation with the Member of the Executive Council responsible for finance in the Province, may from time to time determine. 5
- (2) A member of the Board, who is in the full-time employ of any organ of state, may not receive remuneration in terms of subsection (1). 10
- (3) Remuneration determined in terms of subsection (1) must be published in the *Provincial Gazette* by the responsible Member before it becomes effective.

Delegation

12. (1) The Board may, subject to subsections (2), (3) and (4), in writing, delegate any of its powers, functions or duties in terms of this Act, to the chief executive officer or a committee of the Board. 15
- (2) The chief executive officer may, with the written permission of the Board, sub-delegate any power, function or duty delegated to him or her in terms of subsection (1), to any member of the staff of the Board. 20
- (3) A delegation or sub-delegation, as the case may be, may be withdrawn by the Board or the chief executive officer with the concurrence of the Board, respectively. 25
- (4) The Board may not delegate -
- (a) the power to grant, transfer, remove or revoke a license referred to in section 21(1) or to grant a certificate in terms of this Act; 30
- (b) any power to be exercised, function to be performed or duty to be carried out by it - 35
- (i) in terms of the National Gambling Act or any other law; or
- (ii) in or after consultation with the responsible Member.

Finances 40

13. (1) The Board is financed from -
- (a) money appropriated by the Provincial Legislature for the Board; 45

- (b) any money payable to the Board in terms of this Act;
 - (c) income derived by the Board from its investment and deposit of surplus money in terms of subsection (6); and
 - (d) all monies accruing to the Board from any source.
- (2) The financial year of the Board is the period from 1 April in any year to 31 March of the following year.
- (3) Each year, at a time determined by the responsible Member, but no later than 30 June of that year, the Board must submit to the responsible Member a statement of the Board's estimated income and expenditure, and requested appropriation from the Provincial Legislature, in respect of the next ensuing financial year.
- (4) The Board must open and maintain an account in the name of the Board with a registered bank or other registered financial institution in the Republic and -
 - (a) any money received by the Board must be deposited to that account; and
 - (b) every payment on behalf of the Board must be made from that account.
- (5) Cheques drawn on the account of the Board must be signed on its behalf by two persons authorized for that purpose by resolution of the Board.
- (6) The Board may invest or deposit money of the Board that is not immediately required for contingencies or to meet current expenditures -
 - (a) on a call account or short-term fixed deposit with any registered bank or financial institution in the Republic; or
 - (b) in an investment account with the Corporation for Public Deposits established in terms of section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).
- (7) Any money standing to the credit of the Board at the end of any financial year of the Board, excluding such money as has been approved by the responsible Member, being necessary for the reasonable immediate running expenses of the Board, must be paid into the Provincial Revenue Fund.

Accountability, audits and reports

14. (1) The Board is responsible to –
- (a) account for state and other money received by, or paid for or on account of the Board; and 5
 - (b) cause the necessary accounting and related records to be kept, in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999). 10
- (2) The records referred to in subsection (1)(b) must be audited by the Auditor-General. 15
- (3) The Board must report at least quarterly in writing to the responsible Member on its activities. 15
- (4) The Board must submit the report and statements referred to in section 55(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the responsible Member in the way required by section 55(3) of that Act. 20
- (5) As soon as practicable after receiving the report and statements referred to in subsection (4), the responsible Member must table it in the Provincial Legislature. 25

Powers and functions of the Board

15. (1) The Board may exercise the powers, perform the functions and must carry out the duties – 30
- (a) specified by or in terms of this Act; or
 - (b) assigned to it in terms of the National Gambling Act or any other law. 35
- (2) The Board must, when so requested, advise the responsible Member on any matter pertaining to this Act or the National Gambling Act.

Chapter III 40

HEARINGS, INVESTIGATIONS AND ENQUIRIES

Powers and procedure for hearings and investigations

16. (1) The Board may conduct or cause to be conducted – 45

- (a) hearings, investigations or enquiries in respect of –
 - (i) an application for a license under this Act; and
 - (ii) the revocation or suspension of a license issued under this Act; and 5
- (b) investigations and enquiries pertaining to the integrity, character, reputation, prior conduct, habits, associations, financial standing and ability, criminal record, competence, experience, and suitability of – 10
 - (i) any applicant for a license;
 - (ii) any person having a financial interest in a license issued under this Act or in any gambling, racing or related activity or business; or 15
 - (iii) any license holder,

if it is necessary for the achievement of the objectives of this Act. 20
- (2) The Board may conduct a hearing in respect of an application for a license referred to in section 21 or where any license is to be suspended or revoked as contemplated in section 38. 25
- (3) The procedure to be followed in the conduct of any hearing, investigation or enquiry in terms of subsection (1)(a) or (b), must, subject to section 19, be determined by the person presiding at such a hearing, investigation or enquiry. 30
- (4) The person presiding at a hearing or conducting an investigation must keep, or cause to be kept, a record of the proceedings at the hearing or investigation and of the evidence given.
- (5) At any hearing in respect of an application for a license under this Act, the person applying for such a license and any person objecting to the granting of such a license, is entitled - 35
 - (a) to appear before the Board and to call witnesses in support of the application or objection; and 40
 - (b) to cross-examine any witness not called by him or her.

Investigation costs in respect of licenses or certificates

17. In respect of a license or certificate -

- (a) all reasonable costs incurred by the Board in investigating and probing an application for a license or certificate or the renewal thereof must be paid by the applicant in the manner set out in this section, but in the case of an employment certificate, all fees must be paid by the employer or proposed employer of the applicant; 5
- (b) the costs to be incurred during the course of probity investigations, as may be reasonably necessary, conducted by the Board in respect of an application for a license or certificate, or the renewal thereof, must be estimated by the Board, which must require the applicant to pay such deposit in respect of the costs as it may deem appropriate before commencing the investigation; 10 15
- (c) all costs incurred by the Board during the course of a probity investigation conducted by it must be recouped by the Board from time to time from the deposit contemplated in subparagraph (b); 20
- (d) the Board may, at any stage during the investigation of an application, require the applicant to pay such additional deposits in respect of investigative costs as may be necessary; 25
- (e) upon completion of its investigation, the Board must, upon request, supply the applicant with a detailed account of investigative costs incurred, and any balance standing to the credit of the account held on behalf of the applicant must be maintained in such account, or refunded, as the case may be; and 30
- (f) the Board may not take final action on any application unless all investigative costs have been paid in full.

Enforcement enquiries

18. The Board may, for the purpose of achieving the objectives of this Act, cause to be carried out an enquiry – 35

- (a) into a contravention or alleged contravention of, or failure or alleged failure to comply with any of the provisions of this Act, or a condition of a license; 40
- (b) in order to determine if any provision of this Act applies to any person; or
- (c) into the affairs or conduct of any license holder.

Witnesses and evidence

19. (1) For the purposes of any hearing, investigation or inquiry, 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 - 5
- (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 investigation. 10
- (2) Compliance with the obligation to produce a book, document or anything in terms of the preceding subsection does not deprive the holder of any lien claimed with regard to such book, document or thing or any rights as a license holder. 15
- (3) A person who has received a summons in terms of subsection (1) must personally appear before the Board on the date and at the time and place set out in the summons, but if such a person is not competent or able to so appear, any person who by law is competent to act on his or her behalf or any person authorized thereto by the Board may so appear on his or her behalf. 20
- (4) Every person summoned in terms of subsection (1) is bound to obey the summons, and any person who, having been duly summoned to attend a hearing or an investigation of the Board, without sufficient cause fails to attend personally or by representative as set out in subsection (3), at the time and place specified in the summons, or to remain in attendance until excused by the chairperson from further attendance is guilty of an offence. 25 30
- (5) The provisions of subsections (2) and (3), apply with the changes required by the context, to any corporate body, organization or institution.
- (6) The law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law applies in relation to the examination of any such person or the production of any book, document or thing at a hearing or an investigation held which is open to the public. 35
- (7) Any person who appears before the Board as a party at a hearing or an investigation is entitled to be represented by his or her legal representative. 40

- (8) Any person who has been summoned in terms of this section or who has given evidence at a hearing or an investigation is 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, which witness fees must be paid by the Board. 5

Chapter IV LICENSING AND APPROVAL

Right to conduct gambling 10

20. The rights and duties pertaining to any license are, subject to the National Gambling Act, as set out in this Act.

Kinds of licenses and limitations 15

21. (1) The Board may, in writing, under this Act grant –
- (a) a casino operator license; 20
 - (b) a route operator license;
 - (c) a site operator license;
 - (d) a bingo operator license; 25
 - (e) a junket agent license;
 - (f) a horse racing license; 30
 - (g) a totalisator operator license;
 - (h) a bookmaker license; and
 - (i) an independent site operator license. 35
- (2) A license referred to in paragraph (a), (b), (d), or (g) of subsection (1), may only be issued to a company registered in terms of the Companies Act.
- (3) An application for a license referred to in paragraph (a), (b), (c), (d) or (i) of subsection (1), may only be submitted to the Board in response to a notice, inviting applications for the license concerned, published by the Board in the *Provincial Gazette*. 40

National licenses

22. The Board must deal with national licenses in accordance with the provisions of the National Gambling Act.

5

Disqualifications and restrictions for licenses

23. (1) A person may not hold a license issued in terms of this Act or any of the total financial interest in the licensee of such a license, if that person –
- (a) is under the age of 18 years; 10
- (b) is a public servant or political office-bearer;
- (c) is listed on the register of excluded persons; 15
- (d) is a family member of a person who is a member or employee of a regulatory authority exercising oversight over that licensee;
- (e) is an unrehabilitated insolvent; 20
- (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; 25
- (h) was once removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; 30
- (i) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, corruption 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 in terms of the National Gambling Act, unless the person has received a grant of amnesty or free pardon for the offence; or 35
- (j) is not of good financial standing and has inadequate means to undertake and sustain the activity for which the license is required. 40
- (2) The Board must refuse to issue a license to a person who is disqualified from holding an interest in a license, licensee, licensed premises, or the business to which a license relates, in terms of subsection (1), or the National Gambling Act. 45

- (3) The Board must refuse to issue a license to an applicant if, after conducting the investigations prescribed under the National Gambling Act, the Board 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 – 5
- (a) a family member of a person who is a member of the Board; or
- (b) disqualified from holding an interest in a license, licensee, or the business to which a license relates, in terms of subsection (1). 10

Disqualification after license issued

24. If a person who holds a license, or an interest in a licensee, becomes disqualified in terms of section 23(1), or the National Gambling Act, after the license was issued – 15
- (a) that person must advise the licensee and the Board in the manner and form prescribed under the National Gambling Act; and
- (b) if that person – 20
- (i) holds an interest in the licensee, that person must dispose of that interest within a period of not more than 3 years, determined by the Board after considering the circumstances and the nature of the disqualification; or 25
- (ii) is a manager of the business concerned, the Board may impose reasonable conditions on the continuation of the license with the object of ensuring continuing compliance with the principles of this Act and the National Gambling Act. 30

Acquisition of interest by disqualified person

25. If a person who is disqualified in terms of section 23(1) acquires a license, or any of the total financial interest in a licensee, that person must, within a period of not more than three years, as determined by the Board after considering the circumstances and the nature of the disqualification, dispose of that license or any financial interest in that licensee, as the case may be. 35

Decisions of the Board 40

26. (1) After considering an application for a license, the transfer or removal of a license or a certificate of employment, an application to transfer ownership or possession of a gambling machine or gambling device, or a request to transfer an interest in a license, licensee, licensed premises, or the business to which a license relates, the Board must either - 45

- (a) grant the license or certificate of employment, or in writing approve the transfer, as the case may be with or without conditions; or
 - (b) issue a written refusal to the applicant, with reasons for the decision.
- (2) The Board must maintain a register in which the particulars of any grant or approval contemplated in subsection (1)(a) must be recorded.

5

Further applications

10

27. Any person not disqualified in terms of this Act or the National Gambling Act, may apply for a license, but –

- (a) any person –
 - (i) whose application has been refused because of the applicant being disqualified; or
 - (ii) whose license has been revoked under this Act or any other gambling legislation,

15

may not apply for a license within 12 months from the date of such refusal or revocation; and

20

- (b) any person –
 - (i) whose application has been refused more than once because of the applicant being disqualified; or
 - (ii) whose license has been revoked more than once under this Act or any other gambling legislation,

25

may not reapply for a license within three years from the date of the latest refusal or revocation.

35

Licensing procedure

28. (1) When a valid application for a license contemplated in section 21 is received by the Board, the Board must forthwith –

40

- (a) advertise the application in –
 - (i) the *Provincial Gazette*; and

- (ii) any newspaper circulating in the area to which the application relates, to invite written representations or objections, to be submitted by interested persons no later than 30 days after the date on which the application was published in the *Provincial Gazette*; and 5
 - (b) refer the application to the local municipality to ascertain whether the use of the premises for the proposed activity will be in accordance with existing zoning laws and rights. 10
- (2) If any objection is received by the Board within the period mentioned in subsection (1), the Board must forthwith refer a copy of such objection to the applicant for his or her written comment, to reach the Board no later than 14 days after such referral. 15
- (3) Any application, objection or responses received by the Board is open to the public for inspection. 15
- (4) The Board may undertake such investigations as may be necessary – 20
 - (a) to verify any fact stated or submission made –
 - (i) in the application;
 - (ii) in any objection or representation contemplated in subsection (1); and 25
 - (b) to verify or ascertain any other matter that may have a bearing on the application. 30
- (5) With a view to a hearing or meeting to decide the application, as the case may be, the chief executive officer must compile a report of all matters that must or may be taken into account in terms of this Act or the National Gambling Act, to be considered at such hearing or meeting. 35
- (6) For the purposes of this section, a valid application means an application –
 - (a) submitted –
 - (i) in the form provided by the Board; or 40
 - (ii) in the case of a national license, the form provided for by the National Gambling Act; and

- (b) accompanied by –
 - (i) the prescribed application fee; or
 - (ii) in the case of a national license, the fee provided for by the National Gambling Act; and 5
 - (iii) such further information as the Board may require.

Hearing of application for license 10

29. (1) If an objection against or representation in support of an application for a license is received by the Board, the Board must conduct a hearing to decide the application. 15
- (2) If no objection against or representation in support of an application is received by the Board, the Board may, notwithstanding the provisions of subsection (1), conduct a hearing to obtain inputs from the public before deciding the application. 20
- (3) The hearing of an application is open to the public, but not the deliberations of the Board to decide the application. 25
- (4) The Board must give notice of the time and venue of a hearing – 30
- (a) in the *Provincial Gazette* and any newspaper circulating in the area to which the application relates; and
 - (b) by registered post to the applicant, any complainant and any person who made representations as contemplated in subsection (1).

Procedure provided for by National Gambling Act to take precedence

30. If, in the case of a specific category of license, the National Gambling Act makes specific provision for the procedure to be followed with the application or hearing of such license, that procedure must be followed by the Board when dealing with the license concerned. 35

Economic and social development issues to be considered

31. (1) When considering an application for a license or when considering an application for the transfer of a license, the Board – 40
- (a) must consider the commitments, if any, made by the applicant or proposed transferee in relation to – 45

- (i) black economic empowerment; and
 - (ii) combating the incidence of addictive and compulsive gambling;
- (b) must consider the potential socio-economic impact on the community of the proposed license; and 5
- (c) may impose reasonable and justifiable conditions on the license to the extent necessary to address the matters referred to in paragraphs (a) and (b). 10
- (2) At least once every year after the issuance of a license, the Board -
- (a) must review the commitments considered in terms of subsection (1)(a) and the achievements of the licensee in relation to those commitments; and 15
 - (b) may impose further or different reasonable and justifiable conditions on the license to the extent necessary to address the matters referred to in subsection (1)(a) and (b). 20

Competition issues to be considered

32. (1) When considering an application for a license, or when considering an application for the transfer of a license, the Board must consider whether approving the application is likely to substantially affect competition in the gambling industry generally, or in respect of the proposed activity – 25
- (a) within the province, in the case of a provincial license; or 30
 - (b) within the Republic, in the case of a national license.
- (2) After considering the matters contemplated in subsection (1), the Board must refuse the application unless there are overriding public interest reasons for approving it if it appears that approving the application would result in the applicant, alone or in conjunction with a related person, achieving market power. 35
- (3) For the purpose of subsection (2) - 40
- “**market power**” has the meaning set out in section 1 of the Competition Act;
- “**public interest reasons**” include the reasons set out in section 12A(3) of the Competition Act; and 45

“a related person” means a person –

- (i) who has direct or indirect control over the applicant;
- (ii) over whom the applicant has direct or indirect control; or 5
- (iii) who is directly or indirectly controlled by a person referred to in subparagraph (i) or (ii).

State interests 10

33. (1) In this section –

“financial interest” does not include the right to assess or collect a tax, levy or fee; and 15

“public body” means the state, an organ of state, or any organization in which the state has a financial interest.

(2) Subject to item 3 of the Schedule to the National Gambling Act and subsection (3), a public body must not hold any financial interest in any - 20

- (a) gambling license, gambling activity or premises used for a gambling activity; or 25
- (b) person who directly or indirectly, holds a gambling license, operates a gambling activity or owns or occupies premises used for a gambling activity.

(3) A public body may - 30

- (a) directly or indirectly hold a financial interest in premises used for a gambling activity if it holds that interest in terms of an acceptable arrangement described in subsection (4); 35
- (b) be a party to an acceptable arrangement as described in subsection (5) between the public body and any other person in terms of which the public body undertakes to develop or maintain facilities or supply anything to the other person – 40
 - (i) in the proximity of premises used for a gambling activity; or
 - (ii) intended to provide socio-economic, infrastructure, or other support necessary for, or ancillary to, such premises or gambling activities; or 45

- (c) directly or indirectly hold an interest created or acquired in the course of giving effect to an acceptable arrangement contemplated in paragraph (b).
- (4) An arrangement referred to in subsection (3)(a) is acceptable if - 5
 - (a) it is an arm's-length commercial transaction; and
 - (b) any payment in terms of the arrangement to the public body is not directly or indirectly determined by reference to the turnover of, or profit from, the gambling activity. 10
- (5) An arrangement referred to in subsection (3)(b) or (c) is acceptable if any payment in terms of the arrangement to the public body is not directly or indirectly determined by reference to the turnover of, or profit from, the gambling activity. 15

License requirements

- 34. The Board - 20
 - (a) must refuse to award a license if the Board considers that –
 - (i) the proposed activity would be inconsistent with this Act or the National Gambling Act; or 25
 - (ii) the use of the proposed premises for the proposed activity would be contrary to existing zoning laws or rights; and
 - (b) may refuse to award a license if the Board considers that the proposed site – 30
 - (i) is an unsuitable location for the proposed activity, having regard to this Act and the National Gambling Act; or
 - (ii) does not satisfy the requirements in terms of section 17 of the National Gambling Act. 35

External probity reports

- 35. (1) When considering an application for a license, an application for an employment certificate or a request to transfer a license, the Board may request – 40
 - (a) additional information from the applicant;

- (b) written authorization from the applicant permitting the Board to procure information directly from third parties and authorizing such third parties to provide that information; or
- (c) a report from – 5
 - (i) any other regulatory authority;
 - (ii) the Financial Intelligence Centre; 10
 - (iii) the National Director of Public Prosecutions; or
 - (iv) the South African Police Service.
- (2) A report requested in terms of subsection (1) may include particulars of any convictions recorded against a person, to the extent that those particulars are relevant for the purpose of determining whether that person is disqualified from holding an interest in a license, licensee, licensed premises, or the business to which a license relates, in terms of this Act or the National Gambling Act. 15
20
- (3) The Board must submit to the National Gambling Board a copy of every probity report it prepares in terms of this Act or the National Gambling Act. 25

License criteria, categories and conditions

36. (1) A license must specify –
- (a) the identity of the licensee; 30
 - (b) the activities that the license permits the licensee to engage in, conduct or make available to the public; and
 - (c) the premises at, in or from which the licensee is permitted to operate. 35
- (2) When issuing a license, the Board may issue it only as -
- (a) a permanent license; 40
 - (b) a temporary license, subject to the fulfillment of certain conditions within a specified period, with the intention that upon fulfillment of those conditions, a permanent license will be issued in substitution of the temporary license; 45

- (c) subject to subsection (3), a special event license which permits the licensed activity on specified dates only in a particular location set out in the license.
- (3) A special event license may not be issued in respect of the operation of a casino or a gambling machine. 5
- (4) When issuing a license, the Board -
 - (a) may issue it with or without conditions; and 10
 - (b) must set out in the license certificate -
 - (i) the duration of the license; 15
 - (ii) the specific activities permitted in terms of the license or a reference to the applicable law that describes such activities; and
 - (iii) the name or description of the specific premises in, on or from which the licensed activity may take place. 20
- (5) The provisions of subsections (1), (2), (3) and (4), with the exception of subsections (1)(c) and (4)(b)(iii), apply, with the changes required by the context, to employment certificates. 25

Renewal of licenses

- 37. (1) A license referred to in section 36(2)(a) or (b) must, subject to section 31(2), be renewed by the licensee no later than the last day of March in any year - 30
 - (a) on application and in the form determined by the Board;
 - (b) on production of the license for the preceding year; and 35
 - (c) on payment of the investigating cost determined by the Board and the prescribed renewal fee.
- (2) An application for the renewal of a license in terms of subsection (1) must be submitted to the Board no later than 90 days prior to the date on which the license must be renewed. 40

Suspension or revocation of license

- 38. (1) The Board may, after an investigation by a disciplinary committee in terms of subsection (2), in writing, suspend or revoke from such date as the Board may determine, a license issued in terms of this Act, if - 45

- (a) the license was obtained by a materially false or misleading representation;
 - (b) the licensee has become disqualified to hold a license in terms of section 23; 5
 - (c) the licensee has violated this Act or the National Gambling Act;
 - (d) the licensee has contravened or failed to comply with an obligation of accountable institutions in terms of the Financial Intelligence Centre Act in so far as it applies to the gambling industry; 10
 - (e) the licensee or any person managing or directing the licensee has contravened or failed to comply with a provision of Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998); 15
 - (f) the licensee has contravened a condition of the license; or
 - (g) the licensee has failed to discharge financial commitments for the licensee's operations. 20
- (2) Where the Board proposes to suspend or revoke a license, the Board must serve a written notice on the licensee stating - 25
- (a) that the Board proposes to suspend or revoke the license;
 - (b) the ground or grounds for suspension or revocation;
 - (c) that the licensee may, within 30 days after the date of the written notice – 30
 - (i) make written representations about the matter to the Board; or 35
 - (ii) notify the Board in writing of the intention of the licensee to make oral representations; and
 - (d) the effect of subsection (3). 40
- (3) If, within the period referred to in subsection (2)(c), the Board received neither written representations nor written notification of the intention of the licensee to make oral representations, the suspension or revocation, as the case may be, takes effect at the end of that period.

Transfer and removal of license and acquisition of certain interest in licensee

39. (1) A license granted under this Act may, subject to this section, not –
- (a) be transferred to another person; or 5
 - (b) be removed from the licensed premises to other premises.
- (2) If the holder of a license – 10
- (a) desires to transfer such license to another person, such license holder and such other person must make joint applications to the Board for such transfer; or
 - (b) desires to remove such license from the licensed premises to any other premises, whether permanently or temporarily, such license holder must make an application to the Board for the removal of such license. 15
- (3) For the purpose of an application contemplated in subsection (2), the provisions of sections 17, 28 and 29, read with the changes required by the context, apply. 20
- (4) In addition to any investigation done in terms of this Act, the Board must also do such investigations as may be prescribed by regulation under the National Gambling Act, when considering an application contemplated in subsection (2). 25
- (5) A license may not – 30
- (a) be transferred to a person who is disqualified in terms of this Act or the National Gambling Act to hold the license concerned;
 - (b) be removed from the licensed premises concerned to another premises unless the Board is satisfied that the other premises are or will on completion be suitable for the purpose for which they will be used under the license. 35
- (6) Upon granting an application for the transfer of a license to another person, the Board – 40
- (a) issues a certificate of license to the transferee, who then becomes the licensee, with all rights and obligations of a licensee in terms of this Act; and

- (b) cancels the original license.
- (7) Upon granting an application for the removal of a license to other premises, the Board must –
 - (a) issue a new license to the licensee, referring to the new premises as the licensed premises; and
 - (b) cancel the original license.
- (8) A person who acquires an interest of 5% or more in a licensee, must apply to the Board for approval of that acquisition, and for the purpose of such application, the provisions of subsections (2)(a), (3) and (5)(a), read with the changes required by the context, apply.

5

10

15

Duty to produce and display licenses

- 40. (1) A license holder, an employee of the license holder or a person acting on behalf of the license holder must, on demand by an inspector or a police officer, produce the license or certificate concerned.
- (2) A license holder must at all times prominently display a license issued in terms of this Act on the licensed premises.

20

License application and annual license fees

25

- 41. (1) (a) An applicant for a new license must pay to the Board the prescribed fee upon submission of such application.
- (b) The license holder must, upon issue of the license and thereafter annually before the renewal thereof, pay to the Board the prescribed license fee.
- (c) The Board must pay the application fee referred to in paragraph (a) and the annual license fee referred to in paragraph (b) into the Provincial Revenue Fund.
- (d) No fee contemplated by this section is refundable.
- (2) The annual license fee becomes due on the last day of March in each consecutive year.
- (3) If the annual license fee is not paid within 90 days from the date on which the annual license fee for that license became due in accordance with subsection (2), the license lapses.

30

35

40

45

- (4) All fees due in terms of this Act exclude value-added tax.

Death, insolvency or incapability of a licensee

42. (1) In the event of the death of a licensee, the appointed administrator or executor of the deceased's estate becomes the holder of the license on behalf of the estate until the estate is wound-up, and – 5
- (a) may continue to enjoy the rights, privileges and duties of a licensee on behalf of the estate; and 10
- (b) must, within 90 days, apply to the Board on behalf of any person who is not disqualified in terms of this Act to hold such a license, to conduct business under the license on behalf of any heir entitled to the benefits accruing from the license. 15
- (2) If the Board refuses to issue a license applied for in accordance with subsection (1)(b), the original license lapses.
- (3) For the purpose of an application contemplated in subsection (1)(b), the provisions of section 39, read with the changes required by the context, apply. 20
- (4) If a licensee becomes insolvent, is placed under judicial management or, in the case of a natural person, is declared by a court of law to be incapable to manage his or her own affairs, the license held by the licensee automatically lapses. 25

Chapter V SPECIFIC LICENSES

30

Casino operator license

43. A casino operator license is required by any person who maintains or operates premises where gambling games are played, or are available to be played, but does not include premises in which – 35
- (a) only bingo and no other gambling game is played or available to be played;
- (b) only limited pay-out machines are available to be played; 40
- (c) limited pay-out machines are available to be played and bingo, but no other gambling game is played or available to be played.

Junket agent license

44. A junket agent license is required by any person who, for commission, a share in gambling profits or any other consideration, in conjunction with the holder of a casino operator license plans or organizes 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. 5

Route operator license

45. Subject to section 26 of the National Gambling Act, a route operator license is required by a person who owns and provides limited pay-out machines to one or more holders of site operator licenses, and is responsible - 10
- (a) for the maintenance of such machines; and 15
 - (b) for effecting the collection of money and paying the provincial taxes and levies in respect of any limited pay-out machine owned under such license.

Site operator license

46. Subject to section 26 of the National Gambling Act, a site operator license is required by any person who maintains or operates premises where limited pay-out machines, obtained from a licensed route operator, are kept and made available for play in or on such premises. 20 25

Independent site operator license

47. Subject to section 26 of the National Gambling Act, an independent site operator license is required by a site operator who is not linked to a route operator and owns and operates limited pay-out machines on a single site and is responsible - 30
- (a) for maintaining the machines;
 - (b) for effecting the collection of money; and 35
 - (c) paying the provincial taxes and levies due to the Board.

Bingo operator license

48. A bingo operator license is required by any person who maintains or operates premises where bingo is played, but not a casino. 40

Horse racing license

49. A horse racing license is required by any person conducting a race in the Province.

Bookmaker license

5

50. A bookmaker license is required by any 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.

10

Totalisator operator license

51. A totalisator operator license is required by any person who accepts totalisator bets, but does not authorize the holder of such license to conduct a “**sport pool**” as contemplated in Schedule 4 of the Constitution.

15

Chapter VI GAMBLING EMPLOYEES

Disqualification for employment certificates

20

52. (1) A person may not hold an employment certificate issued in terms of this Act if that person -

(a) is under the age of 18 years;

25

(b) is a public servant or political office-bearer;

(c) is listed on the register of excluded persons;

30

(d) is subject to an order of a competent court holding that person to be mentally unfit or deranged;

(e) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or

35

(f) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, corruption 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 in terms of the National Gambling Act, unless the person has received a grant of amnesty or free pardon for the offence.

40

- (2) The Board may not issue an employment certificate to a person if the applicant falls within any of the enumerated disqualifications set out in subsection (1).
- (3) An employment certificate issued in terms of this Act is deemed to have been cancelled if the holder of the certificate becomes disqualified in terms of subsection (1) at any time after the certificate was granted. 5

Key employee certificate

- 53. (1) A key employee certificate is required by a person employed by the holder of a license issued in terms of this Act or the National Gambling Act, as an executive or other functionary in the business or as an agent of the license holder, who may – 10
 - (a) exercise direct control over gambling operations or activities authorized by the license of the license holder; or 15
 - (b) exercise control over any licensed premises where gambling is conducted in accordance with the license of the license holder. 20
- (2) For the purposes of this section, “**direct control over gambling operations**” or “**activities authorized by the license of the license holder**” means the express, implied or reasonably incidental authority to oversee, monitor, or otherwise control any activity in respect of gambling operations which may reasonably enable the person on whom such authority is conferred - 25
 - (a) to manipulate or alter the selection criteria which determine the result of any gambling game, event or contingency; or
 - (b) to misrepresent to any authority the tax liability of a license holder. 30

Gambling employee certificate

- 54. A gambling employee certificate is required by a person, other than the holder of a key employee certificate, employed by the holder of a license issued in terms of this Act or the National Gambling Act, who is directly involved in the activities performed under the license. 35

Notice of termination of service

- 55. The employer of either a key employee contemplated in section 53, or a gambling employee contemplated in section 54, must give notice to the Board within 14 days of the termination of the services of such employee as a key employee or a gambling employee, as the case may be. 40
45

Bookmaker's manager and bookmaker's clerk certificate

56. (1) No person other than the holder of a bookmaker's license may perform any act connected with the business of a bookmaker unless he or she - 5
- (a) is employed by such a holder; and
- (b) is in possession of -
- (i) a bookmaker's manager certificate; or 10
- (ii) a bookmaker's clerk certificate.
- (2) A bookmaker may not employ any person to manage his or her business unless such person is in possession of a bookmaker's manager certificate. 15

Suspension or revocation of certificate of employment

57. For the purpose of the suspension or revocation of an employment certificate issued in terms of this Act, the provisions of section 38 apply with the changes required by the context. 20

Temporary employment certificates

58. (1) Where the Board - 25
- (a) is satisfied that -
- (i) the operations of the holder of a license will be seriously prejudiced or disadvantaged by a delay in the employment of an applicant for an employment certificate; and 30
- (ii) the commencement of the employment of the person concerned will not prejudice the integrity and proper operation of the licensee concerned; and 35
- (b) has already received an application for the permanent registration of that employee, the Board may issue a temporary certificate to that employee in terms of this Act, pending the outcome of such application for a permanent certificate. 40
- (2) Where the Board refuses an application for the registration of a person who holds a temporary certificate, the employer concerned must summarily terminate the employment of that person in any position in respect of which registration is a requirement. 45

- (3) The provisions of subsection (2) is a condition of employment.

Restrictions applicable to employees

59. No person who is required to hold a certificate of registration in terms of section 53 or 54 may, in a casino or a bingo hall with which he or she is associated, as the case may be, participate in or play any game, but such a person may participate in such gambling if it is necessary for the performance of his or her functions as an employee. 5

Chapter VII OPERATIONAL MATTERS

10

Monitoring systems

60. (1) The holder of a license referred to in section 21(1)(a) or (d) must install, maintain and operate a surveillance system approved by the Board. 15
- (2) The holder of a license referred to in section 21(1)(b) or (i) must link any gambling machine, gambling device, associated system or accounting system to the national central electronic monitoring system referred to in section 27(1) of the National Gambling Act, including a system for continuous online real-time recording, monitoring and control of such significant gambling transactions as the Board may determine. 20

25

Collateral security

61. (1) The Board may require any applicant before commencing, or, in the case of a holder of a license, before continuing to carry on the business authorized under that license, to give security for the payment of all statutory or gambling obligations due, or which may become due, in such amount and form as may be determined by the Board. 30
- (2) The Board may from time to time order that the amount or value of the security referred to in subsection (1) be increased or decreased, whereupon the license holder concerned must, within the period determined by the Board, but not less than twenty one days of the receipt by him or her of a notification that the Board has so ordered, ensure that the security is increased or decreased in accordance with such order. 35
- (3) If any license holder fails to pay any tax fee, or honour any statutory obligation due by him or her, the chief executive officer must realize the security referred to in subsection (1) and apply any money derived from the realization of it for the payment of such tax fee, or to honour any such statutory obligations as may be due and payable. 40

45

- (4) Whenever a license issued in terms of this Act expires or is revoked or suspended, the chief executive officer must, after a period of 90 days after the date of such expiration, revocation or suspension and after compliance with the provisions of subsection (3), if such provisions are applicable, release the security or the balance of the security. 5
- (5) Any license holder who contravenes or fails to comply with a provision of subsection (1) or (2) is guilty of an offence.

Restriction of betting through agent and unlawful inducement to bet 10

- 62. (1) No person may –
 - (a) act as an agent for the holder of a bookmaker's license for the purpose of betting, whether or not for gain; or 15
 - (b) whether or not for gain act as an intermediary between any holder of a bookmaker's license and any other person for the purpose of betting. 20
- (2) No licensed bookmaker may, 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 bet. 20

Rules of gambling games 25

- 63. (1) No gambling game may be played otherwise than in accordance with the rules approved therefore by the Board.
- (2) The holder of any license must, in respect of any game authorized by such license for which no rules have been approved by the Board, make rules relating to the playing of such game and submit rules to the Board for approval before such game may be played or betting conducted. 30
- (3) Rules approved by the Board in terms of subsection (1) or (2), only become effective after publication thereof in the *Provincial Gazette*. 35

Availability of rules

- 64. The holder of a license issued in terms of this Act must, at the request of any customer, make available for examination a copy of the rules of gaming in respect of any particular gambling game authorized by the license. 40

Gambling devices

65. (1) No person may keep or use a gambling device or allow any gambling game to be played on a gambling device other than a gambling device which has been approved by the Board and supplied by the holder of a license as manufacturer, supplier or maintenance provider provided for in section 38(2)(a) of the National Gambling Act. 5
- (2) The holder of a license must keep such records and information as may be determined by the Board in respect of each gambling device. 10
- (3) The holder of a manufacturer, supplier or maintenance provider license may not sell a gambling device to any person in the Province other than the holder of a license that provides for the holder to own such gambling device. 15

Standards for gambling devices

66. All gambling machines or gambling devices exposed for play and any electronic monitoring system used to monitor such devices must – 20
- (a) comply with the standards established by the South African Bureau of Standards in terms of the Standards Act, 1993 (Act No. 29 of 1993); and
- (b) be certified by a licensed testing agent as contemplated in section 25 of the National Gambling Act, as meeting the applicable standards. 25

Books, accounts and records

67. The holder of a license must keep such books, accounts and records and furnish such returns as may be determined by the Board or any applicable law. 30

Restrictions on advertising and promotion of gambling activities and granting of discount

68. (1) No person may advertise or promote – 35
- (a) any gambling activity –
- (i) in a false or misleading manner; or 40
- (ii) that is unlawful in terms of this Act or the National Gambling Act; or

- (b) a gambling activity in a manner intended to target or attract minors.
- (2) Any advertisement of a gambling machine or device, a gambling activity, or licensed premises at which gambling activities are available - 5
 - (a) must include a statement, in the manner and form prescribed by regulation in terms of the National Gambling Act, warning against the dangers of addictive and compulsive gambling; and
 - (b) must not include any element that directly or indirectly promotes or encourages the removal of a person from the register of excluded persons. 10
- (3) A person must not advertise or promote any gambling or related activity as being available to the public free of charge or at a discounted rate contrary to this Act or the National Gambling Act, as an inducement for gambling. 15

Restrictions on granting credit to gamblers

- 69. A person licensed to make any gambling activity available to the public must not extend credit contrary to the National Gambling Act, in the name of the licensee or a third party, to any person for the purposes of gambling and may only extend such credit subject to the National Credit Act, 2005 (Act No. 34 of 2005). 20

Approval of certain contracts 25

- 70. No license holder may enter into any contract with another person for the furnishing of any service, goods or property in respect of which such other person will receive payment, commission or any other consideration based directly or indirectly on earnings or profits from any gambling, unless such person is the holder of a certificate issued by the Board after investigating the suitability of that person to enter into the contract concerned. 30

Non-compliance

- 71. (1) An inspector may, if he or she has reason to believe that any provision of this Act, the National Gambling Act or a condition subject to which a license was issued has not been complied with by the holder of a license, issue a non-compliance notice, in the form determined by the Board, to the holder of the license concerned and must forward a copy of the notice to the Board. 35 40
- (2) A non-compliance notice must set out the alleged non-compliance contemplated in subsection (1) and set out the steps to be taken and provide for a reasonable period within which such steps must be taken in order to comply with the provisions of this Act. 45

- (3) A compliance certificate may be issued to the holder of the license concerned if the Board or inspector acting on behalf of the Board, is satisfied that the steps to rectify the non-compliance contemplated in subsection (1) and set out in the non-compliance notice has been taken.

5

Chapter VIII

ENFORCEMENT AND OFFENCES

Appointment of inspectors by Board

10

72. (1) The Board may, subject to section 10, appoint or designate any suitably qualified person as an inspector to perform any or all of the functions assigned to an inspector in terms of this Act.
- (2) Each inspector appointed or designated under subsection (1), must be furnished with a certificate signed on behalf of the Board and stating that he or she is appointed as an inspector.
- (3) Whenever an inspector appointed or designated under subsection (1) performs a function under this Act in the presence of any person affected thereby, the inspector must, on demand by such person, produce to him or her the certificate referred to in subsection (2).

15

20

Powers and functions of inspectors

25

73. (1) An inspector may –
- (a) conduct inspections and monitor compliance with this Act;
 - (b) investigate complaints submitted to the Board;
 - (c) question any person in respect of any matter connected with this Act, which may be relevant to an inspection; or
 - (d) question any person whom the inspector reasonably believes may have information relevant to an inspection,
- and may, for the purpose of an inspection or investigation, enter any licensed premises during the hours that the licensee is permitted to do business in terms of the license.
- (2) An inspector may be accompanied during an inspection or investigation by a member of the South African Police Service or any other person reasonably required to assist in conducting the inspection or carrying out the investigation, as the case may be.

30

35

40

45

- (3) An inspector may assist an inspector appointed in terms of the National Gambling Act to perform the functions contemplated in section 77 of that Act.
- (4) For the purpose of performing a function referred to in subsection (1)(a), (b), (c) or (d), an inspector may apply to the relevant authority for a warrant to enter any land or premises. 5
- (5) When executing a warrant contemplated in subsection (4), the inspector must act in accordance with the terms and conditions stipulated in the warrant. 10
- (6) No person other than an inspector, in the execution of his or her duties in terms of this Act, may 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 licensed under this Act. 15

Reward for informers

- 74. The Board may, from appropriated funds, pay to any person who has furnished information leading to the conviction of any other person for a contravention of any provision of this Act, a reward. 20

Control of entry to certain premises

- 75. The holder of any license or any employee of such a license holder may – 25
 - (a) refuse to admit a person, other than an authorized officer or a police official, to the licensed premises; 30
 - (b) request any person who is in any part of the licensed premises to leave that part; and
 - (c) request any police official to remove or assist in removing from the licensed premises any person contemplated in paragraph (b). 35

Offences and penalties

- 76. (1) Any person who – 40
 - (a) contravenes a provision of this Act;
 - (b) contravenes any condition of a license;

- (c) in or on any licensed or unlicensed premises conducts any game or keeps any gambling device which is not approved under this Act, or conducts any game otherwise than in accordance with the approved rules of such game; 5
- (d) hinders or obstructs any police official whilst taking steps for the prevention or investigation of an offence under this Act; 10
- (e) makes any false statement in any application or return under this Act; 15
- (f) having been summoned to give evidence at a hearing or an investigation under this Act, 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 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; 20
- (g) having been summoned under this Act –
 - (i) 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 25
 - (ii) gives false evidence before the Board at any enquiry or any matter, knowing such evidence to be false or not knowing or not believing it to be true; 30
- (h) is in possession of any gambling device, other than playing cards or dice, which is not used under a license or in accordance with the provisions of this Act or who is not authorized by the Board to transport such device in or through the Province; 35
- (i) uses a gambling device otherwise than in accordance with the provisions of this Act; 40

- (j) by way of a scheme or arrangement directly or indirectly converts into cash, tokens, credit, debits, cheques or other value instruments any non-cash object or ticket received by a person in return for attending any premises on which an 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; 5
 - (k) falsely represents himself or herself to be an inspector; 10
 - (l) willfully obstructs, hinders or delays any inspector or any person lawfully accompanying an inspector in the performance of his or her function under this Act; 15
 - (m) without the written consent of an inspector, removes from the place where it has been left by the inspector, tampers with, destroys, or makes alterations to anything seized by such inspector in the performance of his or her functions, 20
- is guilty of an offence and on conviction liable to a fine not exceeding R10 000 000-00 or to imprisonment for a period not exceeding 10 years or both such fine and imprisonment, but in the event of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine or the period of such imprisonment, or both such fine and imprisonment. 25
- (2) All fines imposed in terms of this Act accrue to the Provincial Revenue Fund. 30

Chapter IX

PROHIBITED GAMBLING, RESTRICTED ACTIVITIES AND STATUS OF GAMBLING DEBTS

Gambling in relation to illegal activities unlawful 35

77. No person may –

- (a) engage in, conduct or make available a gambling activity if the outcome of that activity depends directly, indirectly, partly or entirely on a contingency related to an event or activity that is itself unlawful in terms of any law; 40
- (b) permit any gambling machine or device under the person's control to be used for the purposes of a gambling activity contemplated in paragraph (a);

- (c) maintain or operate any premises, whether or not such premises are licensed premises, for the purposes of a gambling activity contemplated in paragraph (a); or
- (d) permit any premises under the person's control, whether or not such premises are licensed premises, to be used for the purposes of a gambling activity contemplated in paragraph (a). 5

Unlicensed gambling activities unlawful

10

78. No person may engage in, conduct or make available a gambling activity except –

- (a) a licensed gambling activity; or
- (b) an informal bet, unless, in the circumstances, there are valid grounds to conclude that any of the parties to the bet intended to establish an enforceable contractual relationship when they staked, or accepted the stake of money on that contingency. 15

Unlicensed dealing in machines and devices unlawful

20

79. No person may –

- (a) import, manufacture, supply, sell, lease, make available, possess, store or alter a gambling machine or gambling device, or transport or maintain such a machine or device except to the extent contemplated in section 23(4) of the National Gambling Act, unless that person is authorized to do so in terms of the National Gambling Act; 25
- (b) possess or make available for play a gambling machine or gambling device for use in a gambling activity unless registered ownership or possession of the machine or device has been transferred to that person in terms of section 23(6) of the National Gambling Act. 30

Unlicensed use of premises unlawful

35

80. (1) No person may –

- (a) maintain or operate any premises for the purposes of a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorized in terms of a license under this Act or the National Gambling Act; 40
- (b) permit any premises under that person's control to be used for the purposes of a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorized in terms of a license under this Act or the National Gambling Act; or 45

- (c) permit an individual in or on any premises under that person's control to engage in a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorized in terms of a license under this Act or the National Gambling Act. 5
- (2) A person must notify the Board and the National Gambling Board if the person -
- (a) owns, maintains, operates or has control over any premises, or any gambling machine or device; and 10
 - (b) believes, or has reason to believe, that those premises, or that gambling machine or device, is being, or has been used without that person's permission for any purpose that is unlawful in terms of this section or section 77, 78 or 79. 15

Protection of minors

81. (1) A minor may not – 20
- (a) enter a designated area within any licensed premises;
 - (b) operate a gambling machine or gambling device;
 - (c) conduct or make available a gambling activity; or 25
 - (d) falsely claim to be 18 years of age or over, in order to –
 - (i) gain access to a designated area within licensed premises; or 30
 - (ii) gain access to a gambling machine or gambling device.
- (2) No person may falsely claim that a minor is 18 years of age or over, in order for that minor to - 35
- (a) gain access to a designated area within licensed premises;
 - (b) gain access to a gambling machine or gambling device; or
 - (c) engage in, conduct or make available a gambling activity. 40

- (3) A licensee, registered employee, or a person in control of licensed premises or a gambling machine or gambling device may not knowingly permit a minor to -
- (a) enter or remain in a designated area within such licensed premises; 5
 - (b) operate that gambling machine or gambling device; or
 - (c) conduct or make available a gambling activity within such licensed premises. 10
- (4) A person referred to in subsection (3) must take reasonable measures to determine accurately whether or not a person is a minor, before permitting that person to do anything contemplated in subsection (3)(a) to (c). 15

Enforceability of gambling debts and forfeiture of unlawful winnings

82. (1) Subject to the provisions of the National Gambling Act –
- (a) a debt incurred by a person, other than an excluded person, subject to paragraph (d)(ii), or a minor, in the course of a gambling activity that is licensed in terms of this Act or the National Gambling Act, is enforceable in law; 20
 - (b) a debt incurred by a person other than an excluded person, subject to paragraph (d)(ii), or a minor, in the course of a gambling activity that is lawful but not required to be licensed, in terms of this Act or the National Gambling Act, is enforceable in law only to the extent that it is enforceable in terms of the common law or another law; 25
 - (c) a debt incurred by a person in the course of any gambling activity that is unlawful in terms of this Act or the National Gambling Act is not enforceable in law; 30
 - (d) a debt incurred in the course of a gambling activity – 35
 - (i) by a minor is not enforceable in law; or
 - (ii) by an excluded person is not enforceable in law, unless that excluded person gained access to that gambling activity by fraudulently claiming to be a different person; and 40
 - (e) an informal bet is not enforceable in law.

- (2) A person may not knowingly pay any winnings from a gambling activity to -
- (a) a minor;
 - (b) an excluded person; or 5
 - (c) any other person who won those winnings in a gambling activity that is unlawful in terms of this Act or the National Gambling Act.
- (3) Any person who is prevented from paying winnings referred to in subsection (2) must remit those winnings to the National Gambling Board in the manner and form prescribed by regulation in terms of the National Gambling Act, to be held by the National Gambling Board in trust, pending a decision regarding forfeiture in terms of section 16(4) of the National Gambling Act. 10
15

Cheating and cheating devices

83. (1) No person may – 20
- (a) cheat or knowingly allow anyone to cheat or to operate any cheating device or provide any person with information or with a device to cheat in any gambling game or betting; 20
 - (b) knowingly conduct, allow or expose for play any gambling game played with cards or with any gambling device which has been marked, tampered with, placed in a position or operated in a manner that tends to deceive players or the public, to alter the normal random chance of the game, or to determine or alter the result of the game; or 25
30
 - (c) knowingly make use of any counterfeit chip or token or contravene the rules of any 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. 35
- (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; or 40
 - (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. 45

Prohibition of gambling by persons concerned with gambling business

84. No person who is in any way concerned with the management, supervision, control or administration of a gambling business, other than a bookmaking business or any game played at such a business, may participate in such game or in gambling at such business or at any other gambling business other than a bookmaker's business operated by the same license 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 game so as to enable other persons to participate in the game or betting.

10

Chapter X GAMBLING ACTIVITIES

Gambling activities generally

15

85. An activity is a gambling activity if it involves –

- (a) placing or accepting a bet or wager in terms of section 86(1);
- (b) placing or accepting a totalisator bet in terms of section 86(2); or
- (c) making available for play, or playing bingo or another gambling game in terms of section 87.

20

Bets and wagers

25

86. (1) 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;
 - (iii) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or

30

35

40

- (iv) expressly or implicitly undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c).

- (2) 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 - 5
 - (a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or 10
 - (b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles. 15

Gambling games

- 87. (1) An activity is a gambling game if –
 - (a) it meets the following criteria: 20
 - (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 25
 - (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 86(1), that is placed in a casino in relation to an activity that meets the criteria in paragraph (a). 30
- (2) Despite subsection (1), for all purposes of this Act, none of the following activities is a gambling game: 35
 - (a) a bet or wager in terms of section 86(1), other than a bet or wager contemplated in subsection (1)(b); or
 - (b) a totalisator bet in terms of section 86(2).

Pay-out and opportunity to play further game

88. (1) Subject to subsection (2), 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 – 5
- (a) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and
- (b) regardless how the pay-out is made. 10
- (2) Neither of the following is a pay-out:
- (a) an opportunity to play a further game; or 15
- (b) 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.
- (3) The result of a gambling game - 20
- (a) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game – 25
- (i) in respect of which the opportunity was won; and
- (ii) on the machine on which the opportunity was won, but
- (b) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be – 30
- (i) distributed or transferred to the person who has won such an opportunity or to any other person; or 35
- (ii) converted into money, property, a cheque, credit or any other thing of value; or
- (iii) converted in terms of any scheme, arrangement, system plan or device prescribed by regulation in terms of section 6(4) of the National Gambling Act. 40

Chapter XI GENERAL AND TRANSITIONAL PROVISIONS

Regulations

- | | | | |
|-----|-----|---|----|
| 89. | (1) | The responsible Member may make regulations regarding – | 5 |
| | (a) | any matter pertaining to the Board; | |
| | (b) | any matter pertaining to an application for a license or certificate; | 10 |
| | (c) | the management and control of licensed premises and license holders; | |
| | (d) | the management and control of gambling, betting and racing; | 15 |
| | (e) | the operational standards and minimum internal control requirements for licenses; | |
| | (f) | the stakes for which any game may be played; | 20 |
| | (g) | any fee payable in terms of this Act; and | |
| | (h) | in general, any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objects of this Act, but any regulation with financial implications may only be made with the concurrence of the Member of the Executive Council responsible for finance. | 25 |
| | (2) | Before making regulations in terms of subsection (1), the responsible Member must publish the draft regulations for public comment in the <i>Provincial Gazette</i> . | 30 |
| | (3) | Any regulation made in terms of subsection (1)(g), may only be made with the concurrence of the Member of the Executive Council responsible for financial matters in the Province. | 35 |

Compliance with certain laws a condition of license

- | | | |
|-----|---|-----------|
| 90. | It is a condition of every license issued in terms of this Act that the licensee must comply with every applicable provision of – | 40 |
| | (a) | this Act; |

- (b) the National Gambling Act; and
- (c) the Financial Intelligence Centre Act.

Repeal of laws 5

91. Subject to section 92, the laws mentioned in the Schedule, are hereby repealed to the extent set out in the third column of the Schedule.

Transitional provisions 10

92. (1) For the purposes of this section, “**effective date**” means a date on which this Act or any relevant provision of it came into effect. 15
- (2) For the purposes of this section, “**previous Act**” means the Northern Cape Gambling and Racing Act, 1996 (Act No. 5 of 1996). 20
- (3) The Board established in terms of the previous Act continues to exist and function as if established under the corresponding provision of this Act, until the responsible Member appoints a new Board in accordance with the provisions of section 3. 25
- (4) Any license, certificate of registration or approval issued by the Board in terms of the previous Act, remains valid after the commencement of this Act, if provision is made in this Act for such license, certificate of registration or approval until it expires or is revoked in terms of this Act, whereafter application for a new license, certificate of registration or approval must be made in terms of this Act. 30
- (5) Any other right or entitlement enjoyed by, or obligation imposed on any other person in terms of any provisions of the previous Act that had not been spent or fulfilled immediately before the effective date, must be considered to be a valid right or entitlement enjoyed by, or obligation imposed on that person in terms of any comparable provision of this Act, as from the date that the right, entitlement, or obligation first arose, subject to the provisions of this Act. 35
- (6) A notice given by the Board or any person to another person in terms of the previous Act must be considered as a notice given in terms of any comparable provision of this Act, as from the date on which the notice was given under the previous Act. 40
- (7) A document that, before the effective date, had been served in accordance with the previous Act must be regarded as having been satisfactorily served for the purposes of this Act. 45

- (8) An order given by an inspector in terms of any provision of the previous Act, and in effect immediately before the effective date, continues to be in effect, subject to the provisions of this Act.
- (9) Anything done under the provisions of the previous Act and which may be done under the corresponding provisions of this Act is regarded to have been done under the latter provision. 5

Short title and commencement

- 93. This Act is called the Northern Cape Gambling Act, 2008, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*. 10

SCHEDULE

Laws repealed by section 91

Number and year of law	Short title of law	Extent of repeal
Ordinance No. 34 of 1968	Horse Racing and Betting Ordinance, 1968	The whole
Act No. 5 of 1996	Northern Cape Gambling and Racing Act, 1996	The whole
Act No. 4 of 1998	Gambling and Racing First Amendment Act, 1998	The whole
Act No. 3 of 2001	Northern Cape Gambling and Racing Act, 2001	The whole