

NORTH WEST GAMBLING ACT 2 OF 2001

[ASSENTED TO 5 APRIL 2001]

[DATE OF COMMENCEMENT: 30 APRIL 2002]

[Unless otherwise indicated]

(English text signed by the Premier)

as amended by

North West Gambling Amendment Act 5 of 2005

[with effect from 28 September 2005]

ACT

To provide for the regulation of gambling activities in the Province; to establish a Board to control and manage these activities; to set out the powers and functions of the Board; to repeal certain legislation pertaining to gambling and to provide for matters incidental thereto.

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PREAMBLE

WHEREAS the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), schedule 4 thereof, provides that a Provincial Legislature shall be competent to make laws with regard to gambling matters;

AND WHEREAS gambling matters are privileged activities, which should stimulate the creation of employment opportunities and thereby promote the improvement of the quality and standard of living of the people of the Province;

AND WHEREAS gambling provides a significant source of public revenue for the Province;

AND WHEREAS the levying of such taxes has to be dealt with in terms of the Provincial Legislation;

AND WHEREAS the Provincial Legislature has recognised the need for such legislation in order to prevent the conduct of illegal gambling activities in the Province;

AND WHEREAS it is recognised that public confidence and trust and the health, safety, general welfare and good order of the inhabitants of the Province are dependant upon the strict regulation of all persons, premises, practices, associations and activities relating to gambling.

CHAPTER I DEFINITIONS AND APPLICATION OF THE ACT (secs 1-2)

1 Definitions

In this Act the following words and expressions shall have the following meanings, unless the context indicates otherwise-

"authorised officer" means an employee of the Board or a South African Police Official duly authorised to act in terms of section 39(1);

"amusement game" means amusement game referred to in sections 4(3) and 51, played or activated by the insertion or payment of coin, token, credit, electronic credit, debit, bill of exchange or other value instrument whereby the player may win a prize which is not in the form of cash, tokens, cheques, credit, debits, bills of exchange or other value instruments, but is limited to-

- (a) one or more non-cash objects with a combined monetary value not exceeding the limit set by the Board; or
- (b) more than one opportunity to play a further game, provided that no more than 10 opportunities may be won in respect of a single game; or
- (c) in the case of games of skill, one or more tickets which cumulatively entitle or enable the player to receive a prize contemplated in paragraph (a) on the premise concerned and which are not transferable to any other person: Provided that no accumulation of tickets shall entitle or enable the player to receive a prize other than having a higher value than that; or
- (d) in a situation contemplated in paragraph (a): Provided further than no more than 10 (ten) tickets may be won in respect of any single such game;

"amusement machine" means any mechanical, electrical, electromechanical, video or other device, contrivance or machine on which an amusement game may be played but excludes any machine, contrivance or device the same as derived from or converted from a gambling machine of a type usually found in a casino;

"amusement machine licence" means a licence issued in terms of section 51;

"bet" or "betting" means to stake any money or thing of value or to stake on behalf of any person, or expressly or impliedly, to undertake, promise or agree to stake on behalf of any person, any money or thing of value on any event or contingency other than the contingency involved in a gambling game;

"bingo" means the gambling game known as bingo and any similar gambling game which is played with cards (including electronic screens) on which appear a set of numbers or symbols and in the course of which each player attempts to match for money, property, cheques or anything of value, all or a specified set of numbers or symbols on his or her cards to calls made by the operator and includes any similar gambling game operated in whole or in part by electronic means;

"bingo licence" means any licence issued in terms of section 52;

"Board" means the North West Gambling Board established by section 3;

"bookmaker" means any person, who earns or endeavours to earn his or her livelihood wholly or partly by directly or indirectly laying or taking fixed odds or open bets on sporting events with members of the public or other bookmakers;

"casino" means premises where gambling games are played or available to be played for money or other valuable consideration gambled on the possibility of winning a prize;

[Definition of "casino" substituted by sec 1 of Act 5 of 2005 wef 28 September 2005.]

"casino licence" means a licence contemplated in section 50;

"consideration" means an undertaking, promise, agreement or assurance, regardless of its apparent or intrinsic value;

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

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

"department" means the department of Economic Development and Tourism;

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

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

"family member" means-

- (a) a husband or wife, any partner in a customary union according to indigenous law or any partner in a relationship where the parties live together in a manner resembling a marital partnership or a customary union; or
- (b) any person related to either one or both persons referred to in paragraph (a) within the second degree through marriage, a customary union or a relationship referred to in paragraph (a) or the third degree of consanguinity.

"financial interest", in relation to a company or corporation, means:

- (a) having a right or entitlement to share in profits or revenue;
- (b) having any real right in respect of any property of the company or corporation;
- (c) having any real or personal right in any property used by the company or corporation in conducting its gambling business; or
- (d) having a direct or an indirect interest in the voting shares of the company or having an interest in a close corporation;

"fixed odd bet" means a bet laid by a bookmaker on one or more events or contingencies where fixed odds bets are agreed upon when such bet is laid;

"gamble" means the wagering of a stake of money or anything of value on the unknown result of a future event at the risk of losing all or a portion thereof for the sake of a return, irrespective of whether any measure of skill is involved or not and encompasses all forms of gambling but, excludes the operation of an amusement machine and, the word gambling shall have a corresponding meaning;

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

"gambling device" means any equipment or thing used remotely or directly in connection with gambling or and including an electro-mechanical or electronic device, component or machine or gambling machine;

"gambling game" means any game, whether or not the result thereof is determined by chance, played with or by means of playing cards, dice, gambling machines, gambling devices, or any mechanical, electro-mechanical or electronic device, component, machine, any computer hardware, or software, which upon payment of money, property, cheques, a token, electronic credit, credit, debit or electronic chip or similar object or upon payment, whether directly or indirectly by a player of any consideration whatsoever, whether by reason of the skill of the player or operator or the element of chance or both, may entitle or deliver to the person playing the game money, merchandise, property, cheques, credit, electronic credit, debts, tokens, tickets or anything of value other than an opportunity to play a further game, whether the pay off is made automatically or in any other manner whatsoever and including, without derogating from the generality of the foregoing, roulettes, bingo, keno, twenty-one, blackjack, poker, chemin de fer, punto banco and bacarrat, excluding any amusement game insofar as it is regulated or provided for in teens of this legislation;

"gambling machine" means any mechanical, electrical, video, electronic, electromechanical or other device, contrivance or machine which upon insertion of a coin,

bank note, electronic credit card, debit card, smart card, token or similar object, or upon payment of any consideration is available to be played or operated and the playing or operation of which, whether by reason of the skill of the player or operator or the application of the element of chance or both, may deliver or entitle the person playing or operating the machine to receive cash, property, cheques, merchandise, credit, electronic credits, debits, tokens, tickets or anything of value but does not include an amusement machine;

"horse race" means any horse race over a defined or agreed course held for the entertainment of the public and members of any association or club, but does not include any race in the nature of a public trial gallop at which no betting takes place, held under the management and control of the holder of a race course licence, and any race or contest of a private nature at which no betting takes place;

"independent site operator" means a site operator who is not linked to a route operator, and is licensed to own and operate limited payout machines on a single site;

"independent site operator licence" means a licence issued in terms of section 55;

"inspector" means an inspector appointed under section 64;

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

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

"licence" means-

- (a) a casino licence;
- (b) bingo licence;
- (c) an amusement machine licence;
- (d) a route operator licence;
- (e) a site operator licence;
- (f) independent site operator licence;
- (g) a totalizator licence;
- (h) a bookmaker licence;
- (i) a race course licence;
- (j) a race meeting licence;
- (k) a temporary licence;

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

"limited payout machine" means a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as shall be prescribed in terms of the regulations;

"local authority" means any local government body contemplated in chapter 7 of the constitution;

"manufacturer", "supplier" or "maintenance provider" means a person conducting business of the manufacture, and or sale, lease, making available, distribution, import, maintenance or repair of any gambling device;

"open bet" means a bet laid by a licensed bookmaker on one or more events or contingencies where no fixed odds bets are agreed upon when such bet is laid;

"opportunity to play a further game" means an opportunity which cannot be distributed or transferred to the person who has won such opportunity or to any other person, for any other purpose other than to use such opportunity without interruption to continue playing the type of game in respect of which the opportunity was won, and excludes an opportunity which can in any manner, whether directly or indirectly, be converted into money, property, cheques, credit or anything of value, or be so converted in terms of any scheme of arrangement, system, plan or device which the Responsible Member

may from time to time by notice in the *Provincial Gazette* declare not to be an opportunity to play a further game;

"ordinance" means the Horse Racing and Betting Ordinance, 1978 (Ordinance 24 of 1978 (TVL)), or the Horse Racing and Betting Ordinance 1968 (Ordinance 34 of 1964 (Cape));

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

"political office-bearer" means-

- (a) a member of the National Assembly or National Council of Provinces;
- (b) a member of a provincial legislature;
- (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; and
- (f) any other person holding a position of national or provincial leadership of a political party;

"premises" means any site, place or location, regardless of whether it is or forms part of any temporary or permanent structure, building, vessel, vehicle or aircraft;

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

"Province" means the Province of the North West;

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

"race course licence" means a licence issued in terms of section 58;

"race meeting" means any gathering of persons attending a horse race whether or not such race is run, if the date and the place of such race has been made known by public advertisement or private invitation;

"race meeting licence" means a licence issued in terms of section 59;

"regulations" means regulations made in terms of section 84;

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

"route operator" means a company registered in terms of the Companies Act, 1973 (Act 61 of 1973) as amended, which is licensed to own and operate limited payout machines;

"route operator licence" means a licence issued in terms of section 53;

"rules" means the rules made in terms of section 85;

"site operator" means premises licensed for the placement and operation of one or more limited payout machines;

"site operator licence" means a licence issued in terms of in section 54;

"social gambling" means-

- (a) the playing of a gambling game, other than the operation of a gambling machine, in a private dwelling, a church, school or community hall, a club house belonging to a genuine sports club or such other place as the Board may from time to time approve, which is not operated or conducted for profit and in which no person directly or indirectly receives any form of remuneration or compensation for operating, conducting, carrying on, maintaining or providing such gambling; and
- (b) the playing of any gambling game other than the operation of a gambling machine for the purpose of genuine fund-raising by a church, a school, a sports club or an entity duly registered in terms of the Fund-Raising Act, 1978 (Act 107 of 1978), or such other entity as the Board may from time to time determine, and in accordance with the procedures and subject to the conditions which may be prescribed;

"sporting event" means any ball-game, race (including a race involving vehicles or animals) or other athletic or sporting contest, competition or game, including a beauty contest, usually attended by public;

"temporary licence" means a licence issued in terms of section 43(2) to a person whose application for a licence has been granted subject to the fulfilment of certain conditions within a specified period, where upon fulfilment, a permanent licence will be issued in substitution of the temporary licence;

"the Act" or "this Act" includes the schedules and any regulation made or issued thereunder;

"totalizator" means any instrument, machine, contrivance or apparatus for registering or indicating or registering and indicating the number or amount or the number and amount of bets on any event or combination of events and which is operated in accordance with a system of betting in which the aggregate amount staked on such event or combination of events, after deduction from such aggregate amount of any amounts which may in terms of this Act be deducted therefrom, is divided amongst those persons who have made winning bets on any event or combination of events in proportion to the amounts staked by such persons in respect of such winning bets, and includes any combination of such instrument, machine, contrivance or apparatus, whether inside the province or not and, any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles;

"totalizator licence" means a licence issued in terms of section 56;

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

2 Application of this Act and other laws

(1) Save for the provisions of the National Gambling Act, 1996 (Act 33 of 1996), including subsequent amendments thereto, or as may otherwise be provided in this Act, nothing contained in any law relating to gambling or betting shall apply in respect of any gambling or betting conducted in the Province.

(2) No provision of this Act shall be construed as limiting the application of the Abolition of Dog Race Meetings and the Prohibition of Betting on Dog Race Ordinance, 1949 (TVL Ordinance 4 of 1949) and Prohibition of Dog Races Ordinance, 1986 (Cape Ordinance 11 of 1986).

CHAPTER II NORTH WEST GAMBLING BOARD (secs 3-23)

3 Establishment of the Board

There is hereby established a juristic person to be known as the North West Gambling Board.

4 Powers and functions of the Board

- (1) The powers and functions of the Board shall be-
 - (a) to oversee gambling activities in the Province;
 - (b) to advise the Responsible Member or furnish a report or recommendation to the Responsible Member on any matter referred to the Board by the Responsible Member for consideration and arising from the application of this Act relating to the control of gambling in the Province;
 - (c) to exercise such powers and perform such functions and duties as may be assigned to the Board in terms of this Act or any other law; and particular to-
 - (i) invite applications for licences in terms of this Act;
 - (ii) consider and dispose of applications for licences in such manner and at such time and place as it may from time to time determine;
 - (iii) grant, renew, amend, refuse, suspend or revoke licences under this Act;
 - (iv) impose conditions in respect of any licence at any time;
 - (v) revoke licences granted under the Ordinance;

- (vi) acquire, hold, hire, let and alienate intellectual, movable and immovable property;
- (vii) open and maintain bank accounts;
- (viii) appoint and dismiss staff and do all things incidental thereto;
- (ix) conclude and perform contracts;
- (x) participate in or conduct a quasi-judicial and administrative proceedings;
- (xi) make and enforce rules for the conduct of its proceedings and hearings;
- (xii) receive, expand and generally administer funds;
- (xiii) collect and administer in accordance with the provisions of this Act, levies and fees imposed by or under this Act;
- (xiv) make rules and regulations governing the licensing, conduct and operation of any gambling activity or business;
- (xv) conduct or cause to be conducted hearings, investigations and enquiries with regard to any matter falling within the scope of its functions;
- (xvi) apply to court to place any gambling operation under supervisory management;
- (xvii) enter into agreements with or obtain the assistance of any department or organ of State, including the South African Police Service, to conduct or assist it in conducting its investigations;
- (xviii) obtain information from licence holders and other persons and agencies;
- (xix) conduct an ongoing study of, and investigation, into gambling throughout the Province and elsewhere in order to ascertain whether there are any deficiencies in this Act or in any regulation or rule made thereunder and to discover any abuses or violations of the procedures contained in this Act or any regulation or rule made thereunder;
- (xx) determine minimum internal control systems for licence holders, including accounting and reporting procedures and any other procedures or systems, whether computerised or not;
- (xxi) impose penalties for any breach of any of the rules or regulations made under this Act, which may include fines or the suspension of or the imposition of conditions relating to any licence issued in terms of this Act;
- (xxii) determine fees and charges in respect of investigations, inquiries and any other function performed by the Board;
- (xxiii) collect and administer interest and penalties imposed by or under this Act;
- (xxiv) undertake or cause to be undertaken test on equipment and gambling devices used or to be used in gambling activities and to recover the costs thereof from any person at whose instance or such tests are undertaken;
- (xxv) issue summonses for the appearance of persons or the production of books, documents or things in connection with applications, hearings, investigations or enquiries under this Act, including the rules or regulations made thereunder;
- (xxvi) establish field or branch offices;
- (xxvii) establish and administer funds for the proper administration of this Act;
- (xxviii) consult with any person or employ consultants regarding any matter relevant to the performance of its functions on such terms and conditions as the Board may determine;
- (xxix) compile a list of persons who are to be excluded or rejected from specified licensed premises and of those who are prohibited from partaking in specified gambling;
- (xxx) make rules governing the licensing, conduct and operations of amusement games including the licensing thereof and in consultation with the Responsible Member and Treasury to impose licence fees therefor;
- (xxxi) generally exercise the powers and perform the functions and duties specified in this Act or assigned to it by any other law;

- (xxxii) to enter into agreements with third parties including other provincial gambling boards;
[Subpara (xxxii) inserted by sec 2 of Act 5 of 2005 wef 28 September 2005.]
- (xxxiii) obtain the assistance of any department or organ of State, including the South African Police Service, to conduct or assist it in conducting its investigations.
[Subpara (xxxiii) inserted by sec 2 of Act 5 of 2005 wef 28 September 2005.]

(2) The Board may, with the approval of the Responsible Member and if a law or any other province or area provides therefor, exercise such powers and perform such functions and duties in terms of such law in respect of persons and matters in the said province as the Board may in terms of this Act exercise and perform in this Province.

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

5 Constitution of the Board

(1) The Board shall consist of nine members appointed by the Responsible member, of whom-

- (a) one member shall be qualified to be admitted to practice as a legal practitioner and after having so qualified, practised as a legal practitioner or performed services related to the application or administration of the law;
- (b) one member shall be an accountant or auditor registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991), with experience in public practice as defined in section 1 of that Act;
- (c) one member shall be appointed by virtue of his or her knowledge and experience in the field of welfare or socio-economic development;
- (d) one member shall be appointed by virtue of his or her knowledge and active involvement in the tourism industry;
- (e) one member shall be designated by the Member of the Executive Council responsible for Economic Development and Tourism;
- (f) one member shall be designated by the Member of the Executive Council responsible for Safety and Liaison;
- (g) one member shall be designated by the Member of the Executive Council responsible for Finance and Provincial Treasury;
- (h) two members shall be appointed on the basis of having either proven business acumen, a knowledge of the gambling industry, or who are otherwise suitable for appointment as members of the Board.

(2) In addition the Chief Executive Officer of the Board shall *ex officio* be a member of the Board but shall not be entitled to vote.

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

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

(5) Any objections to the appointment of any person to the Board, may, not later than fourteen days before the date on which the appointments of the members of the Board are to be lodged with the Responsible Member, be made in writing stating the ground or grounds which, according to such a person, disqualify any prospective member from being appointed as a member to the Board.

(6) A member of the Board shall be appointed by the Responsible Member after due consideration of all nominations and any objections lodged in terms of subsection (5).

(7) The final list of nominees shall include both genders.

(8) The final list shall be published in the *Provincial Gazette* and media.

(9) Responsible Member shall appoint one member of the Board as the Chairperson, and another member as the deputy Chairperson.

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

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

5A Exemption from liability

A member of staff of the Board may not be liable in his or her personal capacity for anything done by him or her in good faith in the course of exercising the functions or exercising the powers of the Board in terms of this Act.

[Sec 5A inserted by sec 3 of Act 5 of 2005 wef 28 September 2005.]

6 Remuneration and allowances of members of the Board

Members of the Board or persons co-opted or consulted respectively in terms of sections 16 and 17 who are not in the full-time service of the State may, in respect of their services, be paid such remuneration and allowances out of the funds of the Board as may be determined by the Responsible Member in concurrence with the Member of the Executive Council responsible for Finance.

7 Term of office of members of the Board

(1) A member of the Board-

- (a) shall hold office for a period of five years from the date of appointment;
- (b) shall be eligible for re-appointment upon expiry of the initial term of office; and
- (c) may at any time upon at least three months' written notice tendered to the Responsible Member resign from office.

(2) The Responsible Member may terminate the term of office of a member if the Responsible Member is of the opinion that it is in the public interest or in the interest of the proper administration of this Act to do so.

8 Removal of members of the Board from office

A member of the Board may be removed from office by the Responsible Member-

- (a) on account of misconduct, or incapacity to perform the duties of his or her office efficiently, or
- (b) by reason of his or her absence from three consecutive meetings of the Board without good cause shown.
- (c) If he or she failed to disclose an interest in terms of section 10(2)(a) or attended or participated in the proceedings of the Board while having interest contemplated in section 10(1).

9 Vacancies in the Board

(1) There shall be a vacancy in the Board if a member-

- (a) dies;
- (b) becomes subject to a disqualification referred to in section 14;
- (c) has tendered a resignation as contemplated in section 7(3); or
- (d) has been removed from office in terms of section 8.

(2) A vacancy in the Board shall be filled by the appointment of another member by the Responsible Member in terms of this Act as soon as may be reasonably practicable after the occurrence of such vacancy, and any member so appointed shall hold office for the unexpired period of his or her predecessor's term of office

10 Disclosure of conflict of interests

(1) Subject to the provisions of subsection (2), a member of the Board shall not vote or in any other manner participate in the proceedings at any meeting of the Board nor be present at the venue where such a meeting is held, if in relation to any matter before the Board-

- (a) he or she or his or her family member, or business associate is a director, member or partner of, or has controlling interest or any financial interest in the business of the applicant or any person who made representations in relation to the application for a licence; or
- (b) he or she has any interest which precludes him or her from performing his or her functions as a member of the Board in a fair, unbiased and proper manner.

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

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

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

11 Proceedings of the Board not invalid in certain circumstances

Subject to the provisions of section 10, a decision taken by the Board or an act performed under the authority of such a decision shall not be invalid merely by reason of any irregularity in the appointment of the member of the Board or, a vacancy in the Board or, the fact that any person not entitled to sit as a member of the Board sat as such at the time when such decision was taken: Provided that such decision was taken by a majority of the members of the Board present at the time and entitled so to sit and, the said members at the time constituted a quorum.

12 Staff of the Board

(1) The Board shall, in the exercise of its powers and performance of its functions be assisted by-

- (a) a chief executive officer appointed by the Board in consultation with the Responsible Member;
- (b) persons appointed by the Board; or
- (c) officers or employees placed at the disposal of the Board in accordance with section 15(3)(a) of the Public Service Act, 1994 (Proclamation 103 of 1994).

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

(3) The staff of the Board who are not in the full-time service of the State shall receive such remuneration, allowances, and other employment benefits out of the funds of the Board, and shall be appointed on such terms and conditions for such periods as the Board, with the concurrence of the Responsible Member, may determine.

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

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

13 Meetings and decisions of the Board

(1) The first meeting of the Board shall be held at the time and place determined by the Responsible Member, and thereafter the Board shall meet at such times and places as the Board may from time to time determine for the expeditious conduct of its business.

(2) The Chairperson may at any time on reasonable notice convene an extraordinary meeting of the Board to be held at a time and place determined by him or her for the conduct of any business: Provided that the Chairperson shall, upon having been presented with a requisition for that purpose signed by at least two members, call for a special meeting, and if the Chairperson fails to convene a special meeting within seven days from such presentation, such two members may, upon the expiration of seven days convene the special meeting.

(3) The quorum for any meeting of the Board shall be a majority of the total number of its members.

(4) If both the Chairperson and the deputy Chairperson are absent from any meeting of the Board, the remaining members shall from their number elect an acting Chairperson, who, while he or she so acts, may exercise and perform all the powers, functions and duties of the Chairperson.

(5) Subject to the provisions of subsection (3), a decision of the Board shall be taken by resolution agreed to by the majority of members present at any meeting of the Board and, in the event of an equality of votes regarding any matter, the Chairperson shall have a casting vote in addition to his or her deliberative vote: Provided that in the event of equality of votes in relation to the proposed granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or transfer of a licensed business to new premises, it shall be deemed that no decision has been taken by the Board and the matter shall be brought *de novo* before the Board.

14 Persons disqualified from being members of the Board

No person shall be appointed to or remain as a member of the Board if such person-

- (a) is not a citizen of the Republic;
- (b) at the relevant time is, or during the preceding 12 months was, a public servant other than a person appointed in terms of section 5(1)(e), (f), or (g);
- (c) at the relevant time is, or during the preceding 12 months was, a member of Parliament, any provincial legislature or local authority, or any council, commission or House of Traditional Leaders established in terms of the Constitution of South Africa Act 1996;
- (d) at the relevant time is, or during the preceding 12 months was holding a position of national or provincial leadership of a political party;
- (e) has any direct or indirect interest in any gambling activity or any other business or enterprise that may conflict with the proper performance of his or her duties as a member of the Board;
- (f) or his or her partner or associate, holds an office in or with, or is employed by, any person, company, organisation or other body, whether corporate or unincorporate, which has an interest contemplated in paragraph (e);
- (g) is an unrehabilitated insolvent;
- (h) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;
- (i) has at any time been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under this Act or any Act providing for the prevention or the criminalization of corruption, or any

offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R500;

- (j) has at any time been removed from an office of trust on account of misconduct;
- (k) failed to disclose an interest in terms of section 10 or attended or participated in the proceedings of the Board while having an interest contemplated in section 10;
- (l) is not a natural person.

15 Minutes of the meetings of the Board

(1) Minutes of every meeting of the Board shall be kept and retained at the offices of the Board.

(2) Any person may obtain copies of the minutes contemplated in subsection (1) or any part thereof against payment of the prescribed fees.

16 Co-option of persons

(1) If the Board is of the opinion that a particular person or persons can assist the Board in the consideration of a particular matter, the Board may co-opt that person or persons for such purpose.

(2) A co-opted person shall not be entitled to vote at any meeting of the Board.

(3) The remuneration and allowances payable in terms of section 6, if any, and the terms and conditions of a person or persons co-opted shall be contained in a written agreement entered into for that purpose between the Board and the person or persons so co-opted.

16A Committees of the Board

(1) The Board may from time to time and on such terms as it may determine appoint committees to exercise the powers and perform the functions delegated to such committees by the Board.

(2) A committee shall consist of-

- (a) such members of the Board as the Board may designate; or
- (b) such members of the Board as the Board may designate and such other persons as the Board may co-opt:

Provided that no committee shall have less than two members.

(3) The Board shall designate the chairperson of a committee.

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

[Sec 16A inserted by sec 4 of Act 5 of 2005 wef 28 September 2005.]

17 Consultation by the Board

(1) The Board may consult any person, agency, organisation or institution with regard to any matter if it deems necessary for the proper performance of its functions and exercise of its powers.

(2) The provisions of section 16(3) shall *mutatis mutandis* apply in respect of a person, agency, organisation, or institution so consulted.

18 Powers delegated by the Board

(1) The Board may, subject to subsection (2), delegate any power or function which it may exercise or perform in terms of this Act to any of its members, committees or employees, whereupon such power or function may be exercised or performed by the delegate on behalf of the Board.

[Subsec (1) substituted by sec 5 of Act 5 of 2005 wef 28 September 2005.]

(2) The power to make a decision relating to the granting, transfer or revocation of a gambling licence or the material amendment thereof, shall not be delegated.

(3) The chief executive officer may, with the approval of the Board, delegate his or her powers, functions and duties to any other member or the staff of the Board or person in the service of the Board.

(4) A delegation under this section shall not prevent the exercise or performance of the power, function or duty concerned by the Board or chief executive officer as the case may be.

(5) A delegation under this section may at any time be revoked or withdrawn.

(6) Anything done in the exercise or performance of a delegated power, function or duty shall be deemed to have been done by the Board or chief executive officer, as the case may be.

19 Involvement in gambling by member or staff of the Board

(1) No member or staff of the Board shall participate in any gambling in the Province except in the performance of his or her duties in terms of this Act.

(2) A member of the Board or of the staff of the Board shall not accept any donation, reward or other benefit from or on behalf of an applicant for the holder of a licence, and no person shall give or offer such donation, reward or benefit to such member or staff of the Board.

20 Expert and other assistance

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

(2) The terms, conditions, remuneration and allowances applicable to any expert or person appointed or called upon under subsection (1), and the work to be performed or service to be rendered by him or her shall be determined by the Board with the concurrence of the Responsible Member, and be contained in a written agreement entered into for that purpose between the Board and the expert or person concerned.

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

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

21 Funds of the Board

(1) The funds of the Board shall consist of monies transferred from the department.

(2) Annual Board administrative fees and investigation fees charged in respect of applications for licences and registration.

(3) Money accruing to the Board from any other service.

(4) The Board shall, for the purpose of the transfers contemplated in subsection (1), submit to the Responsible Member in a prescribed format, a breakdown per month of the anticipated revenue and expenditure of the Board for that financial year.

22 Accounting responsibility

(1) The Board shall perform its accounting responsibility in accordance with the provisions of the Public Finance Management Act, 1999 (Act 1 of 1999) as amended.

(2) Without derogating from the generality of subsection (1), the Board shall-

- (a) keep full proper records of its financial affairs in accordance with any prescribed norms and standards;
- (b) prepare financial statements for each financial year in accordance with generally recognised accounting practice;

- (c) submit those financial statements within five months of the end of a financial year to the Responsible Member; and
- (d) submit an annual report of its activities during that financial year to the Responsible Member.

(3) The financial statements referred to in subsection (2) shall be audited by the Auditor General.

23 Service of process

(1) In any legal proceedings instituted against the Board, service on the chairperson of any process or any document whereby proceedings are instituted, shall be sufficient service on the Board.

(2) In any legal proceedings instituted against the Board and the North West Government, the service on the Chairperson and at the office of the state attorney respectively, of any process or any document whereby proceedings are instituted, shall be sufficient service on the Board and the North West Government.

CHAPTER III LICENSING IN GENERAL (secs 24-28)

24 Kinds of licences and consideration of licence applications

- (1) The licences under this Act shall be-
- (a) Casino licences;
 - (b) Bingo licences;
 - (c) Amusement machine licences;
 - (d) Route operator licences;
 - (e) Site operator licences;
 - (f) Independent site operator licences;
 - (g) Totalizator licences;
 - (h) Bookmaker licences;
 - (i) Race Course licences;
 - (j) Race meeting licences;
 - (k) Temporary licences.

(2) No person shall make an application for a licence, and no such application shall be entertained, unless the application is lodged pursuant to and in accordance with a notice inviting applications which has been published by the Board in the *Provincial Gazette*, and which notice may state:

- (a) the type and number of licences to be issued and any conditions that may apply;
- (b) the area to which the licence will relate;
- (c) any requirements that may be necessary or desirable; and
- (d) the evaluation criteria to be applied.

(3) All applications for licences shall be considered and disposed of according to the procedures determined by the Board.

(4) The Board may conduct or cause to be conducted any hearing, investigation or enquiry in relation to any application submitted under this Act.

(5) The Board shall not approve an application for any licence unless it is satisfied that-

- (a) the funding of the business for which a licence is required is provided by a reputable person, body or institution;
- (b) the premises in question are or will on completion be suitable for the purpose for which they will be used under the licence;
- (c) the development is not undesirable within the specific geographic environment, with reference to social, religious, educational, cultural, economical, environmental and land-use aspects;

- (d) the applicant has made full and frank disclosure of all matters prescribed or determined by the Board and the relevant information in respect of the application was made available for public scrutiny in terms of the provisions of this Act;
- (e) the grant of the licence is in the public interest;
- (f) the applicant qualifies in terms of section 25 and is not disqualified in terms of section 26.

(6) After consideration of an application the Board may grant or refuse or postpone the consideration of an application subject to any terms and conditions it may see fit.

25 Qualification for licences

In order to qualify for a licence-

- (a) a person shall in the opinion of the Board be a fit and proper person whose character, integrity, honesty, prior conduct, regard for the law, reputation, habits and associations do not pose a threat to the health, safety, morals, good order and general welfare of the inhabitants of the Province and to the provisions of this Act;
- (b) a person or entity shall have adequate financial means to undertake and sustain an activity for which the licence is required.

26 General disqualification in respect of licences

The following persons or entities shall be disqualified from retaining, holding, obtaining or being granted a licence:

- (a) an unrehabilitated insolvent, any entity that is subject to winding up or is under judicial management, or any person who is subject to any legal disability;
- (b) political office bearers;
- (c) a member or staff of the Board;
- (d) the family member of a member of the Board or of the Responsible Member;
- (e) any legal or natural person who has been convicted in the Republic or elsewhere of any offence of which dishonesty is an element, unless the Board decides that the offence was of such a nature that it does not imply that such a person or entity is unsuitable to hold the licence in question;
- (f) any legal entity in respect of which the State, or any organ of the State or any organisation with which the State is concerned has any financial interest, except as far as taxes are concerned, in any gambling activity, provided that the provisions of this paragraph shall, for such time as may be provided in the National Gambling Act, 1996, as amended, not apply in respect of any financial interest held by the State, or any organ of the state or any organisation with which the State is concerned, in any legal entity holding a gambling licence at the commencement of this Act if such interest was acquired before 27 April 1994, provided further that for the purpose of this paragraph financial interest shall not be construed as preventing the granting of a licence to a person or entity merely because that person or entity leases or otherwise occupies pursuant to an agreement or arrangement entered into or made before the commencement of this Act, premises owned by the state, a local government or a statutory body;
- (g) any person who does not qualify in terms of section 25;
- (h) any person whose licence, in terms of this Act or similar Law has been revoked; and
- (i) any person who has been removed from any office of trust on account of misconduct or dishonesty.

27 Disqualification of persons having certain indirect interests

If a person who is disqualified under section 26 has any direct or an indirect financial interest of five percent or more in a company, close corporation or other body corporate, acts as a principal or has, in the opinion of the Board, the power to exercise a significant influence over the gambling business of such company, close corporation or other body

corporate, such company, close corporation or body corporate, shall also be disqualified from retaining, holding, obtaining or being granted a licence, provided that the Board may in its discretion grant an application for a licence notwithstanding the provisions of this section.

27A Financial and controlling interests

(1) Any person who, directly or indirectly procures a controlling interest or a financial interest of five percent or more, or any lesser percentage as may be prescribed, in the business to which a license or a registration in terms of section 60 relates shall, within the prescribed period and in the manner prescribed or determined by the Board, apply for the consent of the Board to hold such interest.

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

- (a) in the case of a license the person who is the subject of the application is disqualified in terms of section 26;
- (b) additionally, in the case of a casino license, that person who is the subject of the application is disqualified in terms of section 26; and
- (c) in the case of a registration under section 60, the person who is the subject of the application is disqualified in terms of sections 26 and 27 as applied with the changes required by the context.

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

(4) The provisions of sections 29 to 38 shall, unless the Board determines otherwise apply to a person who wishes to procure an interest as contemplated in subsection (1);

(5) A person may not procure an interest contemplated in subsection (1) as a nominee or agent of, or otherwise on behalf of, any principal or beneficiary if that person has not informed the holder of the license concerned and the Board in writing of the identity of such principal or beneficiary.

(6) If the holder of an interest of a kind contemplated in subsection (1) at any time becomes disqualified from holding such interest in terms of section 27 the Board may, after giving such person an opportunity to be heard suspend such person's ownership right or order such person to dispose of such interest within the period prescribed or determined by the Board and order that such person may not dispose of such interest for more than he or she paid for it or such greater amount as the Board may approve.

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

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

[Sec 27A inserted by sec 6 of Act 5 of 2005 wef 28 September 2005.]

28 Licence applications

(1) Any application for the grant or renewal of a licence shall-

- (a) be lodged in the manner and form determined by the Board,
- (b) be accompanied by the documents and information determined by the Board and by the prescribed application fee or annual fee as the case may be, which shall not be refundable, and
- (c) be invalid in the event of non-compliance with the foregoing in any respect.

(2) The applicant shall be liable for and pay the Board any reasonable costs incurred in connection with the publication and transmission of any notice contemplated in section 29(1).

CHAPTER IV
HEARINGS, INVESTIGATIONS AND ENQUIRIES (secs 29-38)

29 Representations by interested persons

(1) The Board shall, within 14 days after lodgement of an application for a licence, cause a notice of the application to be published-

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

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

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

30 Response by applicant to representations

(1) The applicant shall lodge his or her written response, if any, to any representations lodged in terms of section 29 with the Board within 1 (one) month of the date of the notice contemplated in sections 29(1).

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

31 Further information and oral representations

(1) An applicant, or any person who lodged representations as contemplated in section 29, may be required in writing to lodge with the Board within the period specified, such further information as may be reasonably necessary with a view to enabling the Board properly to consider the application, representations or response concerned.

(2) Where any person or local authority wishes to make oral representations at the hearing of the application as contemplated in section 29(2)(b)(ii), the Board shall-

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

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

32 Application and representations to be open to public inspection

(1) Any application, representations, responses and further information lodged in terms of section 28 to 31 shall be open to public inspection by interested persons during normal officer hours of the Board.

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

(3) The Board may determine that-

- (a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees or to the business plans of an applicant, shall not be open to public inspection, provided such

information can be separated from the remainder of the application and is marked confidential,

- (b) the identity of any person who lodged representations in relation to an application shall not be divulged to any other person.

33 Inspection of premises to which application relates

(1) The Board shall, on lodgement of an application for a licence-

- (a) forthwith cause the premises to which the application relates to be inspected so as to determine the suitability thereof for the carrying on of the business to which the licence relates, and
- (b) within 14 days after such lodgement, give notice of the application to the local authority or other competent authority concerned, to inspect the premises in order to ensure whether they comply with the requirements of any law relating to town planning and the health and safety of the public which applies to those premises.

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

(3) On completion of an inspection contemplated in subsection (1) or (2), the inspector or authority concerned, as the case may be, shall furnish a report of such inspection to the Board.

(4) The Board shall send by registered post or deliver a copy of such report to the applicant.

34 Investigations and police report

(1) In order to determine whether or not a licence should be granted to an applicant, the Board may, subject to any other law, gather such information as it deems necessary from any source or person regarding the suitability of the applicant to hold such a licence under this Act.

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

- (a) particulars of any convictions recorded against any director in a case of a company, any member in the case of a close corporation or any other person in the case of a site operator licence or any person who will be involved in the business and in respect of whom the Board deems it necessary to obtain a police report, and
- (b) such matters as may be prescribed.

(3) For the purposes of a report contemplated in subsection (2) the specified member of the South African Police Services may require the applicant or person concerned to furnish such information and particulars including any finger-print or palm-print as that member may consider necessary.

(4) A report contemplated in this section shall be furnished to the Board within 2 (two) months of the date of the request therefor.

35 Hearing of application

(1) The Board shall, within a prescribed period, hold a hearing in respect of every application for a licence received by the Board, on such a date and at such time and place as shall be determined by the Board,

(2) The provisions of section 29(1) shall *mutatis mutandis* apply in relation to such a hearing.

(3) At such hearing-

- (a) the applicant shall be afforded an opportunity to be heard;
- (b) any person or local authority permitted to make oral representations as contemplated in section 31(2) shall be afforded an opportunity to be heard, and

(c) the applicant and each such person and authority may be assisted or represented by any person of their choice

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

36 Accessibility of hearing to public

(1) Any hearing contemplated in section 35 shall be accessible to the public.

(2) The person presiding at a hearing may-

(a) if the presence of any particular person is not conducive to the good order or conduct of the hearing, direct that such person may not attend, or shall leave the hearing, and

(b) if the Board is considering any matter contemplated in section 32(3)(a) or representations lodged by a person contemplated in section 32(2)(b), or if it is otherwise in the interest of the consideration of the matter concerned, direct that the public or any member or category thereof may not attend or shall leave hearing.

37 Witness and evidence

(1) For the purposes of any hearing or enquiry, the Board may in writing, summon any person who is or may be able to furnish information in relation to a particular matter to appear before it-

(a) to give evidence, or

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

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

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

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

(5) The Board may require any person testifying at a hearing or an enquiry to give evidence on oath or affirmation, and any person qualified to administer an oath or accept an affirmation in terms of the Justice of the Peace and Commissioners of Oaths Act, 1963, may administer the oath or accept an affirmation, from any such person.

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

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

(8) Any person who has been summoned in terms of this section or who has given evidence at a hearing or an enquiry shall be entitled to the same witness fees as if he or she had been summoned to attend or give evidence in a Court of Law.

(9) Any fees which may be payable in terms of subsection (9) shall be paid from the funds of the Board.

(10) The provisions of this section shall *mutatis mutandis* apply to any corporate body, organisation or institution.

38 Decision on application for licence

(1) The Board shall, subject to the provisions of section 26, and after having duly considered the application for a licence, any representations made in relation to the application, the applicant's written response thereto, if any, further information furnished in terms of section 31(1), the inspection and police reports contemplated in sections 33 and 34 respectively, and any other evidence tendered to the Board in terms of section 37 and after consultation with the Responsible Member-

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

subject to any terms and conditions it may deem fit.

(2) The Board shall on request furnish the written reasons for its decision-

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

CHAPTER V

MISCELLANEOUS PROVISIONS PERTAINING TO LICENSING IN GENERAL (secs 39-48)

39 Duty to produce and display licences

(1) A licence holder, an employee of the licence holder or a person acting on behalf of the licence holder shall, on demand by an authorised officer, produce the licence concerned.

(2) Any licence holder, employee or person acting on behalf of the licence holder who fails to comply with the provisions of subsection (1), shall be guilty of an offence.

(2) A licence holder shall at all times prominently display his or her licence on the licensed premises.

40 New licence application, annual licence and investigation fees

(1) The new licence application fees as prescribed by the Board shall be paid by every applicant for a licence on submission of a new licence application.

(2) The annual licence and investigation fees as prescribed by the Board shall be paid by a licence holder annually before renewal thereof.

(3) No fee contemplated by this section shall be refundable.

41 Duration and renewal of licences

(1) A licence other than a temporary licence shall, subject to the provisions of this Act and the conditions under which it was granted, be issued for a period of twelve months and shall, subject to compliance with the provisions of this Act, be renewed annually by the Board on production of the licence for the preceding year and on payment of the annual licence fees determined by the Board.

(2) If a licence holder fails to renew his or her licence by the due date, the licence shall subject to section 88, lapse and the licence holder-

- (a) shall cease the activities authorised by the licence, and
- (b) may apply to the Board for a new licence in accordance with section 28.

42 Conditions applicable to licences

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

- (a) relating to the games that may be played;

- (b) relating to the method of operation of any game;
- (c) for the purpose of ensuring that the operation of any gambling accords with decency, dignity, good taste and honesty;
- (d) requiring the keeping of books, accounts, records and other information relating to the operation of any gambling;
- (e) requiring certain minimum standards in relation to the premises on which gambling is to take place;
- (f) requiring the submission to the Board of such reports and returns relating to the operation of gambling as the Board may from time to time require;
- (g) relating to the days on which and hours during which gambling may be carried on;
- (h) relating to the installation and maintenance of surveillance systems and where in the opinion of the Board it is considered appropriate, requiring a licence holder to link any gambling device, associated system or accounting system to a central electronic monitoring system approved by the Board;
- (i) relating to the provision by the licensee of a guarantee, as determined by the Board, for the liabilities of the licensee; and
- (j) relating to black economic empowerment within a company, close corporation or any other entity which has made an application to the Board for a license or registration or which holds a license or is registered in terms of this Act.

[Para (j) inserted by sec 7 of Act 5 of 2005 wef 28 September 2005.]

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

(3) Where the Board intends to impose, suspend, withdraw or amend any condition as contemplated in this section, the Board shall serve a written notice on the licensee stating-

- (a) that the Board intends to impose, suspend, withdraw or amend such condition, as the case may be;
- (b) that the licensee may, within 30 days after the date of the written notice, make written representations or notify the Board in writing of the licensee's intention to make oral representations to the Board on the matter;

[Subsec (3) substituted by sec 8 of Act 5 of 2005 wef 28 September 2005.]

(4) If, within the period mentioned in subsection (3)(b), the Board receives neither written representations nor written notification of the applicant's intention to make oral representations, the Board may impose, suspend, withdraw or amend the condition with immediate effect.

[Subsec (4) substituted by sec 9 of Act 5 of 2005 wef 28 September 2005.]

(5) Any condition imposed under subsection (1), or suspended, withdrawn or amended under subsection (2) in respect of a casino licence, site operator licence, independent site operator or route operator licence may not be effected retrospectively.

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

(7) The period of validity of a licence shall, subject to payment of the appropriate annual fee as prescribed by the Board and subject to the relevant provisions of this Act, be as stipulated by the Board and recorded on the face of the licence.

43 Issue of licence and temporary licence in respect of incomplete premises

(1) Where an application has been granted as contemplated in section 38, the Board shall, subject to the provisions of subsection (2), cause a licence to be issued within one month after such granting to the applicant in the manner and form determined by the Board, setting out the conditions subject to which the application was granted.

(2) If the application for a licence is granted by the Board in respect of premises not yet erected or premises requiring any structural alteration, addition or reconstruction so as to make them suitable for the purpose for which they will be used under the licence, the Board may, upon being furnished with the required forfeitable guarantee, in its discretion issue a temporary licence to the applicant concerned, subject to compliance with such conditions or requirements relating to those premises stipulated in the temporary licence, within a period determined by the Board.

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

- (a) extend the period determined under subsection (2), or
- (b) extend or further extend the period determined under subsection (2) or the period so determined and extended under paragraph (a) of this subsection, as the case may be, in respect of premises not erected at the time of the issue of the temporary licence, if the Board is satisfied that a substantial part of the premises has since been erected.

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

(5) When the Board is satisfied that the premises in respect of which a temporary licence has been granted under subsection (1) have been substantially completed in accordance with the plan thereof approved by the Board, the conditions and requirements determined by the Board have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, the Board shall issue a permanent licence in substitution for the temporary licence concerned.

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

44 Transfer of licence

(1) The holder of a licence may at any time apply to the Board for the transfer of a licence to a prospective transferee.

(2) The provisions of Sections 29 to 38 of this Act shall, where applicable, *mutatis mutandis* apply in relation to an application contemplated in subsection (1).

(3) The Board shall consult with the Responsible Member on the transfer of a licence.

(4) The Board may refuse or grant the transfer of such a licence.

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

[Subsec (5) added by sec 10 of Act 5 of 2005 wef 28 September 2005.]

45 Removal of business to other premises

(1) The holder of a licence may at any time make an application for the removal, whether permanently or temporarily, of the gambling business concerned, from the licensed premises to other premises.

(2) The provisions of section 29 to 38 of this Act shall, *mutatis mutandis* apply in relation to an application contemplated in subsection (1).

(3) The Board shall consult with the Responsible Member on the removal of a licence to other premises.

(4) The Board may refuse or grant the removal of such business.

(5) When the application has been granted, the Board shall cause the premises to be amended on the licence.

45A Amendment of license

(1) The holder of a license may at any time make application for the amendment of the license.

(2) The provisions of sections 29 to 38 shall, unless the Board determines otherwise, apply, with the changes required by the context, in relation to an application contemplated in subsection (1).

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

[Sec 45A inserted by sec 11 of Act 5 of 2005 wef 28 September 2005.]

46 Suspension and revocation of a licence

(1) The Board shall consult with the Responsible Member regarding the suspension or revocation of a specified licence.

(2) The Board may, after giving the licensee concerned an opportunity to be heard, suspend for a specified period or revoke a licence if-

- (a) any information contained in any application made by the licence holder for the purpose of obtaining the granting, renewal, transfer or removal was, at the time when the information was furnished, false in any material respect or was subject to any material omission;
- (b) the holder of the licence, or any person in control of the holder, or any manager of the business concerned has been convicted of an offence in terms of this Act;
- (c) the holder of a licence or any person in control of the holder or any manager of the business concerned has become subject to any disqualification contemplated in section 26;
- (d) the licence holder, an employee of the licence holder or any other person acting on his or her behalf has failed to comply with any term or condition of the licence or any provisions of this Act, or has not complied with such term, condition or provision as prescribed by the Board or such further period as the Board may in writing allow, after delivery of the written notice by the Board to the licence holder requiring such failure to be remedied;
- (e) the holder of a license fails to pay any levy, tax or license fee payable in terms of this Act in the manner and within the time required by the relevant provisions of this Act;

[Para (e) substituted by sec 12 of Act 5 of 2005 wef 28 September 2005.]

- (f) the holder of a license has, without the prior written consent of the Board, failed to carry on business under the license for a period of at least 3 consecutive months;

[Para (f) substituted by sec 12 of Act 5 of 2005 wef 28 September 2005.]

(3) The Board may at any time rescind any order of suspension issued in terms of subsection (1) if the reasons for such suspension have been remedied to the satisfaction of the Board.

(3)[sic] Where the Board intends to revoke a license, it shall serve written notice on the licensee stating-

- (a) that the Board intends to revoke the license;
- (b) grounds for the intended revocation;
- (c) that the licensee may, within 30 days after the date of the written notice, make written representations to the Board or notify the Board in writing that the licensee intends to make oral representations to the Board about the matter;
- (d) the effect of subsection (4).

[Subsec (3) inserted by sec 13 of Act 5 of 2005 wef 28 September 2005.]

(4) The Board shall inform the licence holder in writing of any suspension or revocation of licence as contemplated in subsection (1).

(4)[sic] If, within the period mentioned in subsection (3)(c), the Board receives no written representations nor written notification of intention by the licensee to make oral representations, the revocation shall take effect at the end of that period.

[Subsec (4) inserted by sec 13 of Act 5 of 2005 wef 28 September 2005.]

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

47 Death or disability of a licence holder

(1) When the holder of a licence dies or becomes disabled, his or her spouse, next of kin, personal representative or guardian shall immediately notify the Board of such death or disability.

(2) Where the interest held in a licensed gambling business by a deceased or disabled person passes by operation of law or otherwise to his or her estate or is entrusted to a curator or any other person, the executor or curator or any other person, as the case may be, shall with immediate effect apply to the Board for the appropriate licence.

(3) The Board may, in its discretion, authorise a person referred to in subsection (2) to continue the operation of the gambling business concerned pending the Board's decision on the application of licence.

(4) The provision of section 29 to 38 of this Act shall, where applicable, *mutatis mutandis* apply to an application referred to subsection (2).

48 Liability for costs of and consent to hearings, investigations or enquiries

(1) Any person who submits an application under this Act, and any licence holder who is the subject of a hearing, an investigation or enquiry under this Act shall be liable for and pay to the Board in the prescribed manner all costs reasonably incurred by or on behalf of the Board in conducting any hearings, investigations or enquiries provided for in this Act.

(2) By submitting an application for a licence the applicant consents that the Board or any member or authorised officer thereof may conduct any hearing, investigation or enquiry in accordance with the provisions of this Act.

CHAPTER VI

CASINO AND AMUSEMENT MACHINE LICENCES (secs 49-51)

49 Additional considerations in disposing of application for casino licences

The Board shall, in addition to the considerations mentioned in chapter III, IV and V, when considering an application for or transfer of casino licence, and when considering any conditions and requirements to which any such licence should advisably be made subject, take into consideration-

- (a) whether the casino will enhance the neighbourhood and environment;
- (b) the extent to which the casino will promote tourism at the place where the premises will be situated;
- (c) the extent to which the casino will promote sustainable employment at such place;
- (d) the extent to which the applicant will provide training and skills to its employees;
- (e) the extent to which the applicant will procure labour, goods and services from such place and the Province in general for the construction and conducting of the casino;
- (f) the extent to which the applicant intends to provide for participation in the ownership or profits of the casino by persons, previously disadvantaged by unfair discrimination;
- (g) any facility, advantage or contribution which the applicant intends to provide or furnish for the benefit of, or for the utilisation or enjoyment by, any needy

- community at or near the place where the premises will be located, or any persons or groups or categories of persons contemplated in paragraph (f);
- (h) the extent to which the granting of the licence will promote attainment of objects of reconstruction and development projects and programmes referred to in section 3(a) of the Reconstruction and Development Programme Fund Act, 1994; and
 - (i) any other factors which may affect the question whether it is desirable to grant such application or attach any such condition or requirement.

50 Casino licence and the use of word "casino"

- (1) No one shall conduct a casino without a casino licence.
- (2) Any company that holds a casino licence shall include the word "**casino**" in all references to the company and its casino business and shall prominently display the word "**casino**" on the exterior of the licensed premises.
- (3) No corporate body shall trade or carry on a business as contemplated in this Act under a name or title in which the word "**casino**" forms part whilst such a corporate body is not a holder of a casino licence granted in terms of this Act.
- (4) The granting of a casino licence shall, subject to any condition imposed under section 42, authorise the conducting and carrying on of such gambling games as may be set out in such licence, on the licensed premises concerned.

51 Amusement machine licence

- (1) No one shall conduct amusement games without an amusement machine licence.
- (5) The Board shall grant authority for the installation of amusement games in the premises, which the Board deems suitable.

CHAPTER VII

BINGO, ROUTE OPERATOR, SITE OPERATOR AND INDEPENDENT SITE OPERATOR LICENCE (secs 52-55)

52 Bingo licence

- (1) No person shall maintain premises where the game of bingo is played, without a casino licence or a bingo licence, whether or not any such game is linked as contemplated in subsection (2).
- (2) No person shall, by any electronic or similar method of linking, link licensed premises to any other premises so as to provide for the game of bingo to be played at such other premises without a bingo licence in respect of such premises.

53 Route operator licence

- (1) No limited payout machine shall be operated without a route operator licence and associated site operator licence.
- (2) The route operator shall-
 - (a) be responsible for maintaining limited payout machines, and
 - (b) be responsible for effecting the collection of monies and paying the provincial levies in respect of limited payout machines under its licence.
- (3) A route operator licence shall authorise, subject to any conditions which the Board may impose, the operation of approved limited payout machines in or on premises or parts of such premises licensed in terms of section 54.
- (4) In considering applications for route operator licences, the Board shall take into consideration whether the granting of a licence will-
 - (a) enhance the immediate vicinity by promoting employment;
 - (b) result in the advancement of the skills of employees;
 - (c) result in the procurement of labour, goods and services from within the Province;and

- (d) contribute to the objectives of Reconstruction and Development Programme as referred to in section 3(a) of the Reconstruction and Development Programme Fund Act, 1994.

54 Site operator licence

(1) No one shall maintain premises in or on which limited payout machines are kept or operated without a site operator licence.

(2) A site operator licence is required for any premises in the Province in or on which limited payout machines are placed by the holder of a route operator licence.

(3) A site operator licence shall authorise, subject to any conditions which the Board may impose, the keeping and exposing for play in or on the licensed premises or part of such premises as specified in the route operator licence referred to in section 53.

(4) A site operator licence holder may only obtain limited payout machines from a licensed route operator.

55 Independent site operator licence

(1) No person shall operate limited payout machines on an independent site without an Independent site operator licence.

(2) The independent site operator shall be responsible for responsible for-

- (a) maintaining the limited payout machines on site,
(b) effecting the collection of monies, and paying the provincial gambling levies due.

CHAPTER VIII

TOTALIZATOR LICENCES AND BOOKMAKER LICENCES (secs 56-57)

56 Totalizator licence

(1) The business of a totalizator or betting pool shall not be conducted without a totalizator licence.

(2) A totalizator licence shall, subject to any condition which the Board may impose, authorise the conducting of the categories of totalizators specified in the licence and at the premises specified in the licence.

(3) The holder of a totalizator licence shall conduct totalizators in accordance with rules made by the Board or by such holder and which have been approved by the Board.

(4) The Totalizator Agency Board (North West) which existed immediately prior to the date of commencement of this Act shall continue to exist under the same name.

57 Bookmaker licence

(1) A bookmaker licence is required by every person who, in the Province, engages in the business of directly laying bets, other than totalizator-type bets, with members of the public or other bookmakers.

(2) A bookmaker licence shall attach to the premises specified in the licence.

(3) A bookmaker licence shall authorise, subject to any conditions which the Board may impose, the conducting of the business of a bookmaker in or on the premises by laying fixed odds and open bets, but not totalizator type bets.

CHAPTER IX

RACE COURSE AND RACE MEETING LICENCES (secs 58-59)

58 Race Course licence

A race course licence-

- (a) is required for the conducting of horse racing on any authorised premises in the Province,
(b) shall attach to the premises specified in the licence, and
(c) shall authorise, the holding of race meetings on the premises specified in the licence, subject to any conditions which the Board may impose.

59 Race meetings and Horse Race meeting licence

(1) A horse race meeting licence is required-

- (a) to hold, organise, arrange, attend or in any manner take part in or assist at a horse race, or
- (b) to print, publish, possess, sell or offer for sale or in any manner circulate or distribute a race card,

unless the relevant horse race takes place in the manner approved by the Board after consultation with the Responsible Member.

(2) The Board may, after consultation with the Responsible Member, issue to a racing club, a licence to hold so many race meetings per annum as specified in the licence on specified land which is in the lawful possession or occupation of the racing club.

(3) For the purposes of subsection (2), "**racing club**" means any association of persons, whether incorporated or unincorporated.

(4) No race meeting licence shall be issued to a racing club before the rules and regulations according to which a race meeting will be held by that club, have been approved by the Board.

(5) Any person who contravenes or fail to comply with the provisions of this Chapter shall be guilty of an offence.

CHAPTER X REGISTRATION OF CERTAIN PERSONS (secs 60-63)

60 Registration of manufacturer, supplier or maintenance provider

(1) No person shall, without being appropriately registered and having paid the prescribed fees for such purpose-

- (a) manufacture, assemble, maintain, repair, sell, distribute, acquire, or rent any-
 - (i) gambling device other than playing cards or dice;
 - (ii) amusement machine which contains reels or a video depiction of reels similar to those in a gambling machine;
 - (iii) device which was manufactured as a gambling machine, and which has been converted any time, whether a player is capable of using such device to win a prize or not;
 - (iv) device which, but for the removal of certain of its parts or the reprogramming thereof, would constitute a gambling machine;
 - (v) amusement machine on which a player is able to play roulette, bingo, twenty-one, blackjack, chermin de fer, baccarat, poker, chine roulette, keno or games of similar type usually played on gambling machines or deviants thereof;
 - (vi) computer software used in connection with gambling or betting, or
- (b) alter or otherwise modify any gambling device or any associated equipment in a manner that-
 - (i) affects the result by determining win or loss, or
 - (ii) alters or affects the normal criteria of random selection which determines the outcome of a gambling game.

(2) No application for registration shall be granted if the applicant is subject to any disqualification contemplated in sections 26 and 27.

(3) An application for registration shall be made to the Board in the prescribed form and stating the purpose for which registration is required and shall be accompanied by such documents, particulars or information as may be prescribed.

(4) The provisions of sections 29 to 38 shall, where applicable, *mutatis mutandis* apply in relation to an application for registration as referred to in subsection (1).

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

(6) The Board may determine that any particular applicant shall be registered for a specified period and the period so specified shall be stated in the certificate of registration.

(7) A person who has been registered for a specified period may apply for the extension of such period and if the Board grants such extension, the Board shall amend the certificate of registration.

(8) The Board shall keep and maintain a register of the names and prescribed particulars of persons to whom a certificate of registration has been issued in terms of this section.

(9) No person who holds a certificate of registration contemplated in subsection (5) and no key person or gambling employee of such a person shall participate in or play any gambling game in the Province: Provided that such a person may participate in such gambling if it is necessary for the performance of his or her duties in accordance with the provisions of this section.

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

- (a) possess more gambling devices than the Board has, on application approved to be in the possession of such person;
- (b) supply or lease a gambling machine to or repair or modify a gambling machine for any person within the Province who does not hold an appropriate licence or is not registered in terms of section 60(1): Provided that the provisions of this section shall not apply to a gambling machine being exported to a place outside the Province or which shall be removed from the Province immediately after such repairs or modifications;
- (c) subject to paragraph (b), supply a gambling device other than a gambling machine or playing cards or dice to, or repair or modify such a gambling device for any person other than a licence holder, a person registered in terms of section 60(1), or a person authorised by the Board to conduct social gambling,
- (d) allow or permit any person to use any gambling device or amusement machine in his or her possession to gamble while such gambling device or amusement machine is not on licensed premises; or
- (e) repair or modify any gambling device which is required to be registered and is not so registered.

(11) The provisions of sections 29 to 38 shall, where applicable, *mutatis mutandis* apply to an application contemplated in this section.

61 Registration of key personnel employed in or associated with a gambling business

(1) Every executive or agent associated with a gambling business or any person in the employ of the holder of a licence issued under this Act who may exercise control over gambling operations in or on any premises where gambling is conducted in the Province, is required to be registered in terms of this section.

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

- (a) managers;
- (b) supervisors;
- (c) pit bosses;
- (d) inspectors;
- (e) surveillance personnel, and
- (f) any other position considered by the Board to be that of a key employee generally or in relation to any gambling business in particular.

(3) An application for registration shall be made to the Board in the prescribed form and stating the purpose for which registration is required and shall be accompanied by such documents, particulars or information as may be prescribed.

(3A) An application for registration shall not be granted if the applicant is subject to any disqualification contemplated in sections 26 and 27;

[Subsec (3A) inserted by sec 14 of Act 5 of 2005 wef 28 September 2005.]

(4) The provisions of sections 29 to 38 shall unless the Board otherwise determines, apply with the changes required by the context, to an application for registration in terms of this section.

[Subsec (4) substituted by sec 15 of Act 5 of 2005 wef 28 September 2005.]

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

[Subsec (5) substituted by sec 15 of Act 5 of 2005 wef 28 September 2005.]

(6) A person who has been registered for a specific period may apply for the extension of such period and if the Board grants such extension, the Board shall amend the certificate of registration.

[Subsec (6) substituted by sec 15 of Act 5 of 2005 wef 28 September 2005.]

(7) The Board shall keep and maintain a register of the names and prescribed particulars of persons to whom a certificate of registration has been issued in terms of this section.

[Subsec (7) substituted by sec 15 of Act 5 of 2005 wef 28 September 2005.]

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

[Subsec (8) substituted by sec 15 of Act 5 of 2005 wef 28 September 2005.]

(9) A licensee shall, within a specified period of termination of the employment of a key employee, notify the Board in writing of such termination and reasons thereof.

[Subsec (9) substituted by sec 15 of Act 5 of 2005 wef 28 September 2005.]

62 Registration of gambling employees

(1) Every person who, in the Province, is employed-

- (a) at or by a gambling business, or
- (b) by the holder of a manufacturer, supplier or maintenance provider registration certificate,

and who is directly involved in the operation of a gambling business or the activities performed under a manufacturer, supplier or maintenance provider registration certificate, is required to be registered in terms of this section.

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

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

(3) If the Board is of the opinion that an employee of any licence holder or holder of a certificate of registration is a gambling employee, it shall serve written notice to that effect upon the licence holder or holder of the registration certificate, as the case may be, by whom such employee is employed.

(4) The holder of a licence or registration certificate shall within the specified period of receipt of such written notice present to the Board an application in the prescribed form for the licensing of such an employee.

(5) An application for registration shall not be granted if the applicant is subject to any disqualification contemplated in section 26;

[Subsec (5) substituted by sec 16 of Act 5 of 2005 wef 28 September 2005.]

(6) The provisions of section 61 except for subsections (1) and (2) shall apply, with the changes required by the context, to an application for registration in terms of this section.
[Subsec (6) substituted by sec 16 of Act 5 of 2005 wef 28 September 2005.]

62A Place of gambling and settling of gambling debts

(1) A person shall not gamble or make or place a bet at any place other than on appropriately licensed premises: Provided that gambling by means of the place of a voice or data telephone bet on a lawful sporting event where the holder of a license accepts and records the bet at the licensed premises shall be deemed to have occurred at the licensed premises.

(2) A gambling debt may only be settled at-

- (a) licensed premises;
- (b) a place and in a manner authorised by the Board on application by the holder of the license concerned;
- (c) a place where a debt is ordinarily paid in such circumstances when the debt is paid pursuant to a court order or the terms of settlement of legal proceedings instituted for its recovery;
- (d) in the case of a debt owed by a holder of a totalisator license or bookmaker license or a member of the public to the holder of a totalisator license or bookmaker license-
 - (i) at a place contemplated in paragraph (a), (b) or (c); or
 - (ii) by crossed cheque marked not transferable sent by post to the holder of the totalisator or bookmaker license concerned; or
 - (iii) by way of electronic funds transfer.
- (e) in the case of a debt owed by the holder of a totalisator license or a bookmaker license to a member of the public-
 - (i) in a manner contemplated in paragraph (a), (b) or (c); or
 - (ii) by crossed cheque marked not transferable sent by post to the physical address of the winning person concerned.

(3) A license holder contemplated in this section shall not knowingly accept a bet from-

- (a) a person under the age of 18 years;
- (b) any person whose name is included in the list of excluded persons as contemplated by the Regulations, which has been delivered to such license holder in the manner prescribed; or
- (c) any person by way of voice or data telephone transmission if the placing of such bet by such person will constitute a crime by such person in the jurisdiction from which the bet is so placed.

(4) A person physically present in the Province shall not participate in a gambling game by way of telephone, telefax, interactive television, electronic mail or internet transmission or any such communications medium.

(5) A person shall not, in relation to any person whom he or she knows to be physically present in the Province or should reasonably suspect is so present, invite such person to participate in a gambling game or enter into a gambling game with such person if the gambling game concerned is conducted wholly or partially by way of telephone, telefax, interactive, television, electronic mail or internet transmission or any such communications medium.

[Sec 62A inserted by sec 17 of Act 5 of 2005 wef 28 September 2005.]

62B Transfer of ownership or possession of gambling machines, gambling devices and amusement machines

(1) A person who proposes to transfer registered ownership of a gambling machine, gambling device or amusement machine to another person must apply in the prescribed manner and form to the Board to transfer registered ownership of that machine or device.

(2) Subject to subsection (3), a person who proposes to lease, or transfer possession of a gambling machine, gambling device or amusement machine to another person, while retaining legal title to that machine or device, must apply in the prescribed manner and form to the Board for approval to lease or transfer possession of that machine or device.

(3) A registered owner of a gambling machine, gambling device or amusement machine who repossesses that machine or device from a lessee or other person to whom possession had been transferred in terms of subsection (2) is not required to apply for approval in terms of this section, but must notify the Board that the machine or device has been repossessed.

[Sec 62B inserted by sec 17 of Act 5 of 2005 wef 28 September 2005.]

63 Registration of junket agents

(1) Every person who is directly or indirectly involved in the planning, organisation or operation of a junket for or on behalf of the holder of a casino licence, is required to be registered in terms of this section.

(2) The certificate of registration for a junket agent shall authorise, subject to any conditions, which the Board may impose, the holder thereof-

- (a) to enter into agreements with the holder of a casino licence to provide services to the casino, in or outside the Province, consisting of arranging complimentary transport, food, lodging or similar benefits for persons or group of persons visiting the casino, and,
- (b) to receive commission on, or share in, gambling profits or any other consideration raised by a junket in the Province as consideration for such services.

CHAPTER XI

APPOINTMENT OF INSPECTORS AND POWERS AND FUNCTIONS OF INSPECTORS (secs 64-65)

64 Appointment of inspectors

(1) The Board may appoint any person in its service or any other suitably qualified person as an inspector to perform, subject to the control and directions of the Board, any or all of the functions assigned to an inspector in terms of section 65.

(2) No person shall be deemed an inspector unless he or she has been so registered.

(3) No person shall be appointed as an inspector if he or she is subject to any disqualification contemplated in section 12(4).

(4) An inspector shall be furnished with a certificate of appointment signed by or on behalf of the chairperson of the Board in which it is stated that he or she has been appointed as an inspector under this Act.

(5) Whenever an inspector performs any function in terms of this Act, he or she shall have the certificate of appointment in his or her possession and shall produce it at the request of any person affected by the performance of that function.

(6) An inspector shall not accept any donation, reward or the benefit in connection with the performance of his or her functions from any person, and no person shall give or offer such donation, reward or benefit to an inspector.

65 Powers and functions of inspectors

(1) An inspector shall for the purpose of this Act-

- (a) enter upon any licensed or unlicensed premises which are occupied or being used for the purposes of any gambling activities or any other premises on which it is suspected-

- (i) that a casino or any other gambling activity is being conducted without the authority of a licence;
 - (ii) that persons are being allowed to play or participate in any gambling game or other gambling activities or to play any gambling machine, or
 - (iii) that any gambling machine or any equipment, device, object, book, record, note, recording or other document used or capable of being used in connection with the conducting of gambling games or any other gambling activity may be found, and may, after having informed the person who is deemed or appears to be in charge of the premises of the purpose of his or her visit, make such investigation or enquiry as he or she may think necessary;
- (b) with regard to any premises referred to in paragraph (a)-
- (i) require the production of any licence or written permission or authorisation to conduct gambling activities from the person who is in control of such premises;
 - (ii) question any person who is on or in such premises, and inspect any activities in connection with the conduct of any gambling activity;
 - (iii) examine or inspect any gambling machine, equipment, device, object, book record, note or other document referred to in paragraph (a) found on those premises and make a copy thereof or an extract therefrom;
 - (iv) inspect and examine all premises referred to in paragraph (a) or any premises where gambling devices or equipment are manufactured, sold, distributed, or serviced, wherein any records of such activities are prepared or maintained;
 - (v) inspect all equipment and supplies, in, about, upon or around such premises;
 - (vi) seize summarily and remove from such premises and impound any such equipment or supplies for the purposes of examination and inspection;
 - (vii) examine, inspect and audit all books, records and documents pertaining to licensed gambling operations;
 - (viii) seize, impound or assume physical control of any book, record, ledger, game device, cash box and its contents, conducting room or its equipment, or gambling operations, and
 - (ix) inspect the person, and personal effects present in any gambling facility licensed under this Act, of any holder of a licence or registration issued pursuant to this Act while that person is present in the licensed gambling facility;
- (c) require any person who is deemed or appears to be in charge of any premises referred to in paragraph (a)-
- (i) to point out any equipment, device or object referred to in that paragraph which is in his or her possession or custody or under his or her control;
 - (ii) to produce for the purpose of examination or of making copies or extracts, all books, records, note or other documents referred to in paragraph (a) which are in his or her possession or custody or under his or her control;
 - (iii) to provide any information in connection with anything which has been pointed out or produced in terms of subparagraph (i) or (ii), and
- (d) seize and remove any gambling machine, equipment, device, object, book, record, note or other document referred to in paragraph (a) which in his or her opinion may furnish proof of a contravention of any provision of this Act or mark it for the purposes of identification.

(2) When performing any function in terms of subsection (1), an inspector may be accompanied by and avail himself or herself of the services of an assistant, interpreter or any police official.

(3) An inspector shall in respect of any provision of this Act or any regulations promulgated thereunder be deemed to have been appointed a peace officer in accordance with section 334 of the Criminal Procedure Act 1977 (Act 51 of 1977), as amended for the purposes of section 40, 41, 44, 46, 47, 48, 49 and 50, of the said Act.

(4) The inspectorate is authorised to make administrative inspections to check for compliance by any applicant, licensee, registrant, subsidiary company or holding company with the provisions and regulations of this Act.

(5) The inspector shall-

- (a) conduct continuing reviews of gambling operations through on-site observations and other reasonable means to ensure compliance with the regulations and provisions of this Act;
- (b) conduct audits of gambling operations or any premises referred to in sections 65(1)(a) and 65(1)(b)(iv) at such times, under such circumstances, and to such extent as the Board shall determine, including reviews of accounting, administrative and financial records, management control systems, procedures and all records;
- (c) notwithstanding any provision to the contrary contained in any other law, be entitled to request and receive information, materials and any other data from any licensee or registrant, or applicant for a licence or registration certificate under this Act;
- (d) investigate violations of regulations and provisions of this Act;
- (e) receive and take appropriate action on any referral from the Board relating to any evidence of a violation of the regulations and provisions of this Act, and
- (f) exchange fingerprint data with and receive criminal record from any legitimate law enforcement agency for use in the execution of his or her duties.

(6) To effectuate further the purpose of this Act, the inspector may, in accordance with constitutional requirements, obtain administrative warrants for the inspection and seizure of any property possessed, controlled, pledged or otherwise held by any applicant, licensee, registrant, subsidiary company or holding company.

(7) Issuance and execution of warrant for administrative inspection shall be in accordance with the Criminal Procedure Act, 1977, (51 of 1977) as amended and without derogating from the generality of the foregoing, a warrant shall be issued in accordance with the following procedure-

- (a) by a magistrate or judge having jurisdiction in the area where the inspection or seizure is to be conducted, and
- (b) upon an affidavit of a person duly designated and having knowledge of the facts alleged, sworn to before the magistrate or judge and establishing the grounds for issuing the warrant.

(8) If the magistrate or judge is satisfied that grounds for the application exist, or that there are reasonable grounds for believing that they exist, such magistrate or judge shall issue a warrant.

(9) The warrant shall-

- (a) identify the area, premises, building, container or vehicle to be inspected;
- (b) specify the purpose of such inspection;
- (c) where appropriate, the type of property to be inspected, if any;
- (d) identify the item or types of property to be seized, if any;
- (e) state the grounds for the issuance and the name of the person or persons whose affidavit has been taken in support thereof;
- (f) be directed to the person authorised to execute it;
- (g) command the person to whom it is directed to inspect the area, premises, building, container or vehicle identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified;
- (h) be executed by day, unless the person issuing the warrant in writing authorises the execution thereof by night, and
- (i) be issued on any day and shall be of force until it is executed or is cancelled by the person who issued it, or if that person is not available by the person with like authority.

(10) The person executing a warrant under this section shall, after such execution, upon demand of any person whose rights in respect of any search or property seized under the warrant have been affected, hand to such person a copy of the warrant.

(11) The return of the warrant shall be prompt and shall be accompanied by a written inventory of any property seized.

(12) The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property is being seized, or in the presence of at least one credible person other than the person executing the warrant.

CHAPTER XII

GENERAL PROVISIONS RELATING TO GAMBLING MACHINES AND DEVICES (secs 66-69)

66 Gambling machine and devices to be registered

(1) No holder of a licence shall keep or maintain any-

- (a)(i) roulette wheel;
- (ii) roulette table;
- (iii) blackjack table;
- (iv) craps table;
- (v) baccarat table;
- (vi) punto banco table;
- (vii) poker table;
- (viii) a table used for playing a gambling game similar to or derived from a game contemplated in paragraphs (i) to (vii);
- (ix) gambling machine, or gambling devices, unless the gambling equipment referred to in paragraphs (i) to (x) is registered with the Board;
- (b) card used in connection with the playing of, bingo or any casino game which is not identical in form to a card which has on application been approved, registered or otherwise authorised by the Board, or game E-prom not approved, registered or otherwise authorised by the Board.

(2) Any holder of a licence who acquires or intends to obtain possession of a gambling device contemplated in subsection (1)(a) which has not been separately registered by the Board shall-

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

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

(4) An application for registration or transfer of registration shall be made in the manner determined by the Board.

(5) No person shall remove a registered gambling device from the licensed premises of a licence holder to whom such a device is registered unless-

- (a) such a device is seized or attached in terms of this Act or any other law;
- (b) such device is permanently removed from the Province;
- (c) such device is removed to the premises of a person registered in terms of section 60 for repair purposes;
- (d) the registration of the gambling device has been transferred in terms of subsection (2);
- (e) such a device is inoperative to the satisfaction of the Board and the registration thereof is cancelled, or
- (f) the Board has upon application in the manner determined by the Board, granted approval for such removal.

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

- (a) registered, or
- (b) exposed for play.

(7) For the purpose of this section, "gambling machine" shall include a limited payout gambling machine.

(8) Notwithstanding the provisions of this section, limited payout gambling machine shall be registered with the route operator concerned and may be removed-

- (a) from a licensed site or the premises of such licensed route operator to a licensed site, or
- (b) from a licensed site to the premises of such licensed route operator, if there was prior approval or authorisation by the Board prior to such removal.

[Date of Commencement: 5 March 2003.]

66A Prohibition in respect of gambling

(1) A person shall not-

- (a) conduct or permit the playing of any gambling game or conduct or permit any gambling in or on any premises under his or her control or in his or her charge; or
- (b) be directly or indirectly involved in the operation of any gambling business; without an appropriate license, and this will include transportation of gambling machines or devices or the handling of such without written approval from the Board;

(2) The provisions of subsection (1) shall not be applicable to a member or an authorised officer of the Board or a police officer, acting in the performance of his or her duties under this Act or any person specifically authorised thereto by the chief executive officer to 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 on any premises which are not appropriately licensed under this Act.

[Sec 66A inserted by sec 18 of Act 5 of 2005 wef 28 September 2005.]

66B Liability for activities in relation to gambling games and betting

A person shall not be exempt from liability under any provision of this Act in respect of any act or thing done by him or her, or authorised or permitted by him or her to be done in the Province in connection with any gambling game or betting merely by reason of the fact that the management or conducting thereof is in whole or part carried on at some place outside the Province.

[Sec 66B inserted by sec 18 of Act 5 of 2005 wef 28 September 2005.]

66C Possession, supply or lease of gambling machines, gambling devices and amusement machines

(1) A holder of a licence shall not-

- (a) possess more gambling machines, tables gambling devices or amusement machines than the Board has, on application approved to be in the possession of such person;
- (b) supply or lease gambling machines, gambling devices or amusement machines to or repair or modify a gambling machine for any person within the Province who does not hold an appropriate licence or is not registered in terms of section 60, provided that the provisions of this subsection shall not apply to gambling machines, gambling devices or amusement machines being exported to a place outside the Province or which shall be removed from the Province immediately after such repairs or modification;
- (c) supply a gambling device other than a gambling machine or playing cards or dice to or repair or modify such gambling device for any person other than a licence holder, a person registered in terms of section 61(1) or a person authorised by the Board to conduct social gambling;

- (d) allow or permit any person to use any gambling machine, gambling device or amusement machine in his or her possession while such gambling device or amusement machine is not on appropriately licensed premises;
- (2) A person wishing to transport any gambling machines, gambling devices or amusement machines in the province or through the province to another province or foreign country shall apply to the Board for permission to transport such machines or devices.
[Sec 66C inserted by sec 18 of Act 5 of 2005 wef 28 September 2005.]

67 Cheating and cheating devices

- (1) No person shall-
 - (a) knowingly allow anyone to conduct or carry on cheating or to operate any cheating device or provide any person with information or with a device to cheat in any gambling game;
 - (b) knowingly conduct, allow or expose for play any gambling game played with cards which have, or with any gambling device which has, been marked, tampered with, placed in a condition or operated in a manner that tends to deceive the licensee, the players or public, or to alter the normal random chance of the gambling game, or to determine or alter the result of the gambling game, and
 - (c) knowingly make use of any counterfeit chip or token or contravene the rules of any gambling game or interfere in any way with any gambling device or any gambling device used for gambling with the intention of obtaining any direct or indirect pecuniary advantage, whether for himself or any other person.
- (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;
 - (b) the use of any scheme, arrangement, system or plan which the Responsible Member may from time to time by notice in the *Provincial Gazette* declare to be cheating, and
 - (c) "cheat" shall have a corresponding meaning.

68 Electronic monitoring system for gambling machines

(1) The Board shall approve and register any electronic, computer or communications system or device which is designed so that it may be used or adapted to send or receive data to or from gambling machines in relation to security, accounting or the functioning of gambling machines, as a monitoring system for the purposes of this section.

(2) All gambling machines shall be linked to a central monitoring system referred to in subsection (1).

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

[Date of Commencement: 5 March 2003.]

69 National requirements in relation to gambling machines and devices

- (1) If in terms of an Act of Parliament-
 - (a) the make, model or type of any gambling machine, roulette wheel, gambling device, other apparatus or card contemplated in section 66(1)(b) is required to be approved or licensed or otherwise authorised in terms of such Act, the Board shall not register any machine wheel, device, apparatus or card in terms of that section which is not of a make, model or type which has been so approved, licensed or authorised, and
 - (b) the manufacture, sale, lease, making available, distribution, import, marketing, maintenance or repair of any machine, wheel, device or apparatus contemplated in section 66 is restricted to persons who are approved, licensed or otherwise

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

(2) The South African Bureau of Standards mentioned in section 2(1) of the Standards Act, 1993 (Act 29 of 1993), and other accredited agencies contracted with the approval of the Ministry of Trade and Industry shall be agents for the Board in respect of standardisation, testing, analysis, calibration and certification of gambling machines, any electronic monitoring system or any other devices or systems used for the purposes of a gambling game or any other gambling activity.

CHAPTER XIII
RESTRICTIONS, LIMITATIONS AND PROHIBITIONS RELATING TO GAMBLING IN
GENERAL
(secs 70-83)

70 Place of gambling and gambling debts settlement

- (1) No person shall gamble or make a bet at any place other than on licensed premises.
- (2) A gambling debt may only be settled at-
- (a) licensed premises;
 - (b) a place authorised by the Board, or
 - (c) a place where a debt is ordinarily paid in such circumstances when the debt is paid pursuant to a court order or the terms of settlement of legal proceedings instituted for its recovery.

71 Rules of gambling games and betting

(1) No gambling or betting shall be conducted otherwise than in accordance with the rules approved therefor.

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

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

72 Restrictions on gambling through agent and unlawful inducement to gamble

- (1) No person shall-
- (a) act as agent for the holder of a licence for the purpose of gambling on a sporting event, whether or not for gain, or
 - (b) whether or not for gain, act as an intermediary between any holder of a licence and any other person for the purpose of gambling on a sporting event.
- (2) No person shall, directly, give or undertake to give to any other person money or any other valuable consideration, other than the amount of a wager won by such other person, to induce that person to gamble on a sporting event.
- (3) The provisions of subsection (1) shall not apply to a junket agent registered in terms of section 63 in respect of a particular casino.

73 Events and contingencies on which gambling take place and bets may be made

- (1) Subject to the provisions contained in any Act of Parliament and the provisions of this Act or any law, a person may only gamble or bet on the result of-
- (a) a gambling game;
 - (b) a bingo game;
 - (c) the operation of a gambling machine;
 - (d) a horse race, or

(e) a lawful sporting event.

(2) A person may only gamble or make a bet on the result of an event or contingency contemplated in subsection (1) with the holder of a licence who is authorised by such licence to gamble or take bets on the event or contingency concerned.

74 Restriction on gambling credit

Save as provided for by the regulations or rules of the Board, a licence holder or employee of a licence holder shall not directly or indirectly extend any credit to a player in respect of any gambling or betting.

75 Gambling debts enforceable

Any gambling debt lawfully incurred by a person in the course of gambling activity which is not in conflict with the relevant law shall, notwithstanding the provisions of Common law or any other law, be enforceable in law.

76 Restriction of gambling advertisement

A person may only advertise the business of a licence holder in the manner prescribed, and in accordance with this Act and National Gambling Act, 1996 (Act 33 of 1996) as amended.

77 Prohibition of gambling by certain persons

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

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

- (a) enter any area where gambling takes place;
- (b) take part in any gambling or betting or handle or operate a gambling machine, or
- (c) be entitled to enforce any gambling debt, notwithstanding the provisions of section 75.

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

- (a) under the age of 18 years, or
- (b) subject to an order in terms of subsection (4) and which has been served on such licence holder in terms of subsection (5),

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

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

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

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

- (a) refuse to admit any person to the licensed premises;
- (b) request any person who is in the licensed premises, to leave the premises;
- (c) request proof of age, or
- (d) request any police officer to remove or assist in removing from the licensed premises any person who refuses or fails to comply with a request contemplated in paragraph (a) or (b).

78 Suitability of third parties

(1) The Board may prohibit a licensee from contracting with any supplier for the purchase of goods or services in terms of this Act, including the rental of premises, or with any lender, until such supplier or lender has obtained a certificate of suitability from the Board and paid the expenses of the Board relative thereto.

(2) The Board may at any time, after affording a supplier or lender an opportunity of being heard, revoke the certificate of suitability granted in terms of subsection (1), if in the opinion of the Board, supplier or lender is deemed to be no longer suitable.

(3) The provisions of sections 29 to 38 shall, where applicable, *mutatis mutandis* apply to an application contemplated in subsection (1) or a revocation in terms of subsection (2).

79 Declaration of forfeiture

(1) Whenever any person is convicted of an offence under this Act, the court convicting him or her shall, in addition to any punishment which the court may impose in respect of the offence, declare-

- (a) all monies, documents, books and records, gambling machines, devices or apparatus-
 - (i) by means of which the offence was committed;
 - (ii) which was used in the commission of an offence, or
 - (iii) which was found in the possession of the convicted person;
- (b) any vehicle, vessel, aircraft, container or other object which was used-
 - (i) for the purpose of or in connection with the commission of the offence;
 - (ii) for the storage, conveyance, removal, concealment of any money, documents, books and records, gambling machines, devices or apparatus by means of which the offence was committed or which was used in the commission of the offence,

and which was seized under section 65(2)(d) or is in the possession or custody or under the control of the convicted person, to be forfeited to the Board.

(2) The provisions of section 35 of the Criminal Procedure Act, 1977 (Act 51 of 1977) as amended, shall *mutatis mutandis* apply to anything forfeited in terms of this section.

80 Vicarious responsibility

(1) When a manager of the business to which the licence relates, or the agent or employee of the holder of the licence, does or omits to do any act which would be an offence in terms of this Act for the holder concerned to do or omit to do, that holder shall be deemed himself or herself to have done or omitted to do that act, unless he or she satisfies the court that-

- (a) he or she neither connived at nor permitted the act or omission by the manager, agent or employee concerned,
- (b) he or she took all reasonable steps to prevent the act or omission, and
- (c) an act or omission fell within the scope of the authority or employment of the manager, agent or employee concerned.

(2) For the purpose of subsection (1)(b), the fact that the holder issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he or she took all reasonable steps to prevent the act or omission.

81 Books, accounts and records

The holder of a licence shall keep such books, accounts and records as may be prescribed and determined in the regulations and rules of the Board.

82 Offences and penalties

(1) A person who-

- (i) contravenes or fails to comply with any provision of this Act or any regulation made under section 84;
- (ii) makes any false statement in any application or return under this Act;

- (iii) contravenes any condition of a license;
- (iv) on any licensed premises conducts gambling activities or keeps any gambling device which is not provided for under this Act or conducts any gambling game otherwise than in accordance with the rules of such game as provided for in this Act;
- (v) hinders or obstructs any police officer or inspector in the performance of his or her functions under this Act;
- (vi) gives an explanation or information to a police official or inspector which is false or misleading, knowing it to be false or misleading;
- (vii) falsely represents himself to be an inspector;
- (viii) without the consent in writing of the inspector or police official concerned, removes from the place, or tampers with, destroys or makes alterations to, anything seized by such inspector or police official in the performance of his or her duties under this Act;
- (ix) without sufficient cause fails to attend a hearing or enquiry to which he or she has been summoned by the Board in terms of section 37 or fails to remain in attendance at such hearing or enquiry until it is concluded or until he or she is excused by the Board from further attendance;
- (x) having been summoned under section 37-
 - (a) without sufficient cause refuses to take the oath or to make an affirmation as a witness after he or she has been directed by the member of the Board or authorised person presiding at the enquiry to do so, or refuses to testify, or refuse 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;
 - (b) after having taken the oath or having made an affirmation, gives false evidence before the Board, knowing such evidence to be false; or
 - (c) without sufficient cause fails or refuses 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;
- (xi) is in possession of any gambling machine, or gambling device, other than playing cards or dice, which is used without an appropriate license or registration or not in accordance with the provisions of this Act;
- (xii) is in possession of-
 - (a) a reel tape designed for use is a gambling machine;
 - (b) any device which would be a gambling machine but for the removal of any of its parts or the reprogramming thereof;
 - (c) any device which is capable of electronically representing the reels used in a gambling machine;
 - (d) any device which was manufactured as a gambling machine and which has been converted at any time so that it is unable to pay out cash or tokens, whether such device enables a player to win a prize or not;
 - (e) any computer software which enables a player to download any credits won on a gambling game to another computer or to an external data storage device; or
 - (f) any computer hardware which is primarily designed or constructed for use to play a gambling game on a computer, without an appropriate license or without being registered in terms of section 60(1);
- (xiii) is in possession of any gambling machine, table or device contemplated in section 66(1) and this section and is not-
 - (a) the holder of an appropriate license;
 - (b) registered in terms of section 60(1);
 - (c) authorised by the Board to use such device for social gambling; or
 - (d) authorised by the Board to transport such machine, table or device in or through the Province as contemplated in section 66C(2);

- (xiv) uses a gambling device or amusement machine otherwise than in accordance with the provisions of the Act;
- (xv) exposes a gambling machine for play by members of the public without being the holder of an appropriate license;
- (xvi) is the holder of a route operator license or site operator license and exposes for play or allows to be exposed for play-
 - (a) a limited payout machine which does not comply with the provisions of this Act; or
 - (b) more limited payout machines than such license holder is licensed for;
- (xvii) uses a computer to play a gambling game; or exposes such computer for the playing of gambling games by members of the public or any section thereof either by way of internet or intranet transmission or any other method, contrary to the provisions of this Act;
- (xviii) possesses an amusement machine without a license or the permission contemplated in section 66C(2);
- (xix) transports any gambling machine, table, amusement machine or gambling device contemplated in section 66(1) within or through the Province without-
 - (a) the prior written permission of the Board;
 - (b) an appropriate license; or
 - (c) being registered in terms of section 60(1);
- (xx) by way of a scheme or arrangement, directly or indirectly converts into cash, tokens, credit, debits, cheques or other value instruments any-
 - (a) object or ticket contemplated in the definition of "amusement game" in section 1 which was received by any person as a prize won on such amusement game; or
 - (b) non-cash object, voucher or ticket received by a person in return for attending any premises on which any electronic, mechanical or electro-mechanical device, whether a gambling device, an amusement machine or otherwise, is exposed for play by members of the public or any section thereof or in return for playing such device:

Provided that the provisions of this paragraph shall not apply to any family member of any person who received such prize, object or ticket or to any person related to such person within the third degree of relationship by birth, where the prize or object is not a ticket contemplated in subparagraphs (a) and (b) and is not exchanged for more than its retail value;
- (xxi) expose for play by members of the public or any section thereof an amusement machine which is not licensed;
- (xxii) directly or indirectly provides credit to any person for the playing of an amusement game;
- (xxiii) without an appropriate license, utilises one or more gambling machines to distribute prizes (other than an opportunity to play a single further game), to persons who have paid a subscription to play such machines;
- (xxiv) possesses or exposes for play by members of the public or any section thereof, an amusement machine capable of playing games such as roulette, bingo, twenty-one, blackjack, chermin de fer, baccarat, poker, Chinese roulette, keno and other games of similar type usually played on gambling machines or derived from such games;
- (xxv) exposes for play by members of the public or any section thereof a computer and uses such computer as an amusement machine to play amusement games of the kind contemplated in paragraph (xxiv);
- (xxvi) distributes or makes available computer software in the province which is intended to be used by persons in the province to link to gambling businesses located outside the province which offer gambling games on the internet;

(xxvii) manages, supervises or assists or serve as a banker, dealer, croupier or in any like capacity at the playing of any gambling game or the operation of amusement machines or conducting of any betting on any premises other than licensed premises, or acts as porter, doorkeeper or servant or performs any other function or duty or holds any other office on any such unlicensed premises:

is guilty of an offence and on conviction (unless otherwise expressly provided elsewhere in this Act) be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment.

(2) A person who contravenes or fails to observe a rule made in terms of section 85 shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 6 months.

(3) The provisions of paragraphs (xi), (xii), (xiii), (xiv) and (xix) of subsection (1) shall not apply to-

- (a) the Board, officials of the Board, the South African Police Services or any person possessing such device or machine at the instance of the Board or the South African Police Services;
- (b) a *bona fide* museum which the Board has on application authorised to possess such device or machine: Provided that-
 - (i) the device or machine shall be kept in such a manner that it is not available to be played or operated by any person; and
 - (ii) such device or machine is disabled to the satisfaction of the Board;
- (c) any temporary display or exhibition of gambling devices or amusement machines which has on application been approved by the Board: Provided that-
 - (i) such devices or machines shall not be used for gambling while being so displayed or exhibited;
 - (ii) no player of such device or machine shall receive or be entitled to receive a prize other than the one or more opportunities to play a further game; and
 - (iii) any conditions imposed by the Board shall be complied with;
- (d) a gambling school licensed or approved by the Board or the National Gambling Board contemplated in the National Gambling Act of 2004, which uses machine or device only for training purposes: Provided that-
 - (i) such device or machine shall not be available to be played or operated by, or be accessible to, any member of the public other than genuine students or lectures of that gambling school;
 - (ii) such device shall not be used for gambling;
 - (iii) no player of such device or machine shall receive or be entitled to receive a prize; and
 - (iv) any conditions imposed by the Board shall be complied with;
- (e) any other person whom the Board on application or request allows to possess such device or machine on a temporary basis including the possession of machines in transit as contemplated in section 66C(2): Provided that-
 - (i) such device or machine shall not be available to be played or operated by, or be accessible to, any other member of the general public and shall not be used for gambling;
 - (ii) no player of such device or machine shall receive or be entitled to receive a prize;
 - (iii) the device or machine shall be used only for the purpose approved by the Board; and
 - (iv) any conditions imposed by the Board shall be complied with;

Provided that persons contemplated in paragraphs (b), (c), (d) and (e) shall inform the Board in writing beforehand of all movements of gambling devices and amusement machines contemplated in this subsection and shall comply with any rules made by the Board with regard to such persons.

(4) Whenever any person is convicted of an offence in terms of this Act or pays an admission of guilt fine in respect thereof in terms of section 57 of the Criminal Procedure Act, 1977 (Act 51 of 1977), all costs incurred by the Board or the South African Police Service, including costs of the transport or storage of any gambling machine, gambling device, equipment or other thing which was used in the commission of the offence or which was found in the possession of the convicted person, and any testing thereof by the South African Bureau of Standards shall be paid by such person in addition to any fine or penalty imposed or paid by such person.

[Sec 82 substituted by sec 19 of Act 5 of 2005 wef 28 September 2005.]

82A Magistrate's jurisdiction

Notwithstanding any law to the contrary, a magistrate shall have jurisdiction to hear any matter in relation to contravention of this Act, and shall deal with the matter as he/she deems appropriate, including referring it to the relevant court for sentencing.

[Sec 82A inserted by sec 20 of Act 5 of 2005 wef 28 September 2005.]

83 Reward for information supplied

The Board may, notwithstanding anything to the contrary in any other law, pay a reward to any person who has furnished information relating to an alleged contravention of a provision of this Act.

CHAPTER XIV REGULATIONS, RULES OF THE BOARD, ANNUAL REPORT AND PUBLICATION OF INFORMATION ON GAMBLING ACTIVITIES (secs 84-86)

84 Regulations

(1) The Responsible Member may, in consultation with the Board, by notice in the *Provincial Gazette* make regulations regarding

- (a) any matter pertaining to the Board;
- (b) any matter pertaining to an application for a licence;
- (c) the management and control of licensed premises and gambling operations;
- (d) the take-out, commission or other charges which the holder of a licence may charge;
- (e) any matter pertaining to gambling levies and fees;
- (f) the authorised activities of route operators contemplated in section 53;
- (g) the adjudication by the Board of gambling disputes and the enforcement against persons of orders made by the Board pursuant to such adjudication;
- (h) any matter other than those mentioned in this subsection which in terms of this Act required or permitted to be prescribed, and
- (i) in general, any matter which is considered necessary or expedient to be prescribed for achieving the objects of this Act.

(2) The Responsible Member shall not less than 21 days before any regulation is made under this section, cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish any comments thereon or any representations which they wish to make in regard thereto, to the Responsible Member.

(3) The provisions of subsection (2) shall not apply in respect of-

- (a) any regulation which has been amended by the Responsible Member in consequence of comments or representations received in response to the invitation there mentioned, or
- (b) any regulation in respect of which the public interest requires it to be made without delay.

85 Rules of the Board

(1) The Board may, in consultation with the Responsible Member, make rules not inconsistent with the provisions of this Act relating to the exercise of its powers and performance of its functions, including-

- (a) any matter pertaining to an application for a licence;
- (b) the management and control of licensed premises and gambling operations;
- (c) the rules of playing any gambling game, and
- (d) any other matters relating to the functions of Board.

(2) The Board shall not less than 21 days before any rule is made under this section, cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring its intention to make that rule and inviting interested persons to furnish any comments thereon or any representations which they wish to make in regard thereto, to the Board.

86 Annual report, financial statements and publication of information on gambling activities

(1) The Board shall, in accordance with the Public Finance Management Act, 1999 (Act 1 of 1999) as amended, submit within five months of the end of a financial year to the *Provincial Treasury*, the Responsible Member and if the Auditor-General did not perform the audit of the financial statements, to the Auditor-General-

- (a) an annual report on the activities of the Board during that financial year;
- (b) the financial statements for that financial year, and
- (c) the report of the auditors on those statements.

(2) The Board must submit the report and statements referred to in subsection (1), for tabling in the *Provincial Legislature* through the Responsible Member.

(3) The *Provincial Treasury* may direct that the audited financial statements of the Board must be incorporated in those of a department designated by the Treasury.

(4) The Board may publish general information or statistics on gambling and betting activities.

CHAPTER XV GAMBLING LEVIES, FEES, PENALTIES AND INTEREST (secs 87-89)

87 Gambling levies, fees, penalties and interest

(1)(a) A holder of a license shall be liable to, at such intervals as may be prescribed, pay a gaming levy which shall be calculated on such basis and at such rate as may be prescribed and be payable in the manner and before the date as prescribed: Provided that different rates may be so prescribed in respect of different types of licenses.

(b) A person who has made a winning bet with a bookmaker shall pay the prescribed tax on the amount and in the manner as prescribed.

(c) A payment of the gambling levy referred to in subsection (1) shall be accompanied by a return in the form determined by the Board.

(d) Notwithstanding anything to the contrary contained in any other law, there shall be no period of grace for the payment of the gambling levy referred to in subsection (1)(a), and if such levy is not paid on or before the date referred to in subsection (1)(a), the license may be suspended by the Board in terms of section 46 until the levy and the penalty payable in terms of subparagraph (e) have been paid.

(e) Any license holder who fails to pay the gambling levy on or before the prescribed date referred to in subsection (1)(a) shall in addition to such levy, pay for each day or part of a day during which such license holder is liable for the payment of the levy, a penalty and interest contemplated in section 88(1).

(f) All gambling levies, taxes and license fees payable in terms of the provisions of this section and all fines and penalties imposed in respect of offences under the Act, shall be paid to the Board for the benefit of the Provincial Revenue Fund and the Board shall pay

such amounts into the Provincial Revenue Fund on or before the 15th of each month and furnish such returns and information as the Provincial Treasury may require.

(g) The penalty provided for in subparagraph (e) may be waived by the chief executive officer as contemplated in the Regulations.

[Subsec (1) substituted by sec 21 of Act 5 of 2005 wef 28 September 2005.]

(2) All gambling levies, licence fees, penalties, interest and any other monies payable in terms of the Provisions of this Act, shall be a debt due to the *Provincial Administration*, and may be recovered in a *Competent Court* by the said Administration or by the Board on behalf of the Administration: Provided that the Board shall primarily be responsible for the collection of the said amount on behalf of the Provincial Administration.

(3) The Responsible Member may, with the concurrence of the Member of the Executive Council responsible for finance, by notice in the *Provincial Gazette* make regulations prescribing the matters in respect of which gambling levies and fees shall be payable and the tariffs relating thereto.

88 Penalty and interest for failure to pay gambling levy or fee when due

(1) If any licence holder who is liable for the payment of gambling levy or a fee fails to make such payment in the prescribed manner, the licence holder shall, in addition to such amount of gambling levy or fee, be liable for-

- (a) a penalty equal to one percent of the unpaid amount of gambling levy or fee per day or part thereof: Provided that the maximum penalty shall not exceed one hundred percent of the said amount of gambling levy or fee, and
- (b) where payment of the said amount of gambling levy or fee is made after the first day following the period allowed for payment of the tax or fee, interest on the said amount of gambling levy or fee, shall be calculated daily at the prescribed rate until the date on which payment is received by the Board.

(2) If the unpaid amount of gambling levy or fee remains outstanding for a period of forty-five days after the date when such gambling levy or fee became due or payable, the Board shall give the licence holder fourteen days written notice to effect payment of the said gambling levy or fee, and if such gambling levy or fee is not paid prior to the expiration of the said fourteen days, the Board may suspend or revoke the licence of the said licence holder.

(3) When the Board is satisfied that the failure on the part of any licence holder to make payment of the gambling levy or fee by due date was not due to an intent to avoid or postpone liability for the payment of gambling levy or fee, the Board may remit in whole or in part any penalty payable in terms of this section.

89 Agreements on gambling levies

(1) The Responsible Member may enter into an agreement with the Provincial government of any other Province whereby arrangements are made with that government with a view to-

- (a) the regulation or co-ordination of any matter with regard to the levying and collection under this Act and the laws of such other Province of gambling levy or any similar tax, or
- (b) the rendering of reciprocal assistance in the administration and collection of gambling levy or any similar tax under this Act and the laws of such other Province, or in respect to the execution of the arrangements provided for in any agreement entered into in terms of this section.

(2) As soon as may be possible after the conclusion of any such agreement, the arrangement thereby made shall be gazetted by both the Responsible Members in their respective provinces.

CHAPTER XVI REVIEW TRIBUNAL (sec 90)

90 Decision or proceedings of the Board may lie to a review tribunal

(1) Any person aggrieved by the decision or proceedings of the Board may by way of review proceedings to be prescribed, submit him or herself before a review tribunal in the manner prescribed by the Board in concurrence with the Responsible Member.

(2) The aggrieved person shall as soon as is reasonably possible and not later than thirty days after the Board has given its decision, inform the Board in writing of his or her intention to institute review proceedings as contemplated in subsection (1).

(3) The review tribunal referred to in subsection (1) shall be consist of three members appointed by the Responsible Member as follows:

- (a) an advocate or retired judge who shall for the purposes of the review proceedings in terms of this section be appointed as the presiding officer;
- (b) one member designated by the National Gambling Board from the Staff of the said Board, and
- (c) one member appointed on the basis of having either proven business a cumen, or who is otherwise suitable for appointment as a member of the tribunal.

(4) The procedure to be followed in connection with the hearing of the review lodged in terms of this section, shall be as prescribed.

(5) The aggrieved person may in person or through a legal representative appear before the review tribunal.

(6) The tribunal hearing the review under this section may:

- (a) confirm or set aside the decision or proceedings of the Board, or
- (b) remit the matter to the Board with an order to take a decision in accordance with the correct procedure, or
- (d) such a decision as in its opinion ought to have been given by the Board and direct the Board to do everything necessary to give effect to that decision.

(7) Members of the tribunal who are not in the full-time employment of the State, shall be paid such remuneration and allowances as the responsible Member may from time to time determine with the concurrence of the Member of the Executive Council responsible for Finance.

CHAPTER XVI TRANSITIONAL PROVISIONS AND SAVINGS, REPEAL OF LAWS, SHORT TITLE AND COMMENCEMENT (secs 91-93)

91 Transitional provisions and savings

(1) All licences issued in terms of any Act which is repealed by this Act, and any licence for the operation of a casino issued in terms of the Bophuthatswana Casino Act, 1977 (Act 19 of 1977) as amended and in force immediately before the date of commencement of this Act, including any transfers made in respect of some of those licences, shall be deemed to have been issued in terms of this Act after which the provisions of this Act shall apply in respect of such licences and transfers.

(2) Any person who at the commencement of this Act is so employed that he or she is required to be registered as contemplated in Chapter X may, for a period of 10 (ten) months after such commencement, or such further period as the Responsible Member may provide by means of a Regulation, continue to be so employed while not so registered.

(3) The Responsible Member may by means of regulations and/or proclamation in the *Provincial Gazette* provide for such further transitional and saving provisions relating to the operation of any provision of this Act as are necessary or expedient in relation, but not limited, to considerations in connection with any operation conducted under a licence contemplated in subsection (1).

(4) The Board established in terms of the North West Casino, Gaming and Betting Act 1994 (Act 13 of 1994), as amended, shall continue to exist and function as if established under the corresponding provision of this Act.

(5) Every person who immediately prior to the commencement of this Act held in terms of the North West Casino, Gaming and Betting Act, 1994 (Act 13 of 1994), as amended, the office of a member of the Board, shall be deemed to have been appointed by the Responsible Member in terms of the corresponding provision of this Act until March 2001: Provided that such members of the Board may become eligible for reappointment in accordance with the provisions of this Act.

(6) Any thing done under the provisions of the North West Casino, Gaming and Betting Act, 1994 (Act 13 of 1994), as amended, and which may be done under the corresponding provision of this Act, shall be deemed to have been done under the latter provision.

92 Repeal of laws

Subject to section 91, the laws mentioned in the schedule, hereunder, are hereby repealed to the extent set out in the third column of that schedule.

Number and year of law	Short title of law	Extent of repeal
Act 13 of 1994 Act 3 of 1996	North West Casinos, Gaming and Betting Act, 1994 North West Casinos, Gaming and Betting Amendment Act, 1996	The whole The whole
Act 9 of 1997	North West Casino Gaming and Betting Amendment Act, 1997	The whole
Ord 24 of 1978 (TVL)	Horse Racing and Betting Ordinance, 1978	The whole in so far as it applies in the province.
Ord 34 of 1968 (Cape)	Horse Racing and Betting Ordinance, 1968	The whole in so far as it applies in the province.

93 Short title and commencement

(1) This Act shall be called the North West Gambling Act, (Act 2 of 2001) and shall come into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

(2) Different dates may be so fixed in respect of different sections of this Act.