

# ACT

To provide for the licensing of persons conducting casinos, bingo games, lotteries, totalizators and betting pools, and of gaming machine keepers and bookmakers, and for the registration of persons engaged in bookmaking, casino occupations and the manufacture and sale of gaming machines and gaming devices; to provide for the restriction, regulation and control of gambling and betting; to amend the Horse-racing and Betting Ordinance, 1978, so as to repeal the provisions relating to betting; and to effect certain other amendments as a result of the new constitutional dispensation; and to provide for incidental matters.

## PREAMBLE

**WHEREAS** gambling and betting have the potential to make a substantial and lasting contribution to the growth and development of tourism and the economy in the Province of Gauteng, and to the prosperity of its people;

**AND WHEREAS** it is recognised that gambling and betting are privileged activities which should stimulate the creation of employment opportunities and assist in the advancement of deprived communities, and thereby promote the improvement of the quality and standard of living of the people of the Province;

**AND WHEREAS** gambling and betting can be a significant source of public revenue for the Province, and so contribute to the well-being of all its people in the general interest;

**AND WHEREAS** the special risks and dangers entailed by opportunities for gambling and betting justify the imposition of appropriate restrictions, regulations and controls:

**BE IT THEREFORE ENACTED** by the Provincial Legislature of Gauteng, as follows: -

## Chapter 1 – Interpretation and application of Act

### 1. Definitions

(1) In this Act, unless the context otherwise indicates -

"board" means the Gauteng Gambling Board established by section 3;

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

(a) that is played for consideration, using cards or other devices (whether electronic or otherwise) –

(i) that are divided in to spaces, each of which bears a different number, picture, symbol; or

(ii) with number, pictures, symbols arranged randomly such that each card or device contains a unique set of numbers, pictures, symbols

(b) in which either –

(i) an operator or announcer calls or displays a series of numbers, pictures of symbols in random order and the players then match each such number, picture or symbol to numbers, pictures or symbols appearing on the card or other device as such series is called or displayed; or

- (ii) an electronic or similar device generates and displays a series of numbers, pictures or symbols and then, on behalf of the players, matches each such number, picture or symbol to the numbers, pictures or symbols appearing on the electronic card or other similar device after such number, picture or symbol is generated or displayed; and
- (c) in which either –
  - (i) the player who is first to match all spaces on the card or other similar device, or who matches a specified set of numbers, pictures and symbols on the card or device, wins a prize; or
  - (ii) the player on whose behalf the electronic or similar device referred to in paragraph (b)(ii) first matches a specified set of numbers, pictures and symbols on the electronic card or similar device, wins a prize or more than one prize, or any other substantially similar game declared to be bingo in terms of section 1(2A).’

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

"casino game" means any game, irrespective of whether or not the result thereof is determined by chance or a measure of skill, played with playing cards, dice, a gaming machine or any other device used to determine win or loss in the outcome of a wager for money or other valuable consideration, and includes, without derogating from the generality of the foregoing, blackjack, chemin de fer, baccarat, bingo, keno, twenty-one, poker and roulette, or any other game whose rules closely resemble that of the foregoing;

"casino occupation" means -

- (a) the occupation of croupier, dealer, cashier, counter, change attendant, host, floor attendant, shift or pit boss, security attendant or casino or floor supervisor or manager; or
- (b) any occupation declared to be a casino occupation under subsection (2);

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

"conduct" means to carry on the business, to control, to direct, to keep, to manage, to oversee or to own, and "maintain" has a corresponding meaning;

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

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

"family member" or "member of the family", in relation to any person, means his or her spouse, including a person living with the first-mentioned person as if they were married, or a parent or child of the first-mentioned person;

"fixed odds bet" means a bet taken by a licensed bookmaker on one or more events or contingencies where odds are agreed upon when such bet is laid, but excludes a totalisator bet or any bet for which the dividend is to be calculated or otherwise determined by reference to, or any other basis which depends upon, a totalisator bet of any kind;

"gambling" 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 gaming and betting but excludes the operation of a machine contemplated in subsection (3) or (4): Provided that the responsible Member may, on the recommendation of the board, declare certain games of skill not to be gambling.

"gambling device" means any equipment or thing used in connection with gambling or betting and includes without limiting the generality thereof any electromechanical or electronic device, component or machine or gaming machine, playing cards or dice, or any other equipment or thing which the board determines to be a gambling device;

"gaming" means the playing of a casino game;

"gaming machine" means, subject to the provisions of subsections (3) and (4), any electronic, electro- mechanical or mechanical machine, apparatus or device other than a roulette wheel, which is used for playing a game which commences upon the insertion of a coin, banknote, token, card or similar object, or upon payment of any consideration, or is available to play and the operation of which may deliver to the person playing and operating the machine, or any other person, cash or anything of value, or entitles such a person, or any other person, to receive cash or anything of value, and includes any device which is set in operation by another person upon the wagering of a stake;

"inspector" means an inspector appointed under section 80;

"licence" means -

- (a) a casino licence contemplated in Chapter 4, including a temporary casino licence contemplated in section 33(2);
- (b) a bingo licence contemplated in Chapter 5, including a temporary bingo licence contemplated in section 33(2);
- (c) a gaming machine licence contemplated in Chapter 6;
- (d) a route operator licence contemplated in Chapter 6;
- (e) an additional gaming machine licence contemplated in Chapter 6;
- (f) a totalizator licence contemplated in Chapter 8;
- (g) a bookmaker's licence contemplated in Chapter 9; or
- (h) a manufacturer licence contemplated in Chapter 11;
- (i) an amusement licence contemplated in Regulation 290; and
- (j) a race meeting licence contemplated in Chapter 16.

"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;

"licensed race-course" means a licensed race-course referred to in section 91(6);

"local authority" means a transitional council, transitional metropolitan substructure or local government body contemplated in section 1(1) of the Local Government Transition Act, 1993 (Act No. 209 of 1993);

"permit" means a permit contemplated in section 89B or section 89C;

"playing-cards" means cards used for playing blackjack, poker or other card games, but excludes cards used in the playing of bingo or any casino game other than a card game;

- "premises" include any movable or immovable property;
- "prescribed" means prescribed by regulation;
- "Province" means the Province of Gauteng, and
- "Provincial" has a corresponding meaning;
- "Public Finance Management Act, 1999" means the Public Finance Management Act, 1999 (Act No 1 of 1999) as amended from time to time;
- "race-meeting" means a race-meeting contemplated in section 90(1);
- "race-meeting licence" means a licence referred to in section 91(1);
- "regulation" means a regulation made under section 84;
- "responsible Member" means the Member of the Executive Council responsible for gambling in the Province of Gauteng;
- "route operator" means a person who carries on an activity contemplated in section 49(3);
- "rule of the board" means a rule made under section 85;
- "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 the public;
- "Sports Fund" means the Sports Development Fund referred to in section 100(1);
- "strategic plan" means the strategic plan contemplated in regulation 30 of the Treasury Regulations made in terms of the Public Finance Management Act, 1999;
- "this Act" includes the regulations and the rules of the board.
- "Totalisator" means a system of betting on a sporting event in which the aggregate amount staked on such event or combination of events, after deduction from such aggregate amount of any amounts which may lawfully be deducted therefrom, whether under this Act or by agreement, is divided amongst those persons who have made winning bets on that event or combination of events in proportion to the amounts staked by such persons in respect of such winning bets, and includes any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles"
- (2) The responsible Member may, on the recommendation of the board, by notice in the *Provincial Gazette* declare any occupation which is directly connected with, or closely related to, the conducting of a casino game or the operation of a casino, to be a casino occupation for the purposes of this Act.
  - (2A) The responsible member may, on the recommendation of the Board, and by notice in Provincial Gazette, declare that any particular game that is substantially similar to bingo is bingo.
  - (3) For the purposes of this Act a gaming machine shall not include any machine, apparatus or device which provides, as the only prize, reward or consideration for successfully playing the game concerned -
    - (a) a coin or token sufficient in value to enable a player, by inserting such coin or token in the machine, to play the game once again;
    - (b) the opportunity to play no more than ten further games immediately without the insertion of another coin or token: or

a non-redeemable for cash prize, with a monetary value not greater than the amount initially paid to play the game

Provided that the responsible Member may from time to time on the recommendation of the Board, by notice in the *Provincial Gazette* declare any machine, apparatus or device to be a gaming machine.

- (4) For the purposes of this Act a gaming machine shall not include any machine, apparatus or device which is deemed by regulation to be an amusement machine and which is registered as prescribed and kept by a person licensed as prescribed and made available and controlled in terms of the regulations:

“Provided that the responsible Member may from time to time on the recommendation of the board, by notice in the *Provincial Gazette* declare any machine, apparatus or device to be an amusement machine”

## **2. Application of Act and other laws**

- (1) The provisions of the Gambling Act, 1965 (Act No. 51 of 1965), shall not apply in the Province in relation to anything for which a licence or registration is required in terms of this Act.
- (2) Subject to section 83(1)(a), 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 Races Ordinance, 1949 (Ordinance No. 4 of 1949).
- (3) This Act shall bind the State.

## **2A Provincial policy**

- (1) The responsible Member, may issue a policy statement in respect of –
- (a) any matter concerning the oversight and control of gambling activities in the Province;
- (b) any other matter in respect of which the Board exercise powers or performs functions.
- (2) Prior to issuing a policy in terms of subsection (1), the responsible Member must –
- (a) consult with the Board;
- (b) publish for public comment a notice in the *Provincial Gazette* containing a draft of the policy statement for at least fourteen days;
- (c) consider written representations received within the period prescribed in the notice.
- (3) The Board must comply with any policy statement issued in terms of sub-section (1) when performing any function or exercising any power in terms of section 4(1)(a).

## **Chapter 2 – Gambling Board**

### **3. Establishment of board**

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

#### **4. Functions and powers of board**

- (1) The functions and powers of the board are –
  - (a) to oversee and control gambling activities in the Province;
  - (b) to advise and make recommendations to the responsible Member on matters in connection with the licensing of persons to conduct, and the regulation and control of, gambling in the Province, either of its own accord or at the request of the responsible Member; and
  - (c) to exercise such powers and perform such functions and duties as may be assigned to the board in terms of this Act and any other law.
- (2) The board may, with the approval of the responsible Member and if a law of any other province 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) Notwithstanding anything to the contrary contained in this Act, but subject to subsection (4), the responsible Member, in consultation with the Executive Committee, may exercise and perform the powers and functions of the board, excluding the granting and revocation of licences, in the absence of the board.
- (4) Notwithstanding subsection (3) the responsible Member may -
  - (i) grant a temporary licence to a manufacturer of gaming machines and equipment if it can be shown that the manufacturer is producing only for legal gambling and betting operations in South Africa, or for export outside the borders of the Republic; and
  - (ii) after consultation with the relevant Standing Committee, undertake administrative steps in preparation for the granting of licences contemplated in this Act, with the exception of inviting applications for casino licences and additional gaming machine licences.
- (5) Notwithstanding anything to the contrary contained in this Act, the board may on good cause shown, condone any immaterial non-compliance with the provisions of this Act.

#### **4A Board's objectives, outcomes, performances and indicators.**

- (1) The responsible Member, after consulting the Board, must for each financial year –
  - (a) identify the Board's objectives and outcomes;
  - (b) determine performance measures and indicators for assessing the Board's performance in delivering the objectives and outcomes.
- (2) The Board must submit proposals to the responsible Member concerning the matters dealt with in sub-section (1) by no later than nine months prior to the start of each financial year, or such other date as may be prescribed.
- (3) The responsible Member, after considering the proposal contemplated in sub-section (2), must notify the Board of its objectives, outcomes, performance measures and indicators by no later seven months prior to the start of the financial year.
- (4) The Board must incorporate these objectives, outcomes and performance

measures and indicators in its strategic plan.

**[S. 4A inserted by s. 3 of Act No. 2 of 2006.]**

**5. Constitution of board**

- (1) The board shall consist of between eight and 12 members who shall be fit and proper persons, appointed by the responsible Member, and of whom -
  - (a) two shall be practising attorneys or advocates with experience as such of not less than five years;
  - (b) one shall be an accountant and auditor registered in terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), with experience in public practice as defined in section 1 of that Act of not less than five years;
  - (c) one shall be appointed by virtue of his or her knowledge and active involvement in the tourism industry;
  - (d) one shall be appointed by reason of his or her knowledge and experience in the field of welfare or of community or socio-economic development;
  - (e) one shall be appointed by reason of his or her knowledge and experience in the field of labour relations; and
  - (f) between two and six persons who shall either have proven business acumen, a knowledge of the gambling or horse-racing industry or of technology relevant to gambling, or who are otherwise suitable for appointment as members of the board: Provided that, for a period of two years after commencement of this Act, one of such persons shall have knowledge of the horse-racing or the horse-racing betting industry, and one shall if possible have knowledge of the gambling industry.
  - (g) **Deleted [Para. (g) deleted by s3 (e) of Act 6 of 1996]**
  - (h) **Deleted [Para. (h) deleted by s3(e) of Act 6 of 1996]**
- (2)(a) A member of the Board shall not be appointed until the responsible Member has invited interested parties by notice in the *Provincial Gazette* and an advertisement in the media regarded as appropriate by the responsible Member to nominate within 21 days of the publication of such notice candidates for consideration.
  - (b) The names of the nominees shall be published in the said *Gazette* and media.
  - (c) A member of the Board shall be appointed by the responsible Member after consultation with the Standing Committee of the Provincial Legislature responsible for economic affairs, whose deliberations shall be open to the public.
  - (d) The final list of appointees shall include both genders.
  - (e) The final list of appointees shall be published in the said *Gazette* and media.
- (3) The responsible Member shall appoint a member of the board as the chairperson, and another member as the deputy chairperson, of the board.
- (4) 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.
- (5) A member of the board shall, before assuming office, make and subscribe an oath or solemn affirmation in the prescribed form before the responsible Member.
- (6) Notwithstanding anything to the contrary contained in this Act, the responsible

Member may on good cause shown, and in consultation with the Standing Committee on Finance and Economic Affairs, dispense with compliance of any of the provisions of this Section.

**6. Persons disqualified from being members of board**

No person shall be appointed a member of the board if such person -

- (a) is not a citizen of the Republic resident in the Province;
- (b) at the relevant time is, or during the preceding twelve months was, a public servant;
- (c) at the relevant time is, or during the preceding twelve months was, a member of Parliament, any provincial legislature or local authority, or any council, commission or house of traditional leaders established in terms of the Constitution;
- (d) at the relevant time is, or during the preceding twelve months was, an office-bearer or employee of any party, movement, organisation or body of a party political nature;
- (e) has a controlling interest or any financial or other interest in any gambling activity;
- (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 the Corruption Act, 1992 (Act No. 94 of 1992), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R100;
- (j) has at any time been removed from an office of trust on account of misconduct;
- (k) is a member of the family of a person contemplated in paragraph (b), (c), (d), (e) or (f) if, in the opinion of the responsible Member in concurrence with the Standing Committee on Finance and Economic Affairs, such family relationship may give rise to a real or perceived conflict of interest; or
- (l) failed to disclose an interest in terms of section 7(2)(a), or attended or participated in the proceedings of the board while having an interest contemplated in section 7(1).

**7. Recusal of board member with conflicting interests**

- (1) A member of the board shall not vote, attend or in any other manner participate in the proceedings at any meeting or hearing of the board if, in relation to any matter before the board -
  - (a) he or she or his or her family member, partner or business associate is a director, member or partner of, or has a controlling interest or any financial or other interest in, the business of the applicant or any person who made representations in relation to the application for a licence; or

- (b) he or she has any interest which precludes him or her from performing his or her functions as a member of the board in a fair, unbiased and proper manner.
- (2) If at any stage during the course of any proceedings before the board it appears that a member of the board has or may have any interest contemplated in subsection (1) -
  - (a) that member shall forthwith and fully disclose the nature of his or her interest and leave the meeting or hearing so as to enable the remaining members of the board to discuss the matter and determine whether that member is precluded from participating in the proceedings at such meeting or hearing by reasons of a conflict of interests; 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.
- (3) If any member of the board fails to disclose any interest contemplated in subsection (1) or if, having such an interest, he or she attends or in any manner whatsoever participates in the proceedings at the meeting or hearing concerned, the relevant proceedings shall be null and void: Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, revocation or withdrawal of a licence or registration, or the transfer of a licensed business to new premises, shall thereby be invalidated.

**8. Vacating of office by members of board**

- (1) A member of the board shall vacate his or her office if he or she -
  - (a) becomes subject to a disqualification contemplated in section 6; or
  - (b) has been absent from more than two consecutive meetings of the board without leave of the chairperson.
- (2) The responsible Member may, after giving the board member concerned an opportunity to be heard and after consultation with the Standing Committee of the Provincial Legislature responsible for economic affairs, terminate the membership of any member of the board if good reasons exist for doing so.
- (3) Without limiting the scope of subsection (2), the reasons contemplated in subsection (2) may relate to –
  - (a) the manner in which the Board has performed its functions or exercised its powers.

**9. Term of office of members of board, and filling of vacancies**

- (1) A member of the board shall hold office, subject to the provisions of section 8, for three years.
- (2) A Board member may be eligible for reappointment after expiry of his or her term.

**10. Remuneration of members of board**

A member of the board shall be paid such remuneration and allowances out of the funds of the board as the responsible Member may determine after consultation with the Standing Committee of the Provincial Legislature responsible for financial matters.

## **11. Meetings and decisions of board**

- (1) The first meeting of the board shall be held at a time and place determined by the chairperson, and thereafter the board shall meet at such times and places as the board may from time to time determine for the expeditious conduct of its business.
- (2)(a) 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.
- (b) No decision in terms of this Act relating to the granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or the transfer of a licensed business to new premises, shall be taken at an extraordinary meeting.
- (3) The quorum for a meeting of the board shall be a majority of its members.
- (4) If both the chairperson and deputy chairperson are absent from any meeting of the board, the members present shall from among themselves elect a person to preside at such meeting.
- (5) The decision of a majority of the members present at a meeting of the board shall constitute a decision of the board and, in the event of an equality of votes in relation to -
  - (a) the proposed granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or the transfer of a licensed business to new premises, it shall be deemed that the board has decided against the proposal; and
  - (b) any other matter, the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote.
- (6) No decision taken by or act performed under the authority of the board shall be invalid by reason only of a vacancy on the board or, subject to section 7(3), of the fact that any person not entitled to sit as a member of the board sat as such a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the majority of the members of the board who were present at the time and entitled to sit as members.
- (7) The chief executive officer may attend and participate in any meeting of the board but shall not have the right to vote.
- (8) The board shall cause minutes of its meetings to be kept, and such minutes shall, subject to section 16(2), be open to public inspection in the prescribed manner.

## **12. Staff of board**

- (1) The board shall in the performance of its functions be assisted by -
  - (a) a chief executive officer appointed by, subject to the approval of his or her appointment by the responsible Member;
  - (b) persons appointed by the board; and
  - (c) officers and employees placed at the disposal of the board under section 15(3)(a) of the Public Service Act, 1994 (Proclamation No. 103 of 1994).
- (2) The chief executive officer shall, subject to supervision by 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 and 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 any member of the family of such person has a controlling interest or any financial or other interest in any gambling activity.

#### **12A Conditions attached to appointment of Chief Executive Officer**

- (1) The chief executive officer is an employee of the Board and is accountable to the Board.
- (2) The chief executive officer is responsible for the efficient management of the Board and must perform any duty assigned or delegated to the chief executive officer of the Board.
- (3) The chief executive officer holds office for a term not exceeding three years, and may be re-appointed upon expiry of that term of office.
- (4) The employment contract of the chief executive officer must be in writing and must incorporate in an appropriate form the provisions of section 56 of the Public Finance Management Act, 1999.
- (5) The Board and the chief executive officer must conclude a performance agreement for the chief executive officer –
  - (a) within a reasonable time after the appointment of the chief executive officer; and
  - (b) thereafter, annually within one month of the commencement of each financial year.
- (6) The performance agreement must include –
  - (a) measurable performance objectives and targets that the chief executive officer must meet, and the time frames within which those performance objectives and targets must be met;
  - (b) standards and procedures for evaluating performance and intervals for evaluation; and
  - (c) the consequences of substandard performance.
- (7) If the chief executive officer is unable to fulfil his or her functions, the responsible Member may appoint an acting chief executive officer who shall have all the powers and duties of the chief executive officer.
- (8) The responsible Member may at any time, after giving the chief executive officer and opportunity to be heard, terminate the employment of the chief executive officer if, good reasons for doing so exist.

#### **13. Involvement in gambling by member or staff of board**

- (1) No member of the board or of the staff of the board shall -
  - (a) participate in any gambling in the Province except in the performance of his or her duties in terms of this Act; or

- (b) solicit or accept employment from the holder of, or applicant for, a licence under this Act within one year after the termination of his or her term of office or service, as the case may be: Provided that a member of the staff of the board may solicit and accept such employment with the prior written approval of the board.
- (2) A member of the board or of the staff of the board, or any family member of such member, shall not accept any donation, reward or other benefit from or on behalf of an applicant for or the holder of a licence, and no person shall give or offer such donation, reward or benefit to such member or family member.
- (3) Any person who contravenes a provision of subsection (1) or (2) shall be guilty of an offence.

**14. Committees to assist board**

- (1)(a) The board may appoint at least two of its members and the chief executive officer as an executive committee of the board which, subject to the provisions of paragraphs (c) and (d) and section 15A and the directions of the board, shall have the power to perform all the functions of the board during the periods between meetings of the board.
- (b) The chief executive officer shall not have the right to vote as a member of the executive committee.
- (c) Except in so far as the board may direct otherwise, the executive committee shall not have the power to set aside or amend any decision of the board.
- (d) Any act performed or decision taken by the executive committee shall be of force and effect except in so far as it is set aside or amended by the board at its next ensuing meeting.
- (2)(a) The board may from time to time appoint such number of disciplinary committees as it deems fit, each consisting of such number of persons as the board may in general or in any particular case or category of cases determine, from among the ranks of persons whom the board deems suitable for appointment.
- (b) A disciplinary committee shall perform the functions contemplated in section 37(2).
- (c) The board may, subject to the provisions of this subsection, alter the constitution of any disciplinary committee before the committee has commenced with an investigation contemplated in section 37(2).
- (d) The provisions of sections 11(6) and (8) read with section 16(2) shall *mutatis mutandis* apply in relation to a disciplinary committee.
- (3)(a) The board may appoint one or more committees to enquire into any matter referred to it by the board and to report on that matter to the board.
- (b) Such a committee shall consist of so many members of the board or so many other persons, or so many members and other persons, as the board may deem necessary, and the board may from time to time dissolve or reconstitute such a committee.
- (4) If a committee consists of more than one member, the board shall designate a member of the committee as chairperson thereof.
- (5) A member of a committee contemplated in subsection (2) or (3) who is not a member of the board or in the full-time service of the State shall receive such

remuneration and allowances from the funds of the board as the board, after consultation with the responsible Member, may determine.

**15. Expert and other assistance**

- (1) The board may appoint or call to its assistance such experts or other persons as it may deem necessary with a view to assisting it in the exercise and performance of its powers, functions and duties and for the performance of any work arising therefrom.
- (2) The terms, conditions, remuneration and allowances applicable to any expert or person appointed or called upon under subsection (1), and the work to be performed or service to be rendered by him or her shall be determined by the board and 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 to the board for its consideration.
- (4) The board, on receipt of a report contemplated in subsection (3), may refer the matter back to the expert or person concerned for such further attention as may be determined by the board, or to perform such further functions as the board may deem necessary or desirable.

**15A. Delegations**

- (1) The board may, subject to the provisions of this section, delegate its powers, functions and duties to any member of the board or of the staff of the board or any committee of such members, on such conditions as the board may determine.
- (2) The power to make a decision relating to the granting, transfer or revocation of a casino licence, bingo licence, additional gaming machine licence, route operator licence or manufacturer licence, or the material amendment thereof as contemplated in section 34(2), shall not be delegated.
- (3) Where the power to make a decision relating to the granting, amendment, renewal or transfer of a gaming machine licence, bookmaker's licence or totalizator licence has been delegated, the matter shall be referred to the board for decision if any representations were lodged as contemplated in section 20, or that section read with section 34(2) or 35(2)(a), as the case may be.
- (4) The power of the board to impose a fine or revoke a licence as contemplated in section 37(1) or (3) shall not be delegated except to a committee of at least three members of the board who shall not include a member of the disciplinary committee concerned contemplated in section 37(2).
- (5) The chief executive officer may, with the approval of the board, delegate his or her powers, functions and duties, including any power, function or duty delegated to him or her under subsection (1), to any other member of the staff of the board or person in the service of the board.
- (6) 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.
- (7) A delegation under this section may at any time be revoked or withdrawn.

- (8) 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.

**16. Transparency and confidentiality**

- (1) The board shall, subject to subsection (2), function in a transparent and open manner.
- (2) No member of the board or of the staff of the board, no person or expert contemplated in sections 14 and 15 and no inspector shall, except on the order of a court of law, disclose -
- (a) any document or information, or the identity of any person, which the board has determined not to be open to public inspection or to be divulged as contemplated in section 24(2);
- (b) particulars of the proceedings at any hearing from which the public or any member or category thereof have been excluded as contemplated in section 28(2)(b), except to the extent authorised by the board; or
- (c) any document or information which has been furnished to the board by any regulatory or law enforcement authority on condition of confidentiality.
- (3) Any person who contravenes a provision of subsection (2) shall be guilty of an offence.

**17. Funds of board**

- (1) The funds of the board shall consist of –
- (a) money contained in its budget and approved by the responsible Member as contemplated in subsection (2) in order to enable the board to perform its functions under this Act.
- (2) The board shall, for the purposes of approval contemplated in subsection (1), submit to the responsible Member a budget of estimated revenue and expenditure for that financial year, for approval, at least six months before the start of the financial year.
- (3) The board shall not budget for a deficit and may not accumulate surpluses unless prior approval of the National Treasury has been obtained.
- (4) The board shall open an account with a bank registered in South Africa and approved in writing by the National Treasury after compliance with prescribed tender procedures, and shall deposit in that account all money referred to in subsection (1).
- (5) The board may invest money deposited in terms of subsection (4) which is not required for immediate use.
- (6) Any surplus of income over expenditure at the close of any financial year of the board in the account referred to in subsection (4) or which has been invested under subsection (5), shall be paid into the Provincial Revenue Fund.

**18. Accounting responsibility of the Board**

- (1) The board is the accounting authority subject to the provisions of the Public Finance Management Act, 1999.

- (2) The provincial treasury may, in exceptional circumstances, approve or instruct that another functionary of the board be the accounting authority and may withdraw the approval or instruction at any time.
- (3) The board must inform the Auditor-General promptly and in writing of any approval or instruction and any withdrawal thereof in terms of subsection (2).
- (4) The accounting authority must -
  - (a) exercise the duty of utmost care to ensure reasonable protection of the assets and records of the board;
  - (b) act with fidelity, honesty, integrity and in the best interest of the board in managing the financial affairs of the board;
  - (c) on request, disclose to the responsible Member or the provincial legislature, all material facts, including those reasonable discoverable, which in any way may influence the decisions or actions of the responsible Member or provincial legislature; and
  - (d) seek, within the sphere of influence of the board, to prevent any prejudice to the financial interest of the state.
- (5) A member of the board or individual accounting authority may not –
  - (a) act in a way that is inconsistent with the responsibilities assigned to an accounting authority in terms of the Public Finance Management Act, 1999; or
  - (b) use the position or privileges of, or confidential information obtained as, accounting authority or a member of the board, for personal gain or to improperly benefit another person.
- (6) The board or accounting authority –
  - (a) must ensure that the board maintains –
    - (i) effective, efficient and transparent systems of financial and risk management and internal control;
    - (ii) a system of internal audit under control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of sections 76 and 77 of the Public Finance Management Act, 1999;
    - (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and
    - (iv) a system of properly evaluating all major capital projects to a final decision on the project;
  - (b) must take effective and appropriate steps to –
    - (i) collect all revenue due to board;
    - (ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the board; and
    - (iii) manage available working capital efficiently and economically;
  - (c) is responsible for the management, including the safeguarding, of assets and for

- the management of the revenue, expenditure and liabilities of the board;
- (d) must comply with any tax, levy, duty, pension and audit commitments as required by law;
  - (e) must take effective and appropriate disciplinary steps against any employee of the board who -
    - (i) contravenes or fails to comply with any provision of the Public Finance Management Act, 1999;
    - (ii) commits an act which undermines the financial management and internal control system of the board; or
    - (iii) makes or permits an irregular expenditure or a fruitless and wasteful expenditure;
  - (f) is responsible for the submission by the board of all reports, returns, notices and other information to the responsible Member, provincial treasury or provincial legislature, as may be required by the Public Finance Management Act, 1999;
  - (g) must comply, and ensure compliance by the board, with the provisions of the Public Finance Management Act, 1999 and any other applicable legislation.
  - (7) If the board or accounting authority is unable to comply with any of the responsibilities determined for the board or accounting authority in terms of the provisions of the Public Finance management Act, 1999 it must promptly report the inability, together with reasons, to the responsible Member and the provincial treasury.

**18A Annual report and financial statements**

- (1) The board –
  - (a) must keep full and proper records of all its financial affairs;
  - (b) prepare financial statements for each financial year in accordance with generally accepted practice, unless the Accounting Standards Board approves the application of generally recognised accounting practice for the board;
  - (c) must submit those financial statements within two months after the end of the financial year to the Auditor-General for auditing, subject to the provisions of the Public Finance Management Act, 1999;
  - (d) must submit within five months of the end of the financial year to the provincial treasury and the responsible Member –
    - (i) an annual report on the activities of the board during that financial year; and
    - (ii) the audited financial statements for that financial year.
- (2) The annual report and financial statements referred to in subsection (1)(d) must –
  - (a) fairly present the state of affairs of the board, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned;
  - (b) include particulars of –

- (i) any material losses through criminal conduct and any irregular and fruitless and wasteful expenditure that occurred during the financial year;
  - (ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;
  - (iii) any losses recovered or written off;
  - (iv) any financial assistance received from the state and commitments made by the state on its behalf; and
  - (v) any other matter that may be prescribed.
- (3) The responsible Member must table the report and statements referred to in subsection (1)(d) in the provincial legislature as soon as possible.
- (4) The provincial treasury may direct that, instead of a separate report, the audited financial statements of the board must be incorporated in those of the department.
- (5) The financial year of the board ends on 31 March each year.

**18B The Responsible Member may issue instructions to the Board.**

- (1) If the responsible Member is satisfied that the Board is failing to perform any function or exercise any power imposed on the Board in terms of this Act or to comply with its strategic plan, the Member may instruct the Board in writing to perform the function or exercise the power concerned which must be specified in the notice.
- (2) An instruction issued under subsection (1) must set out –
- (a) the reason for issuing the instruction;
  - (b) the steps that the Board is required to take and, if appropriate, the period within which such steps must be taken.
- (3) At the request of the Board, the responsible Member may –
- (a) extend the period for complying with an instruction; or
  - (b) revise the terms of the instruction.
- (4) The Board and the chief executive officer must ensure that any instruction issued in accordance with subsection (1) is complied with.
- (5) If the Board does not comply with an instruction issued in terms of subsection (1), the responsible Member may –
- (a) order an investigation into the management and administration of the Board; or
  - (b) take any other steps necessary to ensure that the Board performs its functions or manages its finances in accordance with this Act; or
- (6) If the Board has unreasonably failed to institute disciplinary proceedings for misconduct against any employee of the Board, the responsible member may direct the Board to institute disciplinary proceedings against that employee.
- (7) The responsible Member may at any time terminate the term of office of any member of the Board or the entire Board if in the responsible Member's opinion there are good reasons for doing so.

**18C Taking over administration of the Board**

- (1) The responsible Member may, after consultation with the Executive Council, by notice in the *Provincial Gazette*, appoint an administrator to perform the functions and exercise the powers of the Board, either in whole or in part, excluding the granting and revocation of licenses, if the responsible Member is of the opinion that –
  - (a) the Board has failed to perform its functions, exercise its powers or comply with its strategic plan;
  - (b) has failed to comply with an instruction in terms of section 18B;
  - (c) there is mismanagement of its finances; or
  - (d) there is for any other reason, good cause to do so.
- (2) In that notice the responsible Member –
  - (a) must determine the powers and duties of the administrator appointed in terms of subsection (1);
  - (b) for the purpose of ensuring the effective functioning of the Board, may suspend or replace one or more members of the Board;
  - (c) may suspend the functioning of the Board either in total or in part; and
  - (d) after consulting the Executive Council, may deal with the assets of the Board as he or her opinion considers appropriate, in accordance with the requirements of the Public Finance Management Act, 1999.
- (3) If a notice is published in terms of subsection (1), the responsible Member may, to ensure that the Board resumes the performance of its functions –
  - (a) amend its resolutions;
  - (b) reinstate any of its members; and
  - (c) withdraw or amend any provision of the notice contemplated in subsection (2) on such conditions as the responsible Member considers appropriate.
- (4) The responsible Member may recover from the funds of the Board the costs of appointing an administrator to take over the administration of the Board.

## **Chapter 3 – Licence applications in general**

### **19. Applications**

- (1) No person shall make 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) an invitation to tender payment of a lump sum for the acquisition of a licence;
  - (d) any requirements that may be necessary or desirable; and
  - (e) the evaluation criteria to be applied.

- (2)(a) Subject to subsection (1), a person desiring to obtain a licence shall apply therefor by submitting an application in the form prescribed or determined by the board, to the chief executive officer.
- (b) An application shall be accompanied by such application fee, plans, documents, approvals, and information as may be prescribed or determined by the board.
- (3) An applicant may in the application concerned identify any document or information included in the application which in the opinion of the applicant is confidential or should for any reason not be disclosed to the public, and show cause why the board may determine under section 24(2)(a) that such document or information should not be open to public inspection.

**20. Representations by interested persons**

- (1) The applicant shall, within seven days before lodgement of the application for a licence, cause notice of the application to be published -
  - (a) in the Provincial Gazette, in any official language; and
  - (b) in a newspaper circulating in the district in which the premises are situated to which such application relates, in any official language in which such newspaper is published.
- (2) A notice contemplated in subsection(1) shall -
  - (a) contain the material particulars of the application;
  - (b) invite interested persons -
    - (i) to lodge their written representations in relation thereto with the chief executive officer within one month from the date specified in such notice; and
    - (ii) to state in any written representations whether or not they wish to make oral representations at the hearing of the application; and
  - (c) be in the form prescribed or determined by the board.
- (3) A person lodging representations may show cause why the board may determine under section 24(2)(b) that his or her identity should not be divulged.
- (4) The chief executive officer shall, within seven days after lodgment of any representations pursuant to a notice in terms of subsection (1), forward subject to section 24(2)(b), a copy of such representations to the applicant concerned.

**21. Repealed [s21 repealed by s13 of Act 6 of 1996]**

**22. 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 20 with the chief executive officer within the period specified by the board, and the provisions of section 19(3) shall *mutatis mutandis* apply in relation to any such response.
- (2) The chief executive officer shall, within seven days after lodgment of any response contemplated in subsection (1), send by registered post or deliver a copy of such response to the person who made the representations concerned.

**23. Further information and oral representations**

- (1) An applicant, or any person who lodged representations as contemplated in section 20, may be required in writing by the chief executive officer to lodge with the board, within the period specified by the chief executive officer, such further information as may be reasonably necessary with a view to enabling the board properly to consider the application, representations or response concerned, and the provisions of sections 19(3) and 20(3), as the case may be, shall *mutatis mutandis* apply in relation to such further information.
- (2) Where any person indicated a desire to make oral representations at the hearing of the application as contemplated in section 20(2)(b)(ii), the board shall -
  - (a) with due regard to whether the making of such oral representations will be in the interest of the consideration of the application, grant or refuse the request; and
  - (b) inform the person 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.
- (4)(a) The board may make such enquiry and obtain such information from any person or other source relating to the suitability of the applicant or the premises concerned or any other matter as the board may deem necessary to enable it properly to consider the application.
- (b) The board -
  - (i) may recover from the applicant all reasonable expenses incurred by it in making enquiry and obtaining information as contemplated in paragraph (a);
  - (ii) shall, before incurring such expenses, furnish an estimate thereof to the applicant;
  - (iii) may require the applicant to furnish security for payment of such expenses.
- (c) The provisions of this subsection shall *mutatis mutandis* apply -
  - (i) in respect of the managers of the business concerned; and
  - (ii) if the applicant is not a natural person, in respect of every person who holds a direct or indirect financial interest of five percent or more, or such lesser percentage as the board may determine, in the applicant.

**24. Application and representations to be open to public inspection**

- (1) Any application, representations, response and further information lodged in terms of sections 19 to 23 shall, subject to subsection (2), be open to public inspection by interested persons during the normal office hours of the board for the prescribed period and 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, response or information.
- (2) The board may determine that -
  - (a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees, to the business plans of an applicant or to any other matter which is, in the opinion of the

board, or a confidential nature, shall not be open to public inspection, providing such document or information can be separated from the remainder of the application and is marked confidential; and

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

**25. Inspection of premises to which application relates**

- (1) The chief executive officer shall, on lodgement of an application for a licence forthwith cause the premises to which the application relates to be inspected by an inspector with regard to the suitability thereof for the carrying on of the business to which the licence relates.
- (2) On completion of an inspection contemplated in subsection (1), the inspector shall furnish a report of such inspection to the chief executive officer.
- (3) The chief executive officer shall forward a copy of such report to the applicant.

**26. Police report**

- (1) The chief executive officer shall, on receipt of an application for a licence and if the board so requires, ask the South African Police Service for a report stating -
  - (a) particulars of any convictions recorded against the applicant and any other person who will be involved in the business concerned and in respect of whom the board deems it necessary to obtain such a report;
  - (b) such matters as may be prescribed; and
  - (c) such other matters which ought, in the opinion of the South African Police Service, to be taken into consideration in respect of the application concerned.
- (1A) For the purposes of a report contemplated in this section any member of the South African Police Service 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.
- (2) A report contemplated in this section shall be furnished to the chief executive officer within one month of the date of the request therefor.

**27. Hearing of application**

- (1) The board shall, within the prescribed period, hold a hearing in respect of every application for a licence received by the board, on such date and at such time and place as shall be determined by the board, and made known by notice published *mutatis mutandis* as provided in section 20(1)(a) and (b).
- (2) The provisions of section 11(3) to (8) 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 permitted to make oral representations as contemplated in section 23(2) shall be afforded an opportunity to be heard; and
  - (c) the applicant and each such person may be assisted or represented by any person of his or her choice.

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

**28. Accessibility of hearings to public**

- (1) Subject to subsection (2), any hearing contemplated in section 27 shall be accessible to the public.
- (2) The person presiding at the hearing may -
  - (a) if the presence of any particular person is not conducive to the good order or conduct of the hearing, direct that such person may not attend, or shall leave, the hearing; and
  - (b) if the board is considering any matter contemplated in section 24(2)(a) or representations lodged by a person contemplated in section 24(2)(b), or if it is otherwise in the interest of the consideration of the matter concerned, direct that the public or any member or category thereof may not attend, or shall leave, the hearing.

**29. Summoning of witnesses**

- (1) For the purposes of a hearing contemplated in section 27, the board may -
  - (a) summon any person who may be able to give material information concerning the application which is the subject of the hearing or who is believed to have in his or her possession or custody or under his or her control any book, document or thing which has any bearing on such application, to appear before it, at a time specified in the summons, which shall not be less than seven days after service thereof, and at a place so specified, to be questioned or to produce that book, document or thing, and may retain for examination any book, document or thing so produced; and
  - (b) call and, by the person presiding at the hearing, administer an oath to, or accept an affirmation from, any person present at the hearing who was or could have been summoned in terms of paragraph (a), and question such person or require him or her to produce any book, document or thing in his or her possession or custody or under his or her control.
- (2) A summons for the attendance before the board of any person or for the production of any book, document or thing shall be in the form prescribed or determined by the board, shall be signed by the chairperson of the board or a person authorised thereto by him or her and shall be served by a person in the service of the board on the person summoned personally or in such other manner as may be prescribed.
- (3)(a) Any person -
  - (i) duly summoned under this section, who fails without sufficient cause to attend at the time and place specified in the summons or to remain in attendance until discharged from further attendance by the person presiding at the hearing; or
  - (ii) called under subsection (1)(b), who refuses to be sworn or to make an affirmation as a witness, or fails without sufficient cause to answer fully and satisfactorily to the best of his or her knowledge and belief all questions lawfully put to him or her concerning the application or to produce any book, document or thing in his or her possession or custody or under his or her control which he or she has been

required to produce, shall be guilty of an offence.

- (b) In connection with the examination of any such person or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.
- (4) Any witness who, having been duly sworn or having made an affirmation, gives a false answer to any question lawfully put to him or her or makes a false statement in any matter, knowing such answer or statement to be false, shall be guilty of an offence.
- (5) Any person who hinders the presiding board member, or any person in the service of the board, in the exercise of any power conferred upon him or her by or under this section shall be guilty of an offence.

### **30. General disqualifications for licences**

- (1) No application for a licence shall be granted if the applicant, any person who has a controlling interest or a financial interest of five percent or more, or any lesser percentage as may be prescribed, in the applicant, or any manager of the business concerned -
  - (a) is an unrehabilitated insolvent;
  - (b) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;
  - (c) 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 the Corruption Act, 1992 (Act No. 94 of 1992), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding R500;
  - (d) has at any time been removed from an office of trust on account of misconduct;
  - (e) is a family member of a member of the board;
  - (f) is not a fit and proper person to be involved in the business concerned;
  - (g) is a public servant;
  - (gA) is a member of Parliament or any provincial legislature or local authority, or any council, commission or house of traditional leaders established in terms of the Constitution;
  - (gB) is an office-bearer or employee of any party, movement, organisation or body of a party political nature; or
  - (h) is, in the case of an application in relation to a casino licence, subject to any disqualification contemplated in section 40.
- (1A) No application for a casino licence, bingo licence, additional gaming machine licence, route operator licence or manufacturer licence shall be granted -
  - (a) if the applicant or any person who has a controlling interest or a financial interest of five percent or more, or any lesser percentage as may be prescribed, in the applicant is a family member of a person contemplated in paragraph (e) (g), (gA) or (gB) of subsection (1); or

- (b) if the applicant or any person with an interest contemplated in paragraph (a) or any manager of the business concerned was during the preceding twelve months a person contemplated in paragraph (e) (g), (gA) or (gB) of subsection (1).
- (2) In order to determine, for the purposes of subsection (1)(f), whether a particular person is not a fit and proper person to be involved in the business concerned, the board shall have regard, in so far as reasonably ascertainable, to -
  - (a) the character and general probity of such person;
  - (b) whether such person has at any time been convicted, whether in the Republic or elsewhere, of any offence which should be taken into account; and
  - (c) whether such person has taken part or been associated with any practice which is deceitful, prejudicial or otherwise improper or discreditable, whether unlawful or not.
- (3) No licence shall be granted to -
  - (a) the State, a local government or, except in the case of the Totalizator Agency Board (Transvaal) referred to in section 53B of this Act, a statutory body; or
  - (b) any person in whom the State, a local government or a statutory body has a controlling interest or any financial or other interest.
- (4) **Deleted [Sub-s (4) inserted by s 21 (f) of Act 6 of 1996 and deleted by s11 (c) of Act 6 of 2001]**
- (5)(a) The Executive Council may, on the recommendation of or after consultation with the board, determine the maximum number of casinos, subject to the provisions of any other law, and of additional gaming machine premises which shall be licensed in terms of this Act.
- (b) A determination under paragraph (a) may be amended or withdrawn in like manner.
- (c) A determination and any amendment or withdrawal thereof under this section shall be made known by the board by notice in the *Provincial Gazette*.
- (d) This subsection shall not derogate from the provisions of subsection (6).
- (6) The board shall, in considering whether to grant an application, take into consideration whether the granting of the licence will not result in an unduly large number of persons carrying on the licensed activity concerned in the Province or any area thereof, having regard to the number of inhabitants of the Province or such area, their financial means and the number of licences already granted.

### **31. Decision on application**

- (1) The board shall, subject to the provisions of section 30 and after having duly considered the application for a licence, any representations made in relation to the application, the applicant's written response thereto, if any, any further information furnished or obtained in terms of section 23, the inspection and police reports contemplated in sections 25 and 26, and any other evidence tendered to the board in terms of section 29 or otherwise, grant the application, on such conditions as the board may determine, or refuse the application.
- (2) **Deleted [Sub-s deleted by s12(b) of Act 6 of 2001]**

**32. Conditions of licence**

- (1) Subject to sections 66 and 73, a licence may be issued on conditions relating to -
  - (a) the hours during which the business concerned may be conducted;
  - (b) subject to subsection (2), the provision by the applicant to the board of a guarantee in a form acceptable to the board for the liabilities of the applicant in relation to -
    - (i) taxes payable in terms of this Act; and
    - (ii) gambling debts payable by the applicant;
  - (c) in the case of a casino licence, any matter contemplated in section 41; or
  - (d) **Deleted [Para. (d) deleted by s23(a) of Act 6 of 1996]**
  - (e) the erection, alteration, addition or reconstruction of any premises;
  - (f) the place or places -
    - (i) where premises shall or shall not be situated; and
    - (ii) where gambling shall be permitted on such premises; and
  - (g) any other matter which it may be considered necessary or expedient to regulate in the interest of the orderly conducting of the business concerned.
- (2) 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)(b), require such holder to furnish guarantees other than or additional to any guarantee contemplated in that subsection.
- (3) A licence shall, subject to section 37, be valid indefinitely.

**33. Issue of licence or temporary licence**

- (1) Where an application has been granted as contemplated in section 31, the chief executive officer 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 form prescribed or determined by the board setting out the conditions subject to which the application was granted.
- (2)(a) Where an application for a casino licence, additional gaming machine licence or bingo licence is granted, the board may determine that a temporary licence shall be issued -
  - (i) where the premises concerned are not yet erected or require alteration, addition or reconstruction as contemplated in section 32(1)(e); or
  - (ii) in any other circumstance where the issuing of a temporary licence is regarded to be appropriate.
- (b) A temporary licence shall be issued subject to compliance by the applicant within the period specified in the temporary licence with such conditions or requirements so specified as may be determined by the board.
- (c) The board may on application by the holder of a temporary licence at any time after the issue thereof, on good cause shown, extend the period specified under paragraph (b).
- (d) The period specified under paragraph (b), or so specified and extended under

paragraph, (c) shall not be longer than six years.

- (e) When the board is satisfied on application by the holder of a temporary licence that the conditions and requirements of the temporary licence have been complied with, the chief executive officer shall issue a licence in substitution for the temporary licence concerned.
- (f) If a licence is not issued as contemplated in paragraph (e) before the expiration of the period specified under paragraph (b), or so specified and extended under (c), the temporary licence concerned shall lapse and the application for the licence shall be deemed to have been refused.

#### **34. Amendment of licence**

- (1) The holder of a licence may at any time make application for the amendment of the licence.
- (2) The provisions of sections 19 to 24, 25 and 26 in so far as they may be applicable, and 27 to 32 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1) for an amendment which the board determines, to be material.
- (2A) **Deleted [Sub.s (2A) inserted by s25 (b) of Act 6 of 1996, substituted by s5 of Act 9 of 1996 and deleted by s14 (b) of Act 6 of 2001]**
- (3) Where the application has been granted the chief executive officer shall cause the amendment to be effected on the licence.

#### **35. Transfer of licences to another person**

- (1) A person desiring to obtain transfer of a licence may, with the consent of the holder of the licence at any time make application for the transfer thereof to such applicant.
- (2) The provisions of -
  - (a) sections 19, 20, 22 to 24, 26 to 29, 31 and 32, shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1); and
  - (b) section 30 shall *mutatis mutandis* apply in relation to the prospective transferee of the licence concerned.
- (3) When the application has been granted the chief executive officer shall cause the name of the holder of the licence to be changed on the licence.
- (4) The board may, subject to such conditions as it shall determine, authorise an applicant contemplated in subsection (1) to conduct the business of the licence holder pending the outcome of the applicant's application for the transfer of the licence.

#### **36. Repealed [s36 repealed by s27 of Act 6 of 1996]**

#### **37. Suspension and revocation of licences and other penalties in relation to licensees**

- (1) The board may, after investigation, subject to subsection (3), by a disciplinary committee in terms of subsection (2) -
  - (a) Suspend a licence for a specified time, revoke a licence or impose any sentence it deems necessary, including a suspended sentence;

- (b) impose on the holder of a licence a fine not exceeding R10 000 000 (ten million rands) or such higher amount as may be prescribed, or suspend for a specified time or revoke a licence if the holder of the licence has failed to comply with or has contravened any term or condition of the licence or a provision of this Act.
- (2)(a) A disciplinary committee established under section 14(2) may charge any person suspected of contravening the Act and shall investigate any suspected circumstance contemplated in subsection (1).
- (b) For the purposes of such an investigation -
  - (i) the disciplinary committee concerned may summon any person who may be able to give material information concerning the subject of the investigation or who is believed to have in his or her possession or custody or under his or her control any book, document or thing which has any bearing on such subject, to appear before it at a time and place specified in the summons, to be questioned or to produce that book, document or thing, and may retain for examination any book, document or thing so produced;
  - (ii) the provisions of section 29(1)(b) and (2) to (5) shall apply in relation to any such person, book, document, thing and summons.
- (c) The committee shall hold a hearing in respect of every such charge or investigation, and such hearing shall, subject to the provisions *mutatis mutandis* of section 28(2) read with section 24(2), be accessible to the public;
- (d) At such hearing -
  - (i) the licence holder concerned shall be afforded an opportunity to be heard;
  - (ii) such holder may be assisted or represented by any person of his or her choice.
- (e) The committee shall keep a record of the proceedings at the hearing.
- (f) After the hearing and the conclusion of the investigation, the committee -
  - (i) shall notify the licence holder concerned of its intended recommendation to the board, and afford such holder an opportunity to make representations in relation thereto;
  - (ii) may alter such recommendations in the light of such representations; and
  - (iii) shall submit its recommendations to the board.
- (g) The board may remit the matter to the disciplinary committee for further investigation in terms of this subsection.
- (3) Notwithstanding the provisions of subsection (2), the board may, at any time before or during an investigation under subsection (2), suspend the licence concerned until completion of the investigation if the holder of the licence has failed to comply with or has contravened any term or condition of the licence or a provision of this Act and there is reason to believe that the non-compliance or contravention in question is of such a nature that the public interest requires the licence to be suspended without delay.
- (4) Failure by the holder of licence to pay a fine imposed under subsection (1)(b) shall be deemed to constitute non-compliance contemplated in that subsection.

**38. Financial and controlling interests**

- (1) Any person who, directly or indirectly, procures a controlling interest or a financial interest of five percent or more, or any lesser percentage as may be prescribed, in the business to which a licence relates shall, within the prescribed period and in the manner prescribed or determined by the board, apply for the consent of the board for the holding of such interest.
- (1A) The provisions of sections 19 to 24, 26 to 29, 31 and 32 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1).
- (2) The board shall not grant consent under subsection (1) where such person is subject to any disqualification contemplated in section 30 or, in the case of a casino licence, section 40.
- (3) Where consent is not granted, the person concerned shall, within the prescribed period and in the manner prescribed or determined by the board, dispose of the interest in question.
- (4) No person shall procure an interest contemplated in subsection (1) as nominee or agent of or otherwise on behalf of any principal or beneficiary if that person has not informed the holder of the licence concerned and the board in writing of the identity of such principal or beneficiary.
- (5) Any person who contravenes a provision of subsection (1), (3) or (4) shall be guilty of an offence.

**38A. Suitability of persons contracting with licence holders**

- (1) The board may prohibit the holder of a licence from contracting with any person for the acquisition by such holder of any goods or services or for the borrowing or lending of money or the letting or hiring of any movable or immovable property until the board has issued to such person, on application in the manner prescribed or determined by the board, a certificate of suitability.
- (2) The provisions of sections 23(4) and 26 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (1).
- (3) The board may, after giving the holder of a certificate of suitability an opportunity to be heard, suspend for a specified time or revoke a certificate-
  - (a) If any information in the application for such certificate was false in any material respect or was subject to any material omission;
  - (b) If the holder of the certificate has failed to comply with or has contravened any term or condition of the certificate; or
  - (c) If there are good reasons for doing so and it is in the best interest of the proper control and regulation of gambling

**38B. Special licences**

- (1) Notwithstanding any other provisions of this Act, the board may, on application in the manner prescribed or determined by the board, issue to any person, for specified dates, a special licence, subject to such conditions as the board may determine: Provided that the board may not issue a special casino, gaming machine, additional gaming machine or route operator licence.
- (2) The provisions of sections 19 to 22, 24 and 27 shall not apply in respect of an

application referred to in subsection (1).

## **Chapter 4 – Casino licences**

### **39. Licence required to conduct casino**

(1) No person shall conduct a casino without a casino licence.

(2) **Deleted [Sub s(2) deleted by s31 of Act 6 of 1996]**

### **40. Disqualifications for casino licences**

In addition to the general disqualifications contemplated in section 30 –

(a) **Deleted [Para (a) deleted by s32 of Act 6 of 1996]**

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

- (i) if such person does not have access to sufficient experience and knowledge of the operation and management of a casino;
- (ii) if such person does not have access to capital resources which are adequate for the operation of the casino; or
- (iii) if the granting of such licence will or may create or aggravate a monopoly situation as defined in the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979): Provided that this subparagraph shall not be construed so as to prevent the acceptance of a lump-sum payment as contemplated in section 19(1)(c).

### **41. Considerations in disposing of application for casino licence**

The board shall, in considering whether to grant an application for a casino licence, and in considering any conditions and requirements to which any such licence should advisably be made subject, take into consideration -

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

categories of persons contemplated in paragraph (f);

- (h) the extent to which the granting of the licence will promote the attainment of the objects of reconstruction and development projects and programmes referred to in section 3(a) of the Reconstruction and Development Fund Act, 1994 (Act No. 7 of 1994), of the Republic;
- (i) **Deleted [Para (i) deleted by s33(b) of Act 6 of 1996]**
- (j) any other factors which may affect the question whether it is desirable to grant such application or to attach any such condition or requirement.

**42. Repealed [S42 repealed by s34 of Act 6 of 1996]**

**43. Activities authorised by casino licence**

- (1) The granting of a casino licence shall, subject to any condition imposed under section 32, authorise the conducting and carrying on of such casino games, as may be set out in such licence, on the licensed premises concerned.
- (2) The licensee shall not link any of its gaming machines to a wide area progressive jackpot without prior approval by the board.
- (3) The board may in respect of gaming machines linked to a wide area progressive jackpot contemplated in subsection (2) enter into agreements with other regulatory agencies outside the Province to ensure the proper control of such wide area progressive jackpot.

**44. Display of prescribed information and rules of games**

- (1) The holder of a casino licence shall -
  - (a) display permanently within the licensed premises such information regarding casino games as is prescribed by the rules of the board; and
  - (b) make available for examination at the request of any customer a copy of the rules determining the manner in which any particular casino game shall be played.

**(2) Deleted [Sub s(2) deleted by s36 of Act 6 of 1996]**

**45. Use of word "casino"**

- (1) The holder of a casino licence shall not in connection with the casino use, or refer to himself or herself by, a name that does not include the word "casino".
- (1A) The holder of a casino licence shall display the word "casino" in the prescribed manner on the licensed premises concerned.
- (2) No person shall trade or carry on business under a name or title of which the word "casino" forms a part while he or she is not the holder of a casino licence granted in terms of this Act.
- (3) Any person who contravenes a provision of subsection (2) shall be guilty of an offence.

## **Chapter 5 – Bingo licences**

**46. Licence required to conduct bingo games**

- (1) No person shall maintain premises where the gambling game of bingo is played, without -
  - (a) a casino licence; or
  - (b) 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 to any other premises provide for the gambling game of bingo to be played at such other premises, without a bingo licence.
- (3) The board may in respect of the linking contemplated in subsection (2) enter into agreements with other regulatory agencies outside the Province to ensure proper control of the linked bingo games.

**47. Activities authorised by bingo licence**

- (1) A bingo licence shall, subject to any condition imposed under section 32, authorise, in the case of a licence contemplated in -
  - (a) section 46(1), the conducting or providing of the game of bingo on the licensed premises concerned; and
  - (b) section 46(2), the conducting or providing of the game of bingo to any licensed premises referred to in paragraph (a), or to any such premises as may be specified in the licence, by means of a method of linking contemplated in that section.
- (2) The amount that may be charged to enable a person to play the game of bingo, shall not exceed the amount prescribed or specified in the bingo licence concerned.
- (3) The return to players in any game of bingo shall not be less than the prescribed percentage of the total amount staked by players on that game.

**Chapter 6 – Gaming machine, additional gaming machine and route operator licences**

**48. Licence required to keep or provide gaming machines or gambling devices**

- (1) No person shall maintain premises where gaming machines or gambling devices are available to be played or be in possession of a gaming machine or gambling devices, without the necessary licence: Provided that the board may grant written authorisation for the possession of gaming machines or gambling devices if the board is satisfied that such machines or gambling devices will not be available for gambling.
- (2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.
- (3) **Deleted [Sub 6(3) deleted by s39 (c) of Act 6 of 1996]**

**49. Activities authorised by gaming machine licence, additional gaming machine and route operator licence**

- (1) A gaming machine licence shall, subject to any condition imposed under section 32, authorise the keeping of a maximum of five gaming machines on the licensed premises concerned.
- (1A) An additional gaming machine licence shall, subject to any condition imposed under section 32, authorise the keeping of such number, not exceeding 100, of gaming machines on the licensed premises concerned as the board may determine in any particular case.
- (1B) In considering applications for the licences contemplated in subsection (1A), the Board shall take into consideration whether the granting of a licence will:
  - (a) enhance the immediate vicinity;
  - (b) promote employment;
  - (c) result in the enhancement of the skills of employees;
  - (d) result in the procurement of labour, goods and services from within the Province; and
  - (e) contribute to the attainment of the broad objectives of the Reconstruction and Development Programme as referred to in section 3(a) of the Reconstruction and Development Fund Act, 1994 (Act No 7 of 1994), especially in relation to persons, or groups or categories of persons, disadvantaged historically by unfair discrimination.
- (2) The maximum amount -
  - (a) that may be charged to enable a person to play on a gaming machine shall not exceed the prescribed amount; and
  - (b) of any money, or the value of any other prize, which may be paid out in respect of a game played on, or the operation of, a gaming machine -
    - (i) shall not exceed the prescribed amount or value; and
    - (ii) shall be displayed on each gaming machine concerned in the manner prescribed or determined by the board.
- (3) A route operator licence shall, subject to any condition imposed under section 32, authorise the operation of the number of gaming machines specified in the licence, on the licensed premises of holders of gaming machine licences and additional gaming machine licences with the agreement of such holders.

## **Chapter 7 – Lotteries**

**50. Repealed [S50 repealed by s41 of Act 6 of 1996]**

**51. Repealed [S51 repealed by s41 of Act 6 of 1996]**

## Chapter 8 – Totalizators and pools

### 52. Licence required to conduct totalizator or pool

No person shall conduct the business of a totalizator or betting pool without a totalizator licence.

### 53. Activities authorised by totalizator licence

- (1) A totalizator licence shall, subject to any condition imposed under section 32, authorise the conducting of the categories of totalizators and betting pools specified in the licence.
- (2) The holder of a totalizator licence shall conduct totalizators and betting pools in accordance with rules made by such holder and which have been approved by the board.
- (3) The aggregate of the returns by the holder of a totalisator licence to those persons who have made winning bets on any event or combination of events shall not less than the prescribed percentage of the total amount pooled in respect of that event or combination of events.

### 53A. Repealed [S53A repealed by s13 of Act 1 of 1998]

### 53B. Repealed [S53B inserted by s43 of Act 6 of 1996 and repealed by s20 of Act 6 of 2001]

### 53C. Repealed [S53C inserted by s44 of Act 6 of 1996 and repealed by s15 of Act 1 of 1998]

## Chapter 9 – Bookmakers

### 54. Licence required to conduct business of bookmaker

No person shall conduct the business of a bookmaker without a bookmaker's licence.

### 55. Activities authorised by bookmaker's licence

A bookmaker's licence shall, subject to any condition imposed under section 32, authorise the accepting, on the licensed premises concerned, of fixed odds bets on sporting events.

### 56. Repealed [S56 repealed by s46 of Act 6 of 1996]

### 57. Restriction on betting through agent, and unlawful inducement to bet

- (1) No person shall -
  - (a) act as an agent for the holder of a bookmaker's licence for the purpose of betting 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 bookmaker's licence and any other person for the purpose of betting on a sporting

event.

- (2) No licensed bookmaker shall, directly or indirectly, give or undertake to give to any other person money or other valuable consideration, other than the amount of a wager won by such other person, to induce that person to bet on a sporting event.
- (3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

**58. Repealed [S58 repealed by s21 of Act 6 of 2001]**

**59. Registration of bookmaker's managers and clerks**

- (1) No person other than the holder of a bookmaker's licence shall perform any act connected with the business of a bookmaker unless he or she -
  - (a) is employed by such a holder; and
  - (b) is registered as -
    - (i) a bookmaker's manager in terms of section 68, as applied by subsection (3); or
    - (ii) a bookmaker's clerk by an association of bookmakers approved by the board.
- (2) Any person desiring to be registered as a bookmaker's manager shall make application for such registration to the board.
- (3) The provisions of sections 68 to 70 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (2).
- (4) A bookmaker shall not employ any person to manage his or her business unless such person is registered as a bookmaker's manager.
- (5) Where a bookmaker's clerk ceases to be registered by an association referred to in subsection (1)(b)(ii) for any reason -
  - (a) the bookmaker's clerk and the association concerned shall inform the board of such cessation of registration; and
  - (b) the bookmaker's clerk shall inform the bookmaker, if any, employing such clerk of such cessation and the reasons therefor, in writing within 14 days of the cessation of registration.
- (6) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.

**60. Standup fee to be approved by board**

Where a bookmaker carries on business on a race-course or other premises where sporting events are held, the amount charged by the owner or occupier of those premises to a bookmaker for the right to carry on business at such premises shall not exceed the amount determined in the rules of the board or approved by the board.

## Chapter 10 – Fees and taxes

### 61. Obligation to pay prescribed fees and taxes

- (1) An applicant for a licence shall pay in the prescribed manner -
  - (a) for the benefit of the board -
    - (i) the prescribed fee; and
    - (ii) the prescribed fees for the recovery of costs incurred by the board in connection with the application; and
  - (b) for the benefit of the Provincial Revenue Fund, any lump sum payment contemplated in section 19(1)(c).
- (2) The holder of a licence shall pay in the prescribed manner for the benefit of -
  - (a) The Provincial Revenue Fund -
    - (i) the prescribed tax on the amounts as prescribed;
    - (ii) **Deleted [Sub-para (ii) deleted by s22(a) of Act 6 of 2001]**
    - (iii) the prescribed annual fee in respect of a licence.
  - (b) the board -
    - (i) any other prescribed fees or levies in terms of this Act;
    - (ii) the prescribed penalty on late payment of any such tax, which penalty shall not exceed twice the amount of the tax in respect of which the penalty is payable;
    - (iii) the prescribed annual fee in respect of a licence.
- (3) Every holder of a totalizator licence, bookmaker's licence or race-meeting licence shall pay in the prescribed manner for the benefit of prescribed beneficiaries -
  - (a) the levies as prescribed on the betting amounts as prescribed; and
  - (b) the prescribed penalty on late payment of any such levy, which penalty shall not exceed twice the amount of the levy in respect of which the penalty is payable.
- (4) Every person who has placed a bet with a bookmaker shall pay the prescribed tax and levies on the prescribed amounts in the prescribed manner.

### 62. Repealed [S62 repealed by s51 of Act 6 of 1996]

## Chapter 11 – Gaming machines and gaming devices in general

### 63. Gaming machines and devices to be registered

- (1) Subject to subsection (2), no holder of a licence shall keep, maintain, or have in his or her possession or upon premises of which he or she is in control -
  - (a) any gaming machine, roulette wheel or other gaming device or apparatus which has not on application been separately registered by the board, subject to section 65; or
  - (b) any card used in connection with the playing of bingo or of any casino game which

is not identical to a card which has on application been registered by the board, subject to section 65.

- (2) The provisions of subsection (1) shall not apply -
  - (a) to playing cards or dice; or
  - (b) the holder of a manufacturer licence.
- (3) Any holder of a licence who contravenes a provision of subsection (1) shall be guilty of an offence.

**64. Provision of machines and devices**

- (1) No person shall carry on the business of the manufacture, sale, lease, making available, distribution, import, marketing, maintenance or repair of any gaming machine, roulette wheel or other gaming device or apparatus, without a manufacturer licence.
- (2) The provisions of subsection (1) shall not apply to -
  - (a) the conducting by the holder of a route operator licence of any activity contemplated in section 49(3) in accordance with such licence;
  - (b) the sale, in the manner approved by the board, by the holder of a casino licence, gaming machine licence, additional gaming machine licence, route operator licence or bingo licence of his or her gaming devices and apparatus, in the normal course of business or within a period of two years or such further period as the board may allow after ceasing to carry on the business concerned.
- (3) No person shall supply a gaming machine to any person other than the holder of a casino licence, gaming machine licence, additional gaming machine licence, route operator licence, manufacturer licence or authorisation contemplated in section 48, without the prior approval of the board.
- (4) Any person who contravenes a provision of subsection (1) or (3) shall be guilty of an offence.

**65. Repealed [S65 repealed by s23 of Act 6 of 1996]**

**66. Electronic monitoring system for gaming machines**

- (1) The board may 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 relating to the functioning of any machine or apparatus contemplated in subsection (2), as a monitoring system for the purposes of this section.
- (2) Where a monitoring system has been approved and registered under subsection (1) there shall be imposed, in addition to any other conditions imposed under section 32, as a condition of a casino licence, bingo licence, gaming machine licence, additional gaming machine licence or route operator licence that the holder of the licence shall link any gaming machine or other machine or apparatus used on the licensed premises, to such an electronic monitoring system.
- (3) Where monitoring system has not been approved or registered under subsection (2), and there is reason to believe that a particular licence holder -
  - (a) without his or her gaming machine being linked to such a monitoring system, will be unable -

- (i) to render to the board the prescribed returns regarding the licensed activity concerned; or
  - (ii) to comply with any of the provisions of this Act or of the terms and conditions of the licence; or
- (b) by reason of any other sufficient exceptional circumstances, should be prohibited from using such machine or carrying on the licensed activity, the board may, prohibit that holder from using such machine or carrying on the licensed activity, until such time as such a monitoring system has been so approved and registered, and such machine has been linked to it.
- (4) No person shall link to any system or device which has not on application been approved and registered as a monitoring system under subsection (2).
- (5) **Repealed [Sub s(5) deleted by s55 (c) of Act 6 of 1996]**

## **Chapter 12 – Registration of certain personnel**

### **67. Persons engaged in casino occupations or manufacture or sale of certain machines or devices to be registered**

- (1) No person shall -
  - (a) perform any act pertaining to any casino occupation;
  - (b) be engaged in the manufacture, sale, lease, making available, distribution, importing, marketing, maintenance or repair of any gaming machine, roulette wheel or other gaming device; unless such person is registered with the board; or
  - (c) be engaged in any other prescribed occupation, unless such person is registered with the board.
- (2) Any person desiring to be registered as contemplated in subsection (1) shall make application for such registration to the board.
- (3) A holder of a licence shall not employ any person to perform any act or be engaged in any activity or occupation contemplated in subsection (1) unless such person is registered with the board as provided in subsection (1).
- (4) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.
- (5) The provisions of sections 23(4) and (5) and 26 shall *mutatis mutandis* apply in relation to an application contemplated in subsection (2).

### **68. Disqualified persons not to be registered**

- (1) No application for registration contemplated in section 67(2) shall be granted if the applicant is subject to any disqualification contemplated in section 30, which shall apply *mutatis mutandis*.
- (2) The board shall not refuse an application for registration without giving the applicant the opportunity of being heard.
- (3) Where the board refuses an application for registration, the chief executive officer shall on request furnish the applicant concerned in writing with the reasons for such

refusal.

#### **69. Registration**

- (1) Where the board grants an application for registration contemplated in section 67(2), the chief executive officer shall issue to the applicant a certificate of registration in the form prescribed or determined by the board.
- (1A) The board may grant an application for registration subject to such conditions as the board may determine.
- (2)(a) Registration in terms of this Chapter shall, subject to the provisions of this subsection and section 70, endure indefinitely.
- (b) The board may determine that any particular applicant shall be registered for a specified period only, but then -
  - (i) the chief executive officer shall on request furnish the applicant in writing with the reasons for such determination; and
  - (ii) the period so specified shall be stated in the certificate of registration issued in terms of subsection (1).
- (c) A person who has been registered for a specified period may apply for the extension of such period or the substitution for such registration of registration for an indefinite period, and if the board grants such extension or substitution, the chief executive officer shall make the necessary alteration on the certificate of registration.
- (3) The chief executive officer shall keep and maintain a register in which he or she shall enter the name and particulars prescribed or determined by the board, of each person to whom a certificate of registration has been issued in terms of this section.

#### **70. Suspension and revocation of registration**

- (1) The board may at any time suspend for a specified period or revoke the registration of any person in terms of this Chapter after giving the person concerned an opportunity of being heard -
  - (a) if any information contained in the application for registration was false in any material respect or was subject to any material omission;
  - (b) if the person registered has become subject to a disqualification contemplated in section 30, as applied *mutatis mutandis* by section 68(1);
  - (c) if the person registered has performed any act or been engaged in any activity or occupation contemplated in section 67(1), whether as agent or employee or otherwise, for or on behalf of a person who is not the holder of a licence; or
  - (d) if the person registered has contravened a provision of this Act or a condition of his or her registration.
- (2) The provisions of sections 37(2) and (3) shall *mutatis mutandis* apply in relation to a suspension or revocation of registration contemplated in subsection (1).

### **Chapter 13 – Provisions relating to gambling in general**

**71. Restrictions on advertisements of gambling**

- (1) No person shall, by way of advertisement or with intent to advertise, publish or otherwise disseminate or distribute any information concerning gambling in the Province in respect of which a licence in terms of this Act is not in force.
- (2) The advertising of gambling shall be subject to such restrictions and prohibitions as may be prescribed.
- (3) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.

**72. Prohibition of extending of credit in connection with gambling**

The holder of a licence shall not extend credit to any person in connection with or for the purpose of gambling, except to such extent and subject to such conditions as may be prescribed or determined by the board.

**73. Persons under 18 years not to be admitted to gambling areas**

The holder of a licence shall not allow a person under the age of 18 years to be in any such part of the licensed premises as may be defined for the purposes of this section in any condition of the licence imposed under this Act.

**74. Improper modification or use of certain devices and machines**

- (1) No person shall -
  - (a) alter, mark, tamper with, adjust or otherwise modify in any manner any playing-cards, dice, roulette wheel or other gaming device, gaming machine or any other apparatus for the purpose of deceiving the players or improperly altering the normal or random results or chances of the casino game or gaming machine concerned;
  - (b) use or make available for the purpose of deceiving players any such playing-cards, dice, wheel, device, machine or apparatus which has been so altered, marked, tampered with, adjusted or otherwise modified; or
  - (c) use any other device or apparatus for the purpose of deceiving players.
- (2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.

**75. Gambling debts enforceable**

Notwithstanding the provisions of any law, including the common law, any gambling debt lawfully incurred after the commencement of this Act shall be enforceable in a court of law.

**76. Events and contingencies on which gambling may take place**

- (1) No person may gamble on the result of any event or contingency other than -
  - (a) a casino game;
  - (b) a bingo game;
  - (c) the operation of a gaming machine; or
  - (d) **Deleted [Para (d) deleted by s 63 (c) of Act 6 of 1996]**
  - (e) a sporting event.
- (2) No person may gamble on the result of an event or contingency contemplated in

subsection (1) with any person other than the holder of a licence who is authorised by such licence to gamble on the event or contingency concerned.

- (3) Any person who contravenes a provision of subsection (1) or (2) shall be guilty of an offence.

**77. Place of gambling and settling gambling debts**

(1) No person shall gamble at any place other than the licensed premises: Provided that gambling by means of the placing of telephone bets on all sporting events where the holder of a licence accepts and records the bet at the licensed premises shall be deemed to have occurred at the licensed premises.

(2) No gambling debt may be settled except at -

(a) the licensed premises;

(b) a place authorised by the board on application by the holder of the licence concerned; or

(c) in circumstances when the debt is paid pursuant to a court order or the terms of settlement of legal proceedings instituted for its recovery, any place where a debt is ordinarily paid in such circumstances.

(3) **Deleted [Sub-s (3) deleted by s64(c) of Act 6 of 1996]**

(4) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.

**78. No gambling with persons under the age of 18 years**

(1) No person shall gamble if he or she is under the age of 18 years.

(2) No person shall gamble with a person under that age.

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

**79. Repealed [S79 repealed by s66 of Act 6 of 1996]**

## **Chapter 14 – Inspections and enquiries**

**80. Appointment of inspectors**

(1) The board may appoint any person in its service or any other suitable person as an inspector for the purposes of this Act.

(2) If in terms of an Act of Parliament no person shall perform any inspection function in relation to gambling without being registered in terms of that Act, no inspector shall be appointed in terms of subsection (1) unless he or she has been so registered.

(3) No person shall be appointed as an inspector if he or she is subject to any disqualification contemplated in section 12(5) which shall apply *mutatis mutandis*.

(4) A person who is not in the full-time service of the State or the board and who is appointed as an inspector shall be appointed on such conditions and at such remuneration as the board, with the concurrence of the responsible Member, may determine.

- (5) An inspector shall be provided with a certificate of appointment signed by or on behalf of the chairperson of the board and in which it is stated that he or she has been appointed as an inspector under this Act.
- (6) When an inspector performs any function in terms of this Act, he or she shall have such certificate of appointment in his or her possession and show it at the request of any person affected by the performance of that function.
- (7) An inspector shall not accept any donation, reward or other benefit in connection with the performance of his or her functions from any person, and no person shall give or offer such donation, reward or benefit to an inspector.
- (8) Any person who contravenes a provision of subsection (7) shall be guilty of an offence.

**81. Powers of inspectors**

- (1) An inspector may at any time enter any licensed premises, and may -
  - (a) inspect or search those premises;
  - (b) examine, or make copies of or take extracts from, any document found in or upon those premises and which refers or is suspected to refer to any gambling activity, and request from the owner or person in charge of those premises or from any person in whose possession or charge that document is, an explanation of any entry therein;
  - (c) examine any article or other object found in or upon those premises and which refers or is suspected to refer to any such activity, and request from the owner or person in charge of those premises or from any person in whose possession or charge that article or object is, information in regard thereto; and
  - (d) seize, against the issue of a receipt, any such article, document or object, if it appears to provide proof of a contravention of a provision of this Act, or if he or she wishes to retain it for further examination or for safe custody: Provided that a person from whose possession or charge any such document has been taken shall, as long as it is in the possession or charge of the inspector concerned, at such person's request be allowed, at his or her own expense and under the supervision of such inspector, to make copies thereof or to take extracts therefrom at any reasonable time.
- (2) An inspector may, in the company of a member of the South African Police Service and subject to the provisions of any other law -
  - (a) enter any premises on or in which any article, document or other object connected with gambling is or is suspected to be or which are occupied or used or suspected to be occupied or used for the purposes of any gambling activity;
  - (b) in respect of such premises, do everything set out in subsection (1)(a), (b), (c) and (d), which shall apply *mutatis mutandis*; and
  - (c) inspect any account of any person at any bank or other financial institution which may afford evidence of the commission of an offence in terms of this Act,
- (3) Any person who -
  - (a) obstructs or hinders an inspector in the performance of his or her functions under this section;

- (b) when asked by an inspector for an explanation or information relating to a matter within his or her knowledge, gives an explanation or information which is false or misleading, knowing it to be false or misleading; or
  - (c) falsely represents himself or herself to be an inspector,
- shall be guilty of an offence.

**82. Duty to produce licence or certificate of registration**

- (1) The holder of a licence, or a certificate of registration contemplated in section 69(1) or that section as applied by section 59(3), shall on demand produce such licence or to an inspector or officer of the South African Police Service.
- (2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence.

**83. Enquiries by board**

- (1) The board may from time to time conduct an enquiry into -
  - (a) the amendment, substitution or repeal of the Abolition of Dog Race Meetings and the Prohibition of Betting on Dog Races Ordinance, 1949 (Ordinance No. 4 of 1949) including any regulations and rules thereunder, in so far as they are of force in the Province; or
  - (b) any matter falling within the scope of its functions.
- (2) The provisions of section 29 shall *mutatis mutandis* apply in relation to any enquiry contemplated in subsection (1).

## Chapter 15 – Miscellaneous provisions

**84. Regulations**

- (1) The responsible Member shall -
  - (a) make regulations prescribing the form of the oath or affirmation to be made and subscribed by members of the board in terms of section 5(5); and
  - (b) make regulations prescribing -
    - (i) the fees payable in respect of an application contemplated in sections 1(14), 19, 34, 35, 38, 38A and 38B, respectively;
    - (ii) the fees for copies or extracts contemplated in section 24(1);
    - (iii) the amount of lump sum payments contemplated in section 19(1)(c);
    - (iv) Deleted [Sub para (iv) deleted by s13 (a) of Act 9 of 1996]**
    - (v) any matter which in terms of section 61 is required or permitted to be prescribed.
- (2) The responsible Member may, on the recommendation or with the concurrence of the board make regulations relating to -
  - (a) the manner and form in which any application, representations or response contemplated in section 19, 20 or 22, as the case may be, shall be made;
  - (b) the stakes for which any casino game shall be played;

- (c) the take-out, commission or other charges which the holder of a licence may charge;
  - (d) the books of account and records to be kept, and returns to be furnished to the board by holders of licences;
  - (e) the authorised activities of route operators contemplated in section 49(3);
  - (eA) the adjudication by the board of gambling disputes and the enforcement against persons of orders made by the board pursuant to such adjudication;
  - (f) any matter other than those mentioned in subsection (1) which in terms of this Act is required or permitted to be prescribed;
  - (fA) the regulation and control of amusement machines; and
  - (g) in general, any matter which is considered necessary or expedient to be prescribed for achieving the objects of this Act.
- (3) Different regulations may be made under this section in respect of different categories and subcategories of licences, and different areas or casino games.
- (4) Not less than one month before any regulation is made under this section, the responsible Member shall cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish him or her with any comments thereon or any representations which they may wish to make in regard thereto
- (5) The provisions of subsection (4) shall not apply in respect of -
- (a) any regulation which, after the provisions of that subsection have been complied with, has been amended by the responsible Member, on the recommendation or with the concurrence of the board referred to in section (2), in consequence of comments or representations received in pursuance of such compliance; or
  - (b) any regulation in respect of which the public interest requires it to be made without delay.
- (6) Any regulation made under this section may prescribe penalties for any contravention thereof of failure to comply therewith, of a fine or imprisonment for a period not exceeding two years.

**85. Rules of the board**

- (1) The board may make rules which are not inconsistent with this Act, determining -
- (a) the information regarding casino games to be displayed in terms of section 44(1)(a);
  - (b) the manner in which any casino game shall be played;
  - (c) the maximum amount which may be charged in terms of section 60;
  - (d) the operational standards and controls which licensees shall apply; and
  - (e) in general any matter which is considered necessary or expedient to be determined to achieving the objects of this Act.
- (2) Different rules may be made in respect of different categories and subcategories of licences, and different areas or casino games.
- (3) **Deleted [Sub s6(3) deleted by s72(d) of Act 6 of 1996]**

**86. Publication of information or statistics on gambling activities**

The Board may publish general information or statistics on gambling activities in the province.

**87. Offences relating to licensable activities**

- (1) No person shall carry on any activity for which a licence is required in terms of this Act without such a licence, and no person shall assist such person in any such activity.
- (2) No person who is the owner or lessee or person in charge of any premises, or the agent of such owner, lessee or person in charge, shall permit or allow, without taking all reasonable precautions to prevent such conduct, the playing of any casino game or gambling activity without the required licence on or in such premises.
- (3) No person shall conduct, permit or allow the playing of any casino game or gambling activity at any premises under his or her control or in his or her charge without the required licence.
- (4) No person shall -
  - (a) employ or offer to employ any person in a casino occupation or in connection with an activity for which a licence is required in terms of this Act, without such a licence; or
  - (b) accept employment in a casino occupation or in connection with an activity for which a licence is required in terms of this Act and in respect of which no such licence is in force.
- (5) Any person who contravenes or fails to comply with a provision of this section shall be guilty of an offence.
- (6) It shall not be a defence to a charge of committing an offence contemplated in subsection (5) that it was stipulated in any agreement or any undertaking that any activity contemplated in subsection (1), (2) or (3) shall not take place on or in the premises concerned.
- (7) Upon proof in any criminal proceedings that a person has paid any remuneration to any person employed in an occupation in connection with an activity for which a licence is required in terms of this Act, in or on premises in relation to that occupation, or has undertaken to do so, it shall be presumed that the first-mentioned person was conducting such activity at such premises until the contrary is proved.

**88. Penalties**

- (1) Any person convicted of an offence in terms of this Act shall on conviction be liable to a fine or to imprisonment for a period not exceeding 10 years or to both such fine and imprisonment.
- (2)(a) Whenever a court convicting an accused makes a finding that the offence was committed under aggravating circumstances it shall, unless special circumstances are proved, in addition to any other punishment, impose upon the accused a fine in an amount equal to not less than 10 percent and not more than 100 percent of the total turnover, in the six months immediately prior to the commission of the offence, of the entire business conducted on the premises in or on which the offence was committed and which was made available for the purposes of the gambling activity

of which the accused was convicted, not exceeding R10 000 000 (ten million rands): Provided that it shall be sufficient proof of special circumstances if it is found that other parties connected to the business so affected took all reasonable precautions to prevent the commission of the offence, and the court may give notice to any such party.

- (b) An offence shall be deemed to have been committed under aggravating circumstances if it is proved that, at the time the offence was committed -
  - (i) alcoholic beverages were served on the premises where the offence was committed or was available to be served; or
  - (ii) any drug as defined in section 1 of the Drugs and Drug Trafficking Act, 1992 (Act No 140 of 1992), the possession of which is prohibited by any law, was found on such premises; or
  - (iii) prostitution, or the solicitation of clients for the purposes of prostitution took place or lewd or indecent acts were permitted on such premises; or
  - (iv) the premises were within a distance of 500 metres of other premises where persons were available for prostitution or the commission of lewd or indecent acts against payment; or
  - (v) the accused has previously been convicted of an offence in terms of this Act.
- (c) Whenever it is alleged in the charge that the offence was committed under aggravating circumstances, the court convicting the accused shall consider the circumstances found proven and may receive such evidence, or summons such witnesses, at it may deem fit.
- (d) The accused may address the court on evidence received under paragraph (c) as well as on the imposition of an additional fine, and thereafter the prosecution may likewise address the court.
- (e) Any imposition of an additional fine in terms of this subsection shall be paid to the board on such conditions as the court may deem fit, and shall have the effect of a civil judgement: Provided that the accused may appeal against such finding and such fine as if it were part of the sentence.
- (3) Notwithstanding anything to the contrary in any other law contained, the court convicting any person in terms of this Act shall, in addition to any punishment imposed, without further notice to any person declare forfeited to the board all moneys, cheques, documents, books and records, gaming equipment and gaming devices and all articles used in connection with the gaming equipment and gaming devices, any instrument, article, vehicle, vessel or any other movable property, which was used, or intended to be used, for the purposes of or in connection with the commission of the offence, and any gaming machine or gaming device which is not registered in terms of this Act, and which was seized in terms of any law by a member of the South African Police Service or an inspector appointed under this Act or any other law.
- (4) Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty provided for in this section.

## **89. Vicarious responsibility**

- (1) For the purposes of section 87, when the manager of the business owned or

controlled by another person, or the agent or employee of any person, does or omits to do any act which would be an offence in terms of this Act for the said person concerned to do or omit to do, that person shall be deemed himself or herself to have done or omitted to do that act, unless he or she satisfies the court that -

- (a) he or she neither connived at nor permitted the act or omission by the manager, agent or employee concerned;
  - (b) he or she took all reasonable steps to prevent the act or omission; and
  - (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition and under no circumstances fell within the scope of the authority or employment of the manager, agent or employee concerned.
- (2) For the purposes of subsection (1)(b), the fact that a holder issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he or she took all reasonable steps to prevent the act or omission.
  - (3) The provisions of this section shall *mutatis mutandis* apply for the purposes of sections 37 and 70.

**89A. Reward to informer**

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.

**89B. Interim arrangements**

- (1) Any person in possession of a gaming machine may apply to the board for a permit for the storage of such machine, which application shall be made within 21 days of publication in the *Provincial Gazette* of a notice inviting such applications.
- (2) The application shall contain such particulars as may be required by the board, which particulars may include -
  - (a) the number of such gaming machines;
  - (b) a description of the nature thereof;
  - (c) the address of the place at which they are being kept;
  - (d) whether the applicant is the owner thereof and if not the owner:
    - (i) the name and address of the owner; and
    - (ii) the title in terms of which the applicant is the possessor thereof;
  - (e) whether it is intended to apply for a licence to permit such machines to be made available to be played and, if so, what licence; and
  - (f) whether it is the intention of the applicant or owner thereof to dispose of such machines.
- (3) The board shall issue such permit subject to such conditions as it deems fit: Provided that it shall be conditions of the permit -
  - (a) that the machine shall be stored in such a manner that it is not available to be played or operated by any person; and
  - (b) that the person to whom the permit is issued shall apply for a gaming machine

licence, additional gaming machine licence or route operator licence within one month of the publication of any applicable notice under section 19(1) inviting applications for such licences or shall dispose of the machines within such period as the board may determine.

- (4) Such a permit shall expire -
  - (a) if the person to whom the permit is granted fails to apply for a licence as contemplated in subsection (3)(b), on expiry of the period referred to in that subsection;
  - (b) if such application is made and is granted, on the granting thereof; or
  - (c) if such application is made and is refused, within two months of the date of such refusal: Provided that on application in writing and on good cause shown, the board may extend the period of the permit in order to allow for the applicant to be able to dispose of such machines.
- (5) The provisions of section 48(2) shall not apply to the possession of a gaming machine that is held without a licence if -
  - (a) the period during which the possessor thereof is entitled to apply for a permit in terms of subsection (1) hereof has not expired;
  - (b) the owner or possessor thereof has made a valid application for a permit in terms of subsections (1) and (2) hereof and such permit has not yet been issued by the board; or
  - (c) the gaming machine is being properly stored in terms of a permit granted under this section.
- (6) The provisions of sections 81 and 82 shall *mutatis mutandis* apply to the holder of a permit issued in terms of this section.

**89C. Repealed [S89 substituted by s16 of Act 9 of 1996 and repealed by s29 of Act 6 of 2001]**

## **Chapter 16 – Racing provisions**

### **90. Unauthorised race-meeting prohibited**

- (1) For the purposes of this Chapter, a race-meeting means any gathering of persons attending a horse-race, whether or not such race is run, if the date and place of such race has been made known by public advertisement or private invitation.
- (2) No person shall hold a race-meeting unless it has been authorised in terms of the provisions of this Chapter.
- (3) Any person who contravenes or fails to comply with the provisions of subsection (2) shall be guilty of an offence.
- (4) In any prosecution for an offence referred to in subsection (3) -
  - (a) any person who in any way organised or arranged or who assisted in organising or arranging a race-meeting shall be deemed to have held such meeting; and
  - (b) any gathering of persons attending a race-meeting shall be deemed to have taken place as the result of a public advertisement or private invitation.

### **91. Issue of licence to racing-club authorising the holding of race-meetings on a**

### **race-course**

- (1)(a) The board may, on written application and upon furnishing such information as it may deem expedient, issue to an applicant a licence to hold so many race-meetings per annum as is specified in the licence on land which is in the lawful possession or occupation of the applicant and which is likewise specified.
- (b) For the purposes of paragraph (a) racing-club means any association of persons, whether incorporated or unincorporated.
- (2) The rules according to which a race-meeting will be held by the licence holder shall be approved by the board.
- (3) **Repealed [Sub-s (3) repealed by s22 of act 1 of 1998]**
- (4)(a) A racing-club wishing to amend its memorandum and articles of association or its constitution, shall forward by certified post to the board a written notice in which the contemplated amendment is set out.
- (b) No amendment to the memorandum and articles of association or constitution of a racing-club shall have any force or effect before it has been approved by the board.
- (5) A race-meeting licence shall, subject to the provisions of this Act, be valid for an indefinite period.
- (6) For the purposes of this Chapter, the land specified in a race-meeting licence shall, during the period of validity of such licence, be a licensed race-course.
- (7) A licensed race-course may be used for any other lawful purpose.
- (8) **Repealed [Substituted by s79 of Act 6 of 1996. Sub-s(8) repealed by s22 of Act 1 of 1998]**
- (9)(a) The board may on such conditions as it may determine, authorise a holder of a race meeting licence in writing -
  - (i) to visually broadcast, by any lawful means, a race-meeting held by the licence holder; and
  - (ii) to receive a visual broadcast of any race meeting that is broadcast lawfully and to display it to persons lawfully on the licensed racecourse of the licence holder concerned.
- (b) for purposes of this Act, it shall be deemed that the holder of a race meeting licence, who receives and displays a race meeting in terms of paragraph (a), is itself holding a race meeting on that day.

### **92. Conditions of Race-Meeting Licence**

- (1) A race-meeting licence shall be subject to the condition that the holder thereof shall comply with the provisions of the Constitution, rules and regulations of the Jockey Club of Southern Africa: Provided that if the board, with the concurrence of the responsible Member, does not approve of any such provision, it may -
  - (a) exempt all race meeting licence holders from compliance with any such provisions; and
  - (b) by written notice to all race meeting licence holders, substitute for any such provision a new provision which shall be binding on all such licence holders.
- (2) A race-meeting licence shall be subject to the condition that a licence holder who

has decided to postpone a race-meeting due to unforeseen circumstances, shall forthwith notify the board thereof, and that such postponed race-meeting shall be held or continued on any other day determined by the licence holder.

- (3) The board, may, in addition to the conditions referred to in subsections (1) and (2), at any time impose any further condition it may deem expedient and it may amend or withdraw any such further condition.

**93. Suspension or cancellation of race-meeting licence**

- (1) The board, may at any time suspend a race-meeting licence for such period as it may determine; or
- (2) may at any time cancel a race-meeting licence if the holder thereof -
  - (a) has been convicted of an offence which, in the opinion of the board, justifies cancellation;
  - (b) has contravened or failed to comply with any rule or regulation contemplated in section 91(2)(b); or
  - (c) has contravened or failed to comply with any condition of such licence.

**94. Lapse of race-meeting licence**

The board, may, notwithstanding the provisions of section 91(5), declare that a race-meeting licence shall lapse on a date to be determined by it.

**95. Duty to produce race-meeting licence**

A person who holds a race-meeting and fails on demand by an inspector or a member of the South African Police Services to produce forthwith a race-meeting licence authorising the holding of such meeting shall be guilty of an offence.

**96. Repealed [S96 substituted by s79 of Act 6 of 1996 and repealed by s34 of act 6 of 2001]**

**97. Special licence to hold race-meeting**

- (1) Notwithstanding anything to the contrary contained in this Chapter, but subject to Subsections (2) and (3), the board may, on written application and upon furnishing such information as the board may deem expedient, issue to any person a special licence to hold, subject to such conditions as the board may determine, a race-meeting on the day and on the land specified in the licence.
- (2) The provisions of this Chapter, other than the provisions of Sections 91, 92, 94 and Subsection (1).
- (3) Any person who contravenes or fails to comply with a condition of a licence referred to in Subsection (1) shall be guilty of an offence.

**98. Repealed [S98 substituted by s79 of Act 6 of 1996 and repealed by s34 of Act 6 of 2001]**

**99. Repealed [S99 substituted by s79 of act 6 of 1996 and repealed by s34 of Act 6 of 2001]**

**100. Establishment and Administration of Sports Development Fund**

- (1) There is hereby established a fund to be known as the Sports Development Fund to further the financing and development of sport in the Province.

- (2) The revenue of the Sports Fund shall consist of -
  - (a) Levies which are paid in terms of section 61 to the board for the benefit of the Sports Fund;
  - (b) interest which is earned on investments; and
  - (c) moneys which are obtained from any other source.
- (3)(a) The board shall administer the Sports Fund, and may -
  - (i) recover any moneys due to the Sports Fund;
  - (ii) consult with the responsible Member for sport in the Province on the application of this fund;
  - (iii) refer any application for a grant from the Sports Fund to any sports authority for recommendation; and
  - (iv) consider applications for grants from the Sports Fund.
- (b) If an application for a grant has been favourably considered the board shall forthwith pay the amount which has been granted from the Sports Fund to the applicant.
- (4) The responsible Member may on application authorise the board to take grants from the Sports Fund to finance its operations.
- (5) The Sports Fund may be dissolved by, and its assets upon dissolution dealt with as determined by, the responsible Member acting on the recommendation of the board.

**101. Repealed [S101 repealed by s80 of Act 6 of 1996]**

**102. Repealed [S102 repealed by s80 of Act 6 of 1996]**

**103. Repealed [S103 repealed by s80 of Act 6 of 1996]**

**104. Repealed [S104 repealed by s80 of Act 6 of 1996]**

**105. Repealed [S105 repealed by s80 of Act 6 of 1996]**

**106. Repealed [S106 repealed by s80 of Act 6 of 1996]**

**107. Repealed [S107 repealed by s80 of Act 6 of 1996]**

**108. Repealed [S108 repealed by s80 of Act 6 of 1996]**

**109. Repealed [S109 repealed by s80 of Act 6 of 1996]**

**110. Repealed [S110 repealed by s80 of Act 6 of 1996]**

**111. Savings**

- (1) Notwithstanding the repeal of any provision of the Ordinance by this Act, any application made by virtue of such a provision before the date of commencement of this Act and not disposed of on that date shall be continued with and disposed of as if that provision were not so repealed: Provided that the competent authority considering such application may in its discretion refer the application to the board for disposal.
- (2) Any rules in respect of totalizators contemplated in section 11(8)(d) of the Ordinance and in force immediately before the commencement of this Act shall be deemed to have been made and approved in terms of section 53 of this Act.
- (3) A totalizator permit issued in terms of section 12(1) of the Ordinance and in force

immediately before the repeal of that section by this Act shall be deemed to be a totalizator licence issued in terms of this Act, and any licence or other authority granted in terms of the Ordinance and which is capable of being granted in terms of this Act shall be deemed to have been granted in terms of this Act.

- (4) The Association referred to in section 24(1) of the Ordinance immediately before the repeal of that section by this Act, and the constitution and rules of that Association, shall be deemed to have been approved in terms of section 58(1) and (4) of this Act, respectively.
- (5) Any regulation or rule made under a provision of the Ordinance which is repealed by this Act and which may be made under section 84 or 85 of this Act, respectively, shall be deemed to have been made under this Act.
- (6) Anything done in terms of a provision of the Ordinance which is repealed by this Act and which shall or may be done in terms of a provision of this Act shall be deemed to have been done in terms of the latter provision.

**111A. Transfer of assets, liabilities, rights and obligations of Highveld Horse-racing and Betting Board**

- (1) On the date of commencement of this section all the assets, liabilities, rights and obligations of the Highveld Horse-racing and Betting Board established in terms of section 9B of the Horse-racing and Betting Ordinance, 1978 (Ordinance No 24 of 1978), as that section existed immediately before the commencement of this Act, shall be transferred to the board.
- (2) On the date of transfer contemplated in subsection (1) all persons in the service of the Highveld Horse-racing and Betting Board shall be transferred to the service of the board: Provided that any person who declines such transfer shall be dealt with in terms of the provisions governing his or her conditions of service, remuneration and pension rights.

**112. Short title and commencement**

- (1) This Act is called the Gauteng Gambling Amendment Act, 2001 and takes effect on a date determined by the Premier by proclamation in the *Provincial Gazette*.

**Repeal of Laws**

The laws mentioned in the Schedule are hereby repealed to the extent set out in the third column of that Schedule.

**SCHEDULE**

**LAWS REPEALED**

<b>Number and year of law</b>	<b>Short title of law</b>	<b>Extent of repeal</b>
<b>Ordinance No 24 of 1978</b>	<b>Horse-racing and Betting Ordinance, 1978</b>	<b>The whole</b>

## ARRANGEMENT OF SECTIONS

<b>ACT</b>	<b>1</b>
<b>PREAMBLE</b>	<b>1</b>
<b>CHAPTER 1 – INTERPRETATION AND APPLICATION OF ACT</b>	<b>1</b>
1.    DEFINITIONS .....	1
2.    APPLICATION OF ACT AND OTHER LAWS .....	5
<b>CHAPTER 2 – GAMBLING AND BETTING BOARD</b>	<b>5</b>
3.    ESTABLISHMENT OF BOARD .....	5
4.    FUNCTIONS AND POWERS OF BOARD .....	6
4A.   BOARD'S OBJECTIVES, OUTCOMES, PERFORMANCES AND INDICATORS.....	6
5.    CONSTITUTION OF BOARD .....	7
6.    PERSONS DISQUALIFIED FROM BEING MEMBERS OF BOARD.....	8
7.    RECUSAL OF BOARD MEMBER WITH CONFLICTING INTERESTS .....	8
8.    VACATING OF OFFICE BY MEMBERS OF BOARD .....	9
9.    TERM OF OFFICE OF MEMBERS OF BOARD, AND FILLING OF VACANCIES .....	9
10.   REMUNERATION OF MEMBERS OF BOARD.....	9
11.   MEETINGS AND DECISIONS OF BOARD.....	10
12.   STAFF OF BOARD.....	10
12A.  CONDITIONS ATTACHED TO APPOINTMENT OF CHIEF EXECUTIVE OFFICER.....	10
13.   INVOLVEMENT IN GAMBLING BY MEMBER OR STAFF OF BOARD.....	11
14.   COMMITTEES TO ASSIST BOARD .....	12
15.   EXPERT AND OTHER ASSISTANCE .....	13
15A.  DELEGATIONS .....	13
16.   TRANSPARENCY AND CONFIDENTIALITY .....	14
17.   FUNDS OF BOARD .....	14
18.   ACCOUNTING RESPONSIBILITY OF THE BOARD.....	14
18A.  ANNUAL REPORT AND FINANCIAL STATEMENTS .....	15
18B.  THE RESPONSIBLE MEMBER MAY ISSUE INSTRUCTIONS TO THE BOARD .....	16
18C.  TAKING OVER ADMINISTRATION OF THE BOARD .....	17
<b>CHAPTER 3 – LICENCE APPLICATIONS IN GENERAL</b>	<b>18</b>
19.   APPLICATIONS.....	18
20.   REPRESENTATIONS BY INTERESTED PERSONS .....	19
21.   REPEALED [S21 REPEALED BY S13 OF ACT 6 OF 1996] .....	18
22.   RESPONSE BY APPLICANT TO REPRESENTATIONS .....	19
23.   FURTHER INFORMATION AND ORAL REPRESENTATIONS.....	20
24.   APPLICATION AND REPRESENTATIONS TO BE OPEN TO PUBLIC INSPECTION .....	20
25.   INSPECTION OF PREMISES TO WHICH APPLICATION RELATES.....	21
26.   POLICE REPORT .....	21
27.   HEARING OF APPLICATION .....	21
28.   ACCESSIBILITY OF HEARINGS TO PUBLIC .....	22
29.   SUMMONING OF WITNESSES .....	22
30.   GENERAL DISQUALIFICATIONS FOR LICENCES .....	23
31.   DECISION ON APPLICATION .....	24
32.   CONDITIONS OF LICENCE .....	25
33.   ISSUE OF LICENCE OR TEMPORARY LICENCE .....	25
34.   AMENDMENT OF LICENCE .....	26
35.   TRANSFER OF LICENCES TO ANOTHER PERSON.....	26
36.   REPEALED [S36 REPEALED BY S27 OF ACT 6 OF 1996] .....	26

37.	SUSPENSION AND REVOCATION OF LICENCES AND OTHER PENALTIES IN RELATION TO LICENSEES.....	26
38.	FINANCIAL AND CONTROLLING INTERESTS.....	28
38A.	SUITABILITY OF PERSONS CONTRACTING WITH LICENCE HOLDERS .....	28
38B.	SPECIAL LICENCES .....	28
<b>CHAPTER 4 – CASINO LICENCES</b>		<b>29</b>
39.	LICENCE REQUIRED TO CONDUCT CASINO .....	29
40.	DISQUALIFICATIONS FOR CASINO LICENCES .....	29
41.	CONSIDERATIONS IN DISPOSING OF APPLICATION FOR CASINO LICENCE .....	29
42.	REPEALED [S42 REPEALED BY S34 OF ACT 6 OF 1996] .....	29
43.	ACTIVITIES AUTHORISED BY CASINO LICENCE .....	30
44.	DISPLAY OF PRESCRIBED INFORMATION AND RULES OF GAMES.....	30
45.	USE OF WORD "CASINO" .....	30
<b>CHAPTER 5 – BINGO LICENCES</b>		<b>30</b>
46.	LICENCE REQUIRED TO CONDUCT BINGO GAMES .....	31
47.	ACTIVITIES AUTHORISED BY BINGO LICENCE.....	31
<b>CHAPTER 6 – GAMING MACHINE, ADDITIONAL GAMING MACHINE AND ROUTE OPERATOR LICENCES</b>		<b>31</b>
48.	LICENCE REQUIRED TO KEEP OR PROVIDE GAMING MACHINES.....	31
49.	ACTIVITIES AUTHORISED BY GAMING MACHINE LICENCE AND ROUTE OPERATOR LICENCE .....	32
<b>CHAPTER 7 – LOTTERIES</b>		<b>32</b>
50.	REPEALED [S50 REPEALED BY S41 OF ACT 6 OF 1996].....	32
51.	REPEALED [S51 REPEALED BY S41 OF ACT 6 OF 1996] .....	32
<b>CHAPTER 8 – TOTALIZATORS AND POOLS</b>		<b>33</b>
52.	LICENCE REQUIRED TO CONDUCT TOTALIZATOR OR POOL.....	33
53.	ACTIVITIES AUTHORISED BY TOTALIZATOR LICENCE .....	33
53A.	REPEALED [S53A REPEALED BY S13 OF ACT 1 OF 1998] .....	33
53B.	REPEALED [S53B REPEALED BY S20 OF ACT 6 OF 2001] .....	33
53C.	REPEALED [S53B REPEALED BY S15 OF ACT 1 OF 1998] .....	33
<b>CHAPTER 9 – BOOKMAKERS</b>		<b>33</b>
54.	LICENCE REQUIRED TO CONDUCT BUSINESS OF BOOKMAKER.....	33
55.	ACTIVITIES AUTHORISED BY BOOKMAKER'S LICENCE.....	33
56.	REPEALED [S56 REPEALED BY S46 OF ACT 6 OF 1996] .....	33
57.	RESTRICTION ON BETTING THROUGH AGENT, AND UNLAWFUL INDUCEMENT TO BET.....	33
58.	REPEALED [S58 REPEALED BY S21 OF ACT 6 OF 2001] .....	34
59.	REGISTRATION OF BOOKMAKER'S MANAGERS AND CLERKS.....	34
60.	STANDUP FEE TO BE APPROVED BY BOARD.....	34
<b>CHAPTER 10 – FEES AND TAXES</b>		<b>35</b>
61.	OBLIGATION TO PAY PRESCRIBED FEES AND TAXES.....	35
62.	REPEALED [S62 REPEALED BY S51 OF ACT 6 OF 1996] .....	35
<b>CHAPTER 11 – GAMING MACHINES AND GAMING DEVICES IN GENERAL</b>		<b>35</b>
63.	GAMING MACHINES AND DEVICES TO BE REGISTERED.....	35
64.	PROVISION OF MACHINES AND DEVICES .....	36
65.	REPEALED [S65 REPEALED BY S23 OF ACT 6 OF 2001] .....	36
66.	ELECTRONIC MONITORING SYSTEM FOR GAMING MACHINES.....	36

<b>CHAPTER 12 – REGISTRATION OF CERTAIN PERSONNEL</b>	<b>37</b>
67. PERSONS ENGAGED IN CASINO OCCUPATIONS OR MANUFACTURE OR SALE OF CERTAIN MACHINES OR DEVICES TO BE REGISTERED.....	37
68. DISQUALIFIED PERSONS NOT TO BE REGISTERED .....	37
69. REGISTRATION.....	38
70. SUSPENSION AND REVOCATION OF REGISTRATION .....	38
<b>CHAPTER 13 – PROVISIONS RELATING TO GAMBLING IN GENERAL</b>	<b>38</b>
71. RESTRICTIONS ON ADVERTISEMENTS OF GAMBLING .....	39
72. PROHIBITION OF EXTENDING OF CREDIT IN CONNECTION WITH GAMBLING .....	39
73. PERSONS UNDER 18 YEARS NOT TO BE ADMITTED TO GAMBLING AREAS.....	39
74. IMPROPER MODIFICATION OR USE OF CERTAIN DEVICES AND MACHINES .....	39
75. GAMBLING DEBTS ENFORCEABLE .....	39
76. EVENTS AND CONTINGENCIES ON WHICH GAMBLING MAY TAKE PLACE .....	39
77. PLACE OF GAMBLING AND SETTLING GAMBLING DEBTS .....	40
78. NO GAMBLING WITH PERSONS UNDER THE AGE OF 18 YEARS.....	40
79. REPEALED [S79 REPEALED BY S66 OF ACT 6 OF 1996] .....	40
<b>CHAPTER 14 – INSPECTIONS AND ENQUIRIES</b>	<b>40</b>
80. APPOINTMENT OF INSPECTORS .....	40
81. POWERS OF INSPECTORS .....	41
82. DUTY TO PRODUCE LICENCE OR CERTIFICATE OF REGISTRATION .....	42
83. ENQUIRIES BY BOARD.....	42
<b>CHAPTER 15 – MISCELLANEOUS PROVISIONS</b>	<b>42</b>
84. REGULATIONS.....	42
85. RULES OF THE BOARD .....	43
86. PUBLICATION OF INFORMATION OR STATISTICS ON GAMBLING ACTIVITIES.....	44
87. OFFENCES RELATING TO LICENSABLE ACTIVITIES .....	44
88. PENALTIES.....	44
89. VICARIOUS RESPONSIBILITY .....	45
89A. REWARD TO INFORMER.....	46
89B. INTERIM ARRANGEMENTS.....	46
89C. REPEALED [S89C REPEALED BY S29 OF ACT 6 OF 2001] .....	47
<b>CHAPTER 16 – RACING PROVISIONS</b>	<b>47</b>
90. UNAUTHORISED RACE-MEETING PROHIBITED .....	47
91. ISSUE OF LICENCE TO RACING-CLUB AUTHORISING THE HOLDING OF RACE-MEETINGS ON A RACE-COURSE.....	47
92. CONDITIONS OF RACE-MEETING LICENCE .....	48
93. SUSPENSION OR CANCELLATION OF RACE-MEETING LICENCE.....	49
94. LAPSE OF RACE-MEETING LICENCE .....	49
95. DUTY TO PRODUCE RACE-MEETING LICENCE.....	49
96. REPEALED [S96 REPEALED BY S34 OF ACT 6 OF 2001] .....	49
97. SPECIAL LICENCE TO HOLD RACE-MEETING .....	49
98. REPEALED [S98 REPEALED BY S34 OF ACT 6 OF 2001] .....	49
99. REPEALED [S99 REPEALED BY S34 OF ACT 6 OF 2001].....	49
100. ESTABLISHMENT AND ADMINISTRATION OF SPORTS DEVELOPMENT FUND.....	49
101. REPEALED [S101 REPEALED BY S80 OF ACT 6 OF 1996] .....	50
102. REPEALED [S102 REPEALED BY S80 OF ACT 6 OF 1996] .....	50
103. REPEALED [S103 REPEALED BY S80 OF ACT 6 OF 1996] .....	50
104. REPEALED [S104 REPEALED BY S80 OF ACT 6 OF 1996] .....	50
105. REPEALED [S105 REPEALED BY S80 OF ACT 6 OF 1996] .....	50
106. REPEALED [S106 REPEALED BY S80 OF ACT 6 OF 1996] .....	50
107. REPEALED [S107 REPEALED BY S80 OF ACT 6 OF 1996] .....	50

108.	REPEALED [S108 REPEALED BY S80 OF ACT 6 OF 1996]	50
109.	REPEALED [S109 REPEALED BY S80 OF ACT 6 OF 1996]	50
110.	REPEALED [S110 REPEALED BY S80 OF ACT 6 OF 1996]	50
111.	SAVINGS	50
111A.	TRANSFER OF ASSETS, LIABILITIES, RIGHTS AND OBLIGATIONS OF HIGHVELD HORSE-RACING AND BETTING BOARD	51
112.	SHORT TITLE AND COMMENCEMENT	51