



PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

Provincial Gazette Igazethi Yephondo Provinsiale Koerant

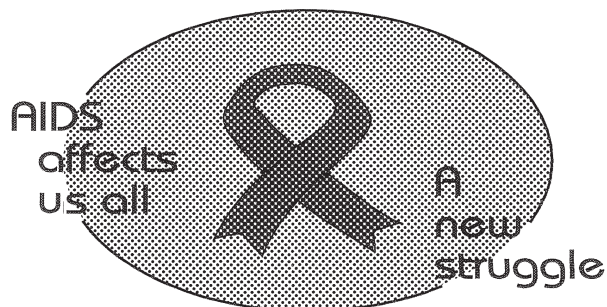
Vol. 25

BISHO/KING WILLIAM'S TOWN
12 FEBRUARY 2018
12 FEBRUARIE 2018

No. 3997

PART 1 OF 2

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
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DEPARTMENT OF HEALTH

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EASTERN CAPE PROVINCIAL GAZETTE

*The closing time is **15:00** sharp on the following days:*

- **20 December 2017**, Wednesday for the issue of Monday **01 January 2018**
- **29 December 2017**, Friday for the issue of Monday **08 January 2018**
- **08 January**, Monday for the issue of Monday **15 January 2018**
- **15 January**, Monday for the issue of Monday **22 January 2018**
- **22 January**, Monday for the issue of Monday **29 January 2018**
- **29 January**, Monday for the issue of Monday **05 February 2018**
- **05 February**, Monday for the issue of Monday **12 February 2018**
- **12 February**, Monday for the issue of Monday **19 February 2018**
- **19 February**, Monday for the issue of Monday **26 February 2018**
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- **26 April**, Thursday for the issue of Monday **07 May 2018**
- **07 May**, Monday for the issue of Monday **14 May 2018**
- **14 May**, Monday for the issue of Monday **21 May 2018**
- **21 May**, Monday for the issue of Monday **28 May 2018**
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- **04 June**, Monday for the issue of Monday **11 June 2018**
- **11 June**, Monday for the issue of Monday **18 June 2018**
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- **02 July**, Monday for the issue of Monday **09 July 2018**
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- **16 July**, Monday for the issue of Monday **23 July 2018**
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- **26 November**, Monday for the issue of Monday **03 December 2018**
- **03 December**, Monday, for the issue of Monday **10 December 2018**
- **10 December**, Monday, for the issue of Monday **17 December 2018**
- **14 December**, Friday for the issue of Monday **24 December 2018**

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2016

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1000 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	250.00
Ordinary National, Provincial	2/4 - Half Page	500.00
Ordinary National, Provincial	3/4 - Three Quarter Page	750.00
Ordinary National, Provincial	4/4 - Full Page	1000.00

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3000** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 15h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
State of Budget (National Treasury)	Monthly	Any	7 days prior to publication	3 days prior to publication
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES**EXTRAORDINARY GAZETTES**

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice .
(Please see *Quotation* section below for further details)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (Please see the *Copy Section* below, for the specifications).
 - 8.1.5. Any additional notice information if applicable.
9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**QUOTATIONS**

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** GPW's annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the eGazette Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03

20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.

The content document should contain only one notice. (You may include the different translations of the same notice in the same document).

- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:

Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre ONLY.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette(s)*.

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:
Government Printing Works

149 Bosman Street

Pretoria

Postal Address:

Private Bag X85

Pretoria

0001

GPW Banking Details:
Bank: ABSA Bosman Street

Account No.: 405 7114 016

Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za
E-mail: info.egazette@gpw.gov.za
Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za
Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 19 OF 2018

Nelson Mandela Bay Municipality (EASTERN CAPE)
**Removal of Restrictions in terms of the Spatial Planning and
Land Use Management Act 2013 (Act 16 of 2013)
ERF11329, WALMER, PORT ELIZABETH, EASTERN CAPE**

Under section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that the conditions 5(a), (b), (c) and (d) in Deeds of Transfer No T13989/2012 application to ERF11329 are hereby removed.

PROVINCIAL NOTICE 20 OF 2018

Nelson Mandela Bay Municipality (Eastern Cape)

**“Removal of Restrictions in terms of the Spatial Planning and Land Use
Management Act, 2013 (Act 16 of 2013)”**

Erf 2278, Newton Park, Port Elizabeth, Eastern Cape.

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the local Authority, a notice is hereby given that condition/s, B4 (b), 4 (d) in Deed of the Transfer No. T30372/1973, applicable to Erf 2278, Newton Park is/are hereby Removed.

PROVINCIAL NOTICE 21 OF 2018**PROVINCE OF THE EASTERN CAPE****PROVINCIAL NOTICE****DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****NO.****EASTERN CAPE GAMBLING ACT NO. 5 OF 1997****REGULATIONS IN TERMS OF THE EASTERN CAPE GAMBLING ACT, 1997 FOR PUBLIC COMMENT**

I, **Sakhumzi Somyo**, in my capacity of Member of the Executive Council responsible for Economic Development, Environmental Affairs and Tourism in the Province of the Eastern Cape hereby give notice of my intention, under the powers vested in me by section 80(4) of the Eastern Cape Gambling Act, 1997 (Act No. 5 of 1997), to publish the intended regulation as contained in the schedule hereto, for the purposes of comment and consultation with interested and affected parties.

Members of the public are invited to submit to the Member of the Executive Council within 2 (two) months after the publication of the notice in the *provincial gazette*, written comments or inputs to the following addresses:

The Head of Department
Department of Economic Development, Environmental Affairs & Tourism
Private Bag X 0054
BHISHO
5605

Attention: Ronel de Bruin/Charnette Ferreira
Email: ronel.debruin@dedea.gov.za and Charnette.ferreira@dedea.gov.za

Tel: (043) 605 7058

Or hand delivered to:

The Head of Department
2nd Floor Old Metro Building
Cnr of Hargreaves and Hockley Close Street
Beacon Hill
KING WILLIAM'S TOWN

Attention: Ronel de Bruin / Charnette Ferreira
Tel: (043) 605 7058
Or sent by Email to: ronel.debruin@dedea.gov.za and Charnette.ferreira@dedea.gov.za

Any enquiries in connection with the intended regulations can be directed to Ronel de Bruin / Charnette Ferreira at telephone no: (043) 6057058.

Comments received after the closing date may not be considered.

**HON. SAKHUMZI SOMYO
MEC FOR ECONOMIC DEVELOPMENT,
ENVIRONMENTAL AFFAIRS AND TOURISM**

**REGULATIONS IN TERMS OF THE
EASTERN CAPE GAMBLING ACT, 1997
(ACT NO. 5 OF 1997)**

**REGULATIONS IN TERMS OF THE EASTERN CAPE GAMBLING ACT, 1997
(ACT NO. 5 OF 1997)**

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**REGULATIONS IN TERMS OF THE EASTERN CAPE GAMBLING ACT, 1997
(ACT NO. 5 OF 1997)**

**CHAPTER 1
DEFINITIONS**

1 Definitions

In these regulations -

- (a) any expression defined in the Eastern Cape Gambling Act, 1997 (Act No. 5 of 1997) has the meaning assigned to it in that Act;
- (b) any expression defined in the National Gambling Act, 2004 (Act No. 7 of 2004) has the meaning assigned to it in that Act;
- (c) a reference to a section or sub-section by number refers to the corresponding section or sub-section of the Act;
- (d) a reference to a regulation or sub-regulation by number refers to the corresponding item of these regulations; and
- (e) a word or expression to which a meaning has not been assigned in the Act, 1997 shall have the following meaning, unless the context indicates otherwise –

“credit guarantee” means a bill of exchange, cheque or promissory note;

“gambling-related contract” means a contract for which a certificate of suitability is required as contemplated in section 86 of the Act;

“IFRS” means the International Financial Reporting Standards, issued by the IFRS Foundation and the International Accounting Standards Board;

“Licensee” means the holder of a licence issue in terms of the Act or these regulations;

“RFP” means a request or requests for proposal as determined in accordance with regulation 3;

“smart card” means a debit card issued by a licensee and which contains credits in electronic format stored on a computer chip;

“the Act” means the Eastern Cape Gambling Act, 1997 (Act No. 5 of 1997) as amended and includes the Schedules and any notice or rule made or issued thereunder;

“these regulations” includes the Schedules, Forms, Rules and notices made or issued in terms thereof; and

“value instrument” means an instrument with a monetary value, including tokens chips or cards, issued or sold by a licensee for use when gambling and redeemable for cash by the licensee only.

CHAPTER 2

APPLICATIONS GENERAL

2 Requests for proposal

- (1) The board shall determine the types of gambling licences that are invited through RFP.
- (2) The RFP must be done in accordance with the procedure set out in regulation 3.

3 Procedure for RFP

- (1) The RFP process is initiated by the chief executive officer by compiling a Draft RFP, and issuing a press statement that the Draft RFP as well as a notice, inviting interested parties to obtain and comment on the Draft RFP at a fee determined by the board, shall be advertised in the Provincial Gazette and at least two newspapers circulating in the Province.
- (2) The chief executive officer must cause a notice to be advertised in the *Provincial Gazette* and at least two newspapers circulating in the Province. The Notice must -
 - (a) invite interested parties to obtain a Draft RFP within 30 days of publication of the notice;
 - (b) state the fee that must be paid to obtain the Draft RFP;
 - (c) advise that the Draft RFP is available on the website of the board; and
 - (d) invite comments in writing on the Draft RFP within 30 days of the date of publication of the notice.
- (3) The chief executive officer must maintain a register of all Draft RFP's obtained and issued to interested parties and the comments received from interested parties.

- (4) The chief executive officer must submit the Draft RFP, the comments received from interested parties and suggested responses to the board for approval of a bidders conference.
- (5) The chief executive officer shall cause a notice to be published in the Provincial Gazette and at least two newspapers circulating in the Province, calling all parties who obtained the Draft RFP and paid the required fee, to attend a bidders' conference. The notice must provide for -
 - (a) the date, time and venue of the bidders' conference; and
 - (b) that essential minimum requirements of the RFP is available on the board's website.
- (6) The board must hold a bidders conference at the date, time and venue determined in the notice contemplated in sub-regulation (5) with the parties who obtained the Draft RFP and paid the determent fee to explain evaluation process, clarify issues raised and answer questions of the attendees.
- (7) The board secretariat must compile a register of all the attendees of the bidder's conference, keep minutes and record the proceedings of the bidders' conference and the board must validate and approve the minutes and inputs from the bidder's conference.
- (8) The chief executive officer must submit a proposed final RFP together with the validated minutes and inputs to the board for consideration by the board.
- (9) If the RFP is approved by the board the final RFP, including all the evaluation criteria and relevant licence application forms must be compiled.
- (10) The chief executive officer must cause a notice to be published in the Provincial Gazette and at least two newspapers circulating in the Province, calling on interested parties to obtain the final RFP and licence application forms at a fee determined by the board.
- (11) The fees payable for the RFP documentation and attendance of bidders' conferences are set out in Schedule "A" of these Regulations.

4 Applications

- (1) The applicant must submit an application in terms of this Act to the chief executive officer, substantially in accordance with Form 1 contained in Schedule "B" of these regulations, accompanied by the documents and information as determined by the board.
- (2) The applicant must ensure that all information in an application is true and complete as at the closing date of the applications.
- (3) The Applicant must, when that application is submitted, pay the fee specified in Schedule II of the Act as adjusted by the responsible Member in terms of section 57 (8) of the Act, which fee is not refundable.
- (4) An application must be delivered in the manner as determined by the board to the office of the chief executive officer.

5 Form of advertisement for licence application

The notice contemplated in section 21 (2) of the Act shall be substantially in accordance with Form 2 contained in Schedule "B" of these regulations, and shall contain the information contemplated therein.

6 Copies of application documents

The board shall, subject to subsection 25(2), at the request of any interested person, on payment of the fee set out in the Schedule "A" of these regulations furnish an interested person with a copy of, or extract from, any application, representations, responses or information contemplated in subsection 25(1).

7 Opportunity to rectify disqualifying circumstances

An applicant who is subject to any disqualification as contemplated in section 31 may, prior to disqualification, be granted a period not exceeding 60 days to rectify the disqualifying circumstances where this is possible without the substance of the application being changed as provided for in section 31.

8 Serving of notices

- (1) Any notice to be served, lodged or given to a person by the board in terms of the Act or these regulations shall in writing and be served, lodged or given by—
 - (a) personal delivery;
 - (b) registered mail; or
 - (c) e-mail.
- (2) Any notice given by the board in terms of sub-regulation (1) shall be deemed to have been received -
 - (a) in the case of personal delivery, upon the date of delivery of the notice to such person's physical address;
 - (b) in the case of registered mail, 14 days after it has been posted; or
 - (c) in the case of an e-mail on the date of the delivery report of the e-mail.

9 Investigations and police report

- (1) The board may appoint an official of the board or any other person or institution to conduct the investigation contemplated in section 27 of the Act.
- (2) The Applicant must provide security in the amount determined by the board for payment of costs of the investigation contemplated in section 20(5) and 20(6) of the Act.
- (3) The chief executive officer shall ask the South African Police Service for a report from a police officer of or above the rank of inspector covering the information contemplated in section 27(2) of the Act as well as information on any pending criminal investigations against the applicant, or a director, in the case of a company, or a member in the case of a closed corporation, or a trustee in the case of a trust.
- (4) The board shall not take final action on any application unless all investigative fees and costs have been paid in full.

10 Hearing of application

- (1) The board must hold a hearing on an application for a licence received as contemplated in, and subject to, the provisions of section 28 of the Act on a date determined by the board and made known in a notice, substantially in accordance with Form 3 contained in Schedule "B" of these regulations.
- (2) The chief executive officer shall at least 14 days before the date of the hearing, cause the notice to be published-
 - (a) in the *Provincial Gazette*, in any official language; and
 - (b) in a newspaper circulating in the district in which the premises to which such application relates are situated, in any official language in which such newspaper is published.

11 Proceedings at hearings

- (1) The board shall, after consultation with the responsible Member, and by notice in the *Provincial Gazette*, make rules for the conduct of its proceedings and hearings in terms of section 4(1)(c)(xi) of the Act.
- (2) The proceedings at a hearing shall be conducted in accordance with the rules determined in terms of sub-regulation (1), sub-sections 11(3) to 11(11) as well as other relevant provisions of the Act.
- (3) The board or the person presiding at a hearing may direct the aspects to be covered in oral presentations by a person afforded the opportunity to be heard at such hearing and may set time limits for such oral presentations.

12 Record of proceedings at hearing

- (1) The presiding officer of the hearing shall cause minutes to be kept of proceedings at any hearing.
- (2) Oral proceedings shall be recorded by such means to adequately ensure the preservation of such proceedings and shall, subject to the provisions of the Act and these regulations, be transcribed on request of any person, at the cost of such person and such recordings shall be retained by the board for a period of at least five years.

- (3) The minutes of the hearing shall, subject to the provisions of section 16 (2), of the Act be open to public inspection for a period of 30 days at the office of the chief executive officer of the board.

13 Decisions and final orders

- (1) The board shall render a final decision or order in writing, and the chief executive officer shall provide reasons for the decision upon request in terms of section 32(2) of the Act.
- (2) Copies of the final decision or order shall be served on affected parties in accordance with these regulations, within a reasonable time period.
- (3) A final decision or order of the board shall become effective upon service thereof.

14 Withdrawal of application

An applicant may at any time prior to the final consideration of an application, withdraw the application and that applicant shall forfeit the application or other fees paid to the board and shall be responsible for all costs incurred by the board as determined by the Board.

CHAPTER 3 LICENCES COMPLIANCE

15 Consent to procure a controlling or financial interest

- (1) A person who, directly or indirectly, procures a controlling or a financial interest of 5 percent or more, in the business of a licensee as contemplated in section 40 of the Act shall, within 14 days of the procurement of such an interest, apply for the consent of the board for the holding of such interest substantially in accordance with Form 1 contained in Schedule "B" of these regulations.
- (2) A person who procures an interest contemplated in sub-regulation (1) as nominee or agent of, or otherwise on behalf of, any principal or beneficiary must inform the holder of the licence concerned and the board in writing of the identity of such principal or beneficiary.

- (3) The board shall consider the application for consent as contemplated in the Act.

16 Certificate of suitability

- (1) The board may notify any person referred to in section 86 of the Act in writing to apply for a certificate of suitability contemplated in section 86 of the Act within 21 days of the date of receipt of the notice.
- (2) The person who has been notified must, within 21 days of receipt of such notice, submit to the board an application substantially in accordance with Form 1 contained in Schedule "B" of these regulations.
- (3) The Applicant must, when that application is submitted, pay the fee specified in Schedule II of the Act as adjusted by the responsible Member in terms of section 57 (8) of the Act, which fee is not refundable.
- (4) The board may gather such information as it deems necessary from any source or person regarding the suitability of the applicant as contemplated in section 27 of the Act.
- (5) The board shall, after concluding its investigation in terms of this regulation, find the person in question suitable or unsuitable, having regard to the grounds of disqualification contemplated in section 31 of the Act and inform the applicant, the licensee or a person who is directly or indirectly associated with such person of its decision by way of written notice.
- (6) If a person is found unsuitable in terms of sub-regulation (3), the board may require the licensee or applicant to terminate its association with that person within a period determined by the board.
- (7) If a person is found suitable as contemplated in section 86 of the Act, the board shall issue a certificate of suitability substantially in accordance with Form 4 contained in Schedule "B" of these regulations.

17 Financial interest in holder of a certificate of suitability

- (1) The holder of a certificate of suitability shall not, without the consent of the board, permit or allow any other person to procure a financial interest of 5 percent or more in his or her business.
- (2) The provisions of regulation 16 shall apply with the necessary changes, to any person who acquires an interest in the holder of a certificate of suitability and to such holder.

18 Revocation of certificate of suitability

- (1) If in the opinion of the board, the holder of a certificate of suitability is no longer suitable as contemplated in section 86 of the Act, the board may revoke the certificate of suitability, provided that the holder of the certificate is afforded an opportunity to be heard at an enquiry contemplated in section 78 of the Act.
- (2) The board may gather such information as it deems necessary from any source or person regarding the revocation of the certificate of suitability as contemplated in section 27 of the Act.
- (3) The board shall, after concluding its investigation in terms of this regulation, find that the certificate of suitability be revoked or not revoked, having regard to the grounds of disqualification contemplated in section 31 of the Act and inform the applicant, the licensee or a person who is directly or indirectly associated with such person of its decision by way of written notice.

19 Termination of association

- (1) The licensee or applicant concerned shall, within a time determined by the board, terminate any agreement or association between the licensee or applicant and that person if the board—
 - (a) refuses consent to an applicant referred to in regulation 16;
 - (b) determines that a person referred to in regulation 17 is not suitable in terms of section 86 of the Act; or

- (c) revokes a person's certificate of suitability in terms of Regulation 18.
 - (d) the licensee or applicant concerned shall, within a time determined by the board, terminate any agreement or association between the licensee or applicant and that person.
- (2) Failure to provide for the eventuality contemplated in sub-regulation (1) in an agreement shall not be a defence in any action brought in terms of this regulation to terminate the agreement or in a prosecution in terms of these regulations.

20 Surveillance requirements

- (1) The board must make rules as contemplated in section 81 of the Act determining the surveillance requirements relating to licensees.
- (2) A licensee shall comply with the requirements set forth in Rules no later than 7 days prior to the start of its gambling operations.

**CHAPTER 4
CASINO LICENCES**

21 Application of Chapter

The provisions of this chapter shall apply only in respect of casino licences.

22 Extension of period of exclusivity

- (1) The holder of a casino licence having an exclusive right in terms of section 45(2) of the Act to conduct a casino in the area concerned may apply for the extension of such period of exclusivity.
- (2) An application contemplated in sub-regulation (1) must be substantially the same format as Form 1 of Schedule "B" of these regulations and shall be lodged with the chief executive officer together with a tender of a lump sum contemplated in section 45(2)(b) at least 12 months before the lapse of the applicants' period of exclusivity.
- (3) The Applicant must, when that application is submitted, pay the fee as set out in the Schedule "A" of these regulations.

- (4) The chief executive officer shall, within 30 days after lodgement of an application for the extension of the period of exclusivity cause a notice of the application —
 - (a) in the Provincial Gazette, in any official language; and
 - (b) in a newspaper circulating in the district in which the premises to which such application relates are situated, in any official language in which such newspaper is published.
- (5) The notice contemplated in sub-regulation (4) shall be substantially in accordance with Form 5 of Schedule “B” of these regulations, contain the information contemplated in the Form, and shall call on interested persons to make submissions to the board within 30 days of the date of publication of such notice.
- (6) Within 7 days of receipt of any objection or representation contemplated in sub-regulation (4), the chief executive officer shall forward it to the applicant by registered post.
- (7) The applicant shall lodge its written response with the chief executive officer within 30 days of receipt of such representations.
- (8) The provisions of sections 24 and 28 to 30 of the Act shall apply with the necessary changes to the hearing of an application contemplated in this regulation.
- (9) The board, after consultation with the responsible Member may -
 - (a) refuse such application for extension and return any lump sum payment tendered in respect of such application; or
 - (b) approve such application on such conditions and for such period as it deems fit.
- (10) If the board approves an application for the extension of the period of exclusivity, the applicant’s casino licence shall be endorsed accordingly.

23 Stakes and prizes of table games

- (1) The board may make rules as contemplated in section 81 of the Act determining the minimum and maximum stakes and prizes allowed in respect of table games.
- (2) The minimum and maximum stakes allowed as may be determined by the board, or the licensee, and the prizes payable in respect of winning wagers applicable to every licensed game shall at all times be displayed on the table or in a conspicuous place immediately adjacent thereto.
- (3) Pay off schedules or award cards must accurately state actual pay off or awards applicable to the particular game and shall not be worded in such a manner as to mislead or deceive the public.

24 Stakes and prizes of gambling machines

- (1) The board may make rules as contemplated in section 81 of the Act determining stakes and prizes allowed in respect of gambling machines other than limited gambling machines.
- (2) Gambling machines exposed for play must have a theoretical and demonstrable return to the public of not less than 80 percent.
- (3) All winning combinations, together with the corresponding prizes, must be clearly displayed, or be easily accessible by the player, on every gambling machine exposed for play.

25 Cards, dice and roulette balls control

Each licensee shall submit to the board for approval, procedures that provide adequate security over cards, dice and roulette balls and limit the possibility of unauthorised access and tampering, including—

- (a) a card, dice and roulette ball inventory system which shall include, at least, the recording of the following:
 - (i) the balance of cards, dice and roulette balls on hand;
 - (ii) cards, dice and roulette balls removed from storage;
 - (iii) cards, dice and roulette balls returned to storage or received from the manufacturer;
 - (iv) the date of the transaction; and

- (v) the signatures of the employees involved.
- (b) a reconciliation on a daily basis of the cards, dice and roulette balls distributed, the cards, dice and roulette balls destroyed and cancelled, the cards, dice and roulette balls returned to the primary storage area and, if any, the cards, dice and roulette balls in reserve;
- (c) a physical inventory of the cards, dice and roulette balls at least once every three months by an independent person; and
- (d) procedures for destruction and cancellation of cards, dice, and roulette balls.

26 Specifications for Value Instruments

- (1) Value instruments must be designed, manufactured, and constructed in compliance with all applicable laws of the Republic and these regulations and so as to prevent counterfeiting of the value instruments to the extent reasonably possible.
- (2) Value instruments must not deceptively resemble any current or past coinage of the Republic or any other nation.
- (3) The following specifications must be complied with:
 - (a) the name of the issuing gambling business must be inscribed on each side of the value instrument, and the city or other locality where the business is located must be inscribed on at least one side of each value instrument;
 - (b) the value of the value instrument must be inscribed on each side of each chip and token;
 - (c) the manufacturer's name or a distinctive logo or other mark identifying the manufacturer must be inscribed on at least one side of each value instrument;
 - (d) each value instrument must be designed so that when stacked with value instruments of other denominations and viewed on closed-circuit television, the denominations of the chip can be distinguished from that of the other value instruments in the stack; and
 - (e) value instruments must be manufactured in accordance with specifications of the South African Bureau of Standards from material that may be accepted by a coin mechanism, other than that of a gambling machine.

27 Approval of value instruments: Applications and procedures

- (1) A licensee shall not issue any value instruments for use in its gambling business, or sell or redeem any value instruments unless the value instruments have been approved in writing by the board.
- (2) A licensee shall not issue any value instruments for use in its gambling business, or sell or redeem any such value instruments that are modifications of value instruments previously approved by the board unless the modifications have been approved in writing by the board.
- (3) Applications for approval of value instruments and modifications to previously approved value instruments must be made, processed, and determined in such manner and using such forms in compliance with the specifications set out in these regulations.
- (4) Each application must include, in addition to such other items or information as the board may require—
 - (a) an exact drawing, in colour, of each side and the edge of the proposed value instrument, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed value instrument in each dimension;
 - (b) written specifications for the proposed value instruments;
 - (c) the name and address of the manufacturer; and
 - (d) the licensee's intended use for the proposed value instruments.
- (5) If, after receiving and reviewing the items and information described in sub-regulation (4), the board is satisfied that the proposed value instruments conform with the requirements of this chapter, the board shall notify the licensee in writing and shall request, and the licensee shall thereupon submit, a sample of the proposed value instruments in final, manufactured form.
- (6) If the board is satisfied that the sample conforms with the requirements of this chapter and with the information submitted with the licensee's application, it shall approve the proposed value instruments and notify the licensee in writing.

- (7) As a condition of approval of value instruments issued for use at a specific table or counter game, the board may prohibit the licensee from using the value instruments other than at the specified game.
- (8) The board may retain the sample value instruments submitted in terms of this regulation.

28 Use of value instruments

- (1) A licensee that uses value instruments at its gambling business shall—
 - (a) comply with all applicable laws of the Republic pertaining to value instruments;
 - (b) sell value instruments only to patrons of its gambling business and only at their request;
 - (c) promptly redeem its own value instruments from its patrons;
 - (d) post conspicuous signs at its business notifying patrons that the law prohibits the use of the licensee's value instruments, and that these regulations prohibit the use of the licensee's value instruments, outside the business for any monetary purpose whatever; and
 - (e) take reasonable steps, including examining value instruments and segregating those issued by other licensees to prevent sales to its patrons of value instruments by another licensee.
- (2) With the exception of the specific use for which the value instruments were issued, a licensee shall not accept value instruments as payment for any goods or services, other than food and beverages, offered on the licensed premises, and shall not give value instruments as change in any other transaction.
- (3) A licensee shall not redeem its value instruments if presented by a person who the licensee knows or reasonably should know is not a patron of its gambling business, except that a holder shall promptly redeem its value instruments if presented by—
 - (a) another licensee who represents that it redeemed the value instruments from its patrons and received them unknowingly, inadvertently, or unavoidably; or

- (b) an employee of the licensee who presents the value instruments in the normal course of employment.
- (4) A licensee shall not knowingly sell, use, permit the use of, accept, or redeem value instruments issued by another licensee, except as follows—
 - (a) A licensee may only redeem value instruments issued by another licensee if:
 - (i) the value instruments are presented by a patron for redemption to a cashier of the licensee's gambling business and the patron states that he or she received the value instruments at the licensee's business from the pay-out chutes of gambling machines or from an employee of the licensee; or
 - (ii) the value instruments are presented by a patron at a table game, and the licensee redeems the value instruments with its own, places the redeemed value instruments in the table's drop box, and separates and properly accounts for the redeemed value instruments during the count performed in terms of the licensee's system of internal control; and
- (5) Value instruments whose use is restricted to uses other than at table games or other than at specified table games may be redeemed by the issuing licensee at table games or non-specified table games if the value instruments are presented by a patron, and the licensee redeems the value instruments with value instruments issued for use at the game, places the redeemed value instruments in the table's drop box, and separates and properly accounts for the redeemed value instruments during the count performed in terms of the licensee's system of internal control.

29 Redemption and disposal of discontinued value instruments

- (1) A licensee that permanently removes from use or replaces approved value instruments at its gambling business, or that ceases operating its gambling business for whatever reason must prepare a plan for redeeming discontinued value instruments that remain outstanding at the time of discontinuance.
- (2) The licensee must submit the plan in writing to the board not later than 30 days before the proposed removal, replacement, sale, or closure, unless

the closure or other cause for discontinuance of the value instruments cannot reasonably be anticipated, in which event the licensee must submit the plan as soon as reasonably practicable.

- (3) The board may approve the plan or require reasonable modifications as a condition of approval and upon approval of the plan, the licensee shall implement the plan.
- (4) In addition to such other reasonable provision as the board may approve or require, the plan must provide for—
 - (a) redemption of outstanding, discontinued value instruments in accordance with this chapter for at least 120 days after the removal or replacement of the value instruments or for at least 120 days after operations cease as the case may be, or for such longer or shorter period as the board may on good cause approve or require;
 - (b) redemption of the value instruments at the premises of the gambling business or at such other location as the board may approve;
 - (c) publication of notice of the discontinuance of the value instruments and of the redemption and the pertinent times and locations, in at least two newspapers of general circulation in the Province at least twice during each week of the redemption period, subject to the board's approval of the form of the notice, the newspapers selected for publication and the specific days of publication;
 - (d) conspicuous posting of the notice described in paragraph (c) at the gambling business or other redemption location; and
 - (e) destruction or such other disposition of the discontinued value instruments as the board may approve or require.

30 Destruction of counterfeit value instruments

- (1) A licensee who discovers counterfeit value instruments in its gambling business must keep the counterfeit value instruments in a secure place and advise the board in writing of the number and value of the counterfeit value instruments.
- (2) Unless a court of competent jurisdiction orders otherwise in a particular case, a licensee shall only destroy or otherwise dispose of counterfeit value

instruments if approved by the board such manner as the board may require.

- (3) Unless the board or a court of competent jurisdiction orders otherwise in a particular case, licensees may only dispose of coins of the Republic or any other state discovered to have been unlawfully used at their businesses if approved by the board by including them in their coin inventories or, in the case of foreign coins, by exchanging them for local currency or coins and including same in their currency or coin inventories, or by disposing of them in any other lawful manner.
- (4) A licensee shall record, in addition to such other information as the board may require—
 - (a) the number and denominations, actual or purported, of the coins and counterfeit value instruments destroyed or otherwise disposed of in terms of this Chapter;
 - (b) the month during which they were discovered;
 - (c) the date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, or other business or person at which or with whom the coins were exchanged; and
 - (d) the names of the persons carrying out the destruction or other disposal on behalf of the licensee.

31 Promotional and tournament value instruments

Promotional value instruments must be designed, manufactured, approved, and used in accordance with the provisions of this Chapter applicable to value instruments, except as follows—

- (a) Promotional value instruments must be of such shape and size and have such other specifications so as to be distinguishable from other value instruments as determined by the board;
- (b) Each side of each promotional value instrument must conspicuously bear the inscription “No Cash Value”;
- (c) Promotional value instruments must not be used, and licensees shall not permit their use, in transactions other than the promotions or tournaments for which they are issued; and

- (d) The provisions of regulation 27 shall not apply to promotional value instruments.

32 Receipt of gambling value instruments from manufacturer, supplier or distributor

- (1) When value instruments are received from the manufacturer, supplier or distributor thereof, they shall be opened and checked by at least 3 employees of the licensee from different departments.
- (2) Any deviation between the invoice accompanying the value instruments and the actual value instruments received or any defects found in such value instruments shall be reported promptly to the board.
- (3) After checking the value instruments received, the licensee shall cause to be reported in a value instrument inventory ledger the denomination of the value instruments received, the number of each denomination of value instruments received, the description of all value instruments received, the date of such receipt, and the signature of the individuals who checked such value instruments.
- (4) If any of the value instruments received are to be held in reserve and not utilised either at the gambling tables or at a cashier's cage, they shall be stored in a separate locked compartment either in the vault or in a cashier's cage and shall be recorded in the value instrument inventory ledger as reserve value instruments.

33 Inventory of value instruments

- (1) Value instruments shall be taken from or returned to the reserve value instrument inventory in the presence of at least 3 individuals from different departments.
- (2) The denominations, number and amount of value instruments so taken or returned shall be recorded in the chip or tokens inventory ledger together with the date and signatures of the individuals carrying out this process.

- (3) Each licensee shall, on a daily basis, compute and record the unredeemed liability for each denomination of value instruments and cause to be made an inventory of chips in circulation and cause the result of such inventory to be recorded in the chip or token inventory ledger.
- (4) On at least a monthly basis, each licensee shall cause an inventory of value instruments in reserve to be made and cause the result of such inventory to be recorded in the chip or token inventory ledger: Provided that where a portion of such reserve is in a locked and sealed compartment, a physical inventory shall be required to be conducted annually in respect of such portion.
- (5) The procedures to be utilised to compute the unredeemed liability and to inventory value instruments in circulation and reserve or any change thereto shall be submitted to the board for approval.
- (6) During non-gambling hours all value instruments in the possession of the licensee shall be stored in a vault or in the cashier's cage: Provided that chips representing the table bankroll may be locked in a secure compartment if there is adequate security as approved by the board.

CHAPTER 5 BINGO LICENCES

34 Return to players

A bingo game shall render a theoretical and demonstrable return to players of not less than 65 percent.

35 Payment of stake or participation fee

All stakes and fees in respect of bingo must be paid by cash, a ticket or a value instrument.

CHAPTER 6 ROUTE OPERATOR LICENCES AND GAMBLING MACHINE SITE LICENCES

36 Requirements for route operators

In addition to the general disqualifications contemplated in section 31 of the Act, no applicant shall be granted a route operator licence if—

- (a) any person in control of such applicant or any manager of the business concerned at the relevant time is—
 - (i) a public servant;
 - (ii) a political office bearer or employee of any party, movement, organisation or body of a party political nature; or
 - (iii) a family member of a person contemplated in subparagraph (ii);
- (b) no applicant shall be granted a route operator licence—
 - (i) such applicant does not have access to sufficient experience and knowledge of the operation and management of a route;
 - (ii) such applicant does not have access to capital resources which are adequate for the operation of a route operation;
 - (iii) the granting of such licence will or may create or aggravate a monopoly situation as defined in the Competition Act, 1998 (Act No. 89 of 1998) Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979); or
 - (iv) if such applicant is unable to satisfy the electronic monitoring and surveillance requirements set out in the rules of the board.

37 Location of Gambling Machines on sites controlled by previously disadvantaged persons

- (1) At least 60 percent of limited gambling machines operated by a route operator shall be located on sites where the site licensee is controlled by persons or a group or groups of persons previously disadvantaged by unfair discrimination
- (2) For purposes of sub-regulation (1), “controlled” means that the persons previously disadvantaged by unfair discrimination—
 - (a) own at least 51 percent of the shares, or members or partners interest in the business holding the site licence; and
 - (b) are entitled to at least 51 percent of the profits of such site licensee.

38 Location of Gambling Machines in metropolitan areas

- (1) No more than 60 percent of the total number of limited gambling machines operated by a route operator shall be located on sites in metropolitan areas.

- (2) For the purpose of sub-regulation (1) and sub-regulation (3), “metropolitan areas” means—
 - (a) the area within a radius of 50 kilometres of the premises on which the Port Elizabeth city hall is located; and
 - (b) the area within a radius of 50 kilometres of the premises on which the East London city hall is located, combined.
- (3) No less than 30 percent of the total number of limited gambling machines operated by a route operator in metropolitan areas shall be located in either—
 - (i) the area contemplated in sub-regulation 2(a); or
 - (ii) the area contemplated in sub-regulation 2(b).
- (4) A route operator licence may be suspended or revoked by the board if such route operator becomes disqualified in terms of these regulations after the issue of a licence to such route operator.

39 Additional considerations in disposing of application for a route operator licence

The board shall, in addition to the considerations mentioned in Chapter 3 of the Act, when considering an application for or transfer of a route operator licence and when considering any conditions and requirements to which any such licence should advisably be made subject, take into consideration—

- (a) the extent to which the applicant will promote sustainable employment in the Province;
- (b) the extent to which the applicant will provide training and skills to its employees and the employees of gambling machine site licensees with whom it enters into agreements;
- (c) the extent to which the applicant will procure labour, goods and services in the Province;
- (d) the extent to which the applicant intends to provide for participation in the ownership or profits of the route operation and associated site operations by persons, a group or groups of persons previously disadvantaged by unfair discrimination;
- (e) the ability of the applicant to service sites in rural areas;

- (f) any other factors which may affect the question whether it is desirable to grant such application or to attach any such condition or requirement;
- (g) the extent to which the applicant will contribute to provide a programme for combating problem gambling; and
- (h) any other factors the board must consider in terms of the National Gambling Act, 2004 (Act No. 7 of 2004) in so far as it is not set out herein.

40 Maximum number of limited gambling machines and interest in route

- (1) The maximum number of limited gambling machines which may be exposed for play in terms of all route operator licences and limited gambling machine site licences issued in the Province shall be 6000, subject to sub-regulations (2), (3) and (4).
- (2) Notwithstanding sub-regulation (1), the board shall only issue or allow route operator licences or limited gambling machine site licences which will allow more than 2000, but not exceeding 3000, limited gambling machines to be operated in the Province if -
 - (a) it is satisfied that this will not lead to an over-saturation of limited gambling machines in the Province; and
 - (b) it has considered, both in regard to the existing limited gambling machines and such further machines as may exceed 2000 -
 - (i) the social impact;
 - (ii) the economic impact;
 - (iii) the environmental impact;
 - (iv) the impact on problem gambling; and
 - (v) it is of the opinion that the exposure for play of more than 2000, but not exceeding 3000, limited gambling machines will be in the best interests of the Province.
- (3) The number of limited gambling machines exposed for play in terms of all route operator licences and limited gambling machine site licences issued in the Province, may only exceed 3000, if approved by the Minister in terms of the National Gambling Act.
- (4) No single route operator shall be licensed to operate more than 1000 limited gambling machines.

- (5) No person shall hold a financial or controlling interest of 5 percent or more in more than one route operator without the consent of the board.
- (6) No person may hold more than one route operator licence in the Province.
- (7) Apart from the profit sharing between a route operator and site licensee in terms of the agreement between them approved by the board, no route operator may hold a financial interest in the holder of a gambling machine site licence.

41 Requirements for gambling machine site licences

- (1) All provisions relating to limited gambling machine site licences shall be applicable to independent site owner licences: Provided that such provisions do not relate to any reference made to a route operator;
- (2) In addition to the general disqualifications contemplated in section 31 of the Act, no applicant shall be granted a gambling machine site licence if—
 - (a) any person in control of such applicant or any manager of the business concerned is—
 - (i) a public servant; or
 - (ii) a political office bearer or employee of any party, movement, organisation or body of a party political nature;
 - (iii) such applicant does not have guaranteed access to limited gambling machines obtained from a route operator;
 - (iv) such applicant cannot ensure that the limited gambling machines to which the licence relates will be monitored as contemplated in the rules of the board.;
 - (b) the granting of such licence will or may create or aggravate a monopoly situation as defined in the Competition Act, 1998 (Act No. 89 of 1998);
 - (c) the premises to which the application relates does not fulfil the requirements set out in regulation 42.
- (3) In determining whether the premises in respect of which a limited gambling machine site licence is to be granted will not be primarily utilised for the operation of gambling machines, as provided in section 50 of the Act, the board may consider the following factors—

- (a) the floor space used for the limited pay-out machines as compared to the floor space used for the primary business;
 - (b) the investment in the operation of the limited payout machines as compared to the investment in the primary business;
 - (c) the time required to manage or operate the limited payout machines as compared to the time required to manage or operate the primary business;
 - (d) the gross revenue generated by the limited payout machines as compared to the gross revenue generated by the primary business;
 - (e) whether a substantial portion of the financing of the business as a whole has been provided in exchange for the right to operate limited pay-out machines on the premises; or
 - (f) other factors, including but not limited to the business's name, the business's marketing practices and the public's perception of the business.
- (4) A limited gambling machine site licence may only be awarded or issued in respect of premises where the primary business carried out on such premises is—
- (a) a sporting or social club which—
 - (i) has more than 50 members;
 - (ii) occupies suitable fixed premises;
 - (iii) is licensed in terms of the relevant laws relating to liquor; and
 - (iv) is operated as an association not for gain;a tavern licensed in terms of the relevant laws relating to liquor;
 - (b) a racecourse;
 - (c) a bookmaker outlet;
 - (d) a totalisator outlet;
 - (e) a liquor outlet licensed in terms of the relevant laws relating to liquor;
 - (f) a hotel;
 - (g) a nightclub;
 - (h) a sports bar licensed in terms of the relevant laws relating to liquor;
 - (i) a bingo hall;
 - (j) a pool or snooker business licensed in terms of the relevant laws relating to liquor; or
 - (k) a bar licensed in terms of the relevant laws relating to liquor.

- (5) No limited gambling machine site licence shall be awarded or issued in respect of premises where the primary business conducted in such premises is -
- (a) a restaurant, unless it has a separate cordoned-off area contemplated in regulation 42;
 - (b) a supermarket, café or other such retailer of food;
 - (c) an amusement arcade;
 - (d) an airport, railway station or bus station;
 - (e) a sports stadium;
 - (f) a theatre or cinema;
 - (g) places of culture including museums;
 - (h) a liquor store;
 - (i) a private home;
 - (j) a petrol or diesel station;
 - (k) a guest house, a bed and breakfast establishment, or a conference facility. Unless it has a separate restaurant with a liquor licence;
 - (l) a school, university, college or technikon; or
 - (m) any other premises considered by the board to be unsuitable.
- (6) Subject to regulation 43, a limited gambling machine site licence shall not authorise the exposure for play of limited gambling machines that are —
- (a) less than 3; or
 - (b) more than 5,
- (7) No person shall be permitted to expose for play, in terms of all gambling machine site licences issued, more than 100 limited gambling machines.
- (8) No person shall hold a direct or indirect financial or controlling interest of 5 percent or more in more than one site licensee without the consent of the board: Provided that this shall not apply to an approved profit split with a route operator in terms of an agreement approved by the board.
- (9) No gambling machine site licence may be held by a route operator or by any entity where such route operator has a financial interest: Provided this shall not apply to the profit split between such route operator and gambling machine site licensee in terms of an agreement between them which has been approved by the board.

- (10) The provisions of regulations 37 and 38 must be complied with where the board is contemplating the award or transfer of a site licence.

42. Requirements for licensed premises of gambling machine sites

- (1) Where the premises to which an application for a gambling machine site licence relates are accessible to persons under the age of 18, no such licence may be granted unless there is a separate cordoned off area wherein all limited gambling machines on the premises shall be located: Provided that such limited gambling machines may be located in a restricted area, as defined in the Provincial Act providing for the licensing, regulation, and control of the retail sale of liquor from which persons under the age of 18 years are excluded in terms of section 45 of that Act.
- (2) No limited gambling machine shall be within 2 metres of the edge of the area contemplated in sub-regulation (1) where that area joins the floor area of the rest of the premises: Provided that such limited gambling machines may be less than 2 metres from the edge of such area where such area is separated from the rest of the premises by a non-transparent continuous wall with a height of at least two metres and all such limited gambling machines are located at least 2 metres from any apertures in such wall.
- (3) No application for a gambling machine site licence may be granted unless—
- (a) the premises to which the application relates are or will on completion be suitable for the purpose for which they will be used under the licence;
 - (b) if the premises are situated in the vicinity of a place of worship or a school or in a residential area, the business will be carried out in a manner that will not disturb the proceedings in that place of worship or school or prejudice the residents of that residential area; and
 - (c) the granting of the licence is in the public interest.
- (4) The provisions of sub-regulations (1) and (2) and paragraphs (a) and (b) of sub-regulation (3) shall be conditions in the licence of the licensee.

43. Additional considerations in disposing of application for a gambling machine site licence

The board shall, in addition to the considerations mentioned in Chapter 3 of the Act, when considering an application for or transfer of a gambling machine site

licence and when considering any conditions or requirements to which any such licence should advisably be made subject, take into consideration—

- (a) the extent to which persons, groups or groups of persons previously disadvantaged by unfair discrimination will share in the ownership and profits of the licensee;
- (b) prevention of over-concentration of limited gambling machines in a particular area;
- (c) any other factors which may affect the question whether it is desirable to grant such application or to attach any such condition or requirement;
- (d) any other factors the board must consider in terms of the National Gambling Act, 2004 (Act No. 7 of 2004) in as far as it is set out herein; and
- (e) any other factors the board considers relevant.

44. Sites with more than 5 limited gambling machines

- (1) A limited gambling machine site licence which allows the licensee to expose for play more than 5 limited gambling machines on such site shall only be awarded and issued if the number of limited gambling machines which shall be exposed for play on such site shall be no less than 6 but no more than 40.
- (2) The board shall, in addition to the considerations contemplated in regulations 41, 42 and 43 when considering an application for or transfer of a gambling machine site licence contemplated in this regulation and any conditions or requirements to which such licence should advisably be made subject, take into consideration—
 - (a) the extent to which such limited gambling machine site will promote tourism at the place where the premises will be situated;
 - (b) the extent to which such limited gambling machine site will promote sustainable employment at the place the premises will be situated;
 - (c) the extent to which such limited gambling machine site will provide entertainment facilities for members of the public other than the operation of limited gambling machines; and
 - (d) any other factors the board considers relevant.

45. Restrictions on limited gambling machines

- (1) The maximum aggregate stake that may be charged in total to enable a person to play a game on a limited gambling machine to conclusion shall be R5,00 (five rand).
- (2) No double up shall be allowed in respect of a game on a limited gambling machine.
- (3) No progressive jackpots are permitted in respect of a gambling game played on a limited gambling machine.
- (4) No multi-player limited gambling machines shall be exposed for play in the Province.
- (5) For the purpose of this regulation and regulation 47, a game on a limited gambling machine—
 - (a) commences when the player—
 - (i) makes a bet from the player's credit meter that is not part of any previous game; or
 - (ii) inserts cash and game play is initiated;
 - (b) is completed when the player—
 - (i) cannot continue play activity without committing additional credits from the credit meter, note acceptor or coin acceptance device; and
 - (ii) has no credits at risk; and
 - (c) contains one or more of the following elements, each of which is deemed to be part of a single game—
 - (i) games that trigger a free game feature and subsequent free games;
 - (ii) a metamorphic feature;
 - (iii) a "second screen" bonus feature;
 - (iv) games with player choice, for example draw poker and blackjack;
 - (v) games where the rules permit the wagering of additional credits, for example blackjack insurance or the second part of a two-part keno game; or
 - (vi) a gamble feature such as double up.

(6) For the purpose of this regulation and regulation 47 —

- (a) “credit” means the amount of money available to player as reflected on a limited gambling machine in increments of the denomination of that particular limited gambling machine in Rand value; which occurs as a result of the insertion of coins, smart cards or bank notes into the limited gambling machine or anything won by the player on completion of the game;
- (b) “double up” means a feature in terms of which a player may during a game risk a previous win, bet or portion of such win or bet on the selection of an outcome that has an equal chance of occurrence;
- (c) “progressive jackpot” means an additional variable reward, additional to the games pay table, which is available to be won by a player as a result of an event.

46. Maximum prize

- (1) The maximum amount or the value of any prize which may be awarded in respect of a game played on, or the operation of, a limited gambling machine shall be R500,00 (five hundred rand).
- (2) A prize won on a game on a limited gambling machine must be accrued to the winner as credits or paid to the winner in cash: Provided that the payment of a prize may be made by way of a cheque with the consent of the winner.
- (3) Subject to sub-regulation (2), no prize or benefit may be given to or accepted by the winner of a game on a limited gambling machine in addition to or in lieu of the cash or credits won on a game.

47. Return to public

- (1) A limited gambling machine exposed for play must have a theoretical and demonstrable return to the public of not less than 75%.
- (2) All winning combinations, together with the corresponding prizes, must be clearly displayed, or be easily accessible by the player, on every limited gambling machine exposed for play.

48. Use of limited gambling machines

- (1) Only coins, smart cards or bank notes may be used in a limited gambling machine.
- (2) Notwithstanding sub-regulation (1), a limited pay-out machine may utilise a ticket printer to effect pay-out of prizes.

CHAPTER 7 TOTALISATORS AND POOLS

49. Conducting of totalisators

- (1) The board must make rules to conduct totalisators as contemplated in section 52(2) of the Act.
- (2) The licences licence shall conduct totalisators in accordance with the rules made by the board.

50. Return to public: Totalisators and betting pools

The return to players from the operation of a totalisator shall be—

- (a) Not less than 82% of the gross takings of such totalisator in respect of win bets and place bets on the outcome of a horse race; and
- (b) Not less than 75% of the gross takings of such totalisator in respect of any lawful sporting event or events other than those contemplated in sub-regulation (a), which shall include multiple, trifecta or triple type bets.

51. Place of bets: Totalisators and pools

- (1) Any bet placed with a licensed totalisator in the Province by way of telephone, telefax, electronic mail or internet transmission shall be deemed to be a transaction within the Province.
- (2) No licensed totalisator may lay a bet at any place other than the premises to which the licence relates.
- (3) A licensed totalisator shall keep for a period of 1 year a list of all telephone, telefax, electronic mail and internet transmissions made to or from the licensed premises and the name and address of the sender and receiver of such transmissions.

CHAPTER 8 BOOKMAKERS

52. Place of Bets: Bookmakers

- (1) Any bet placed with a licensed bookmaker in the Province by way of telephone, telefax, electronic mail or internet transmission shall be deemed to be a transaction within the Province.
- (2) No bookmaker may lay a bet at any place other than the premises to which the licence relates.
- (3) A bookmaker shall keep for a period of 1 year a list of all telephone, telefax, electronic mail and internet transmissions made to or from the licence premises and the name and address of the sender and receiver of such transmissions.

CHAPTER 9 RACE COURSE LICENCES

53. Race meetings

- (1) The licensee of a race course licence who intends holding a horse race meeting on any day shall not later than one month before such day submit to the board for its approval a written application for the allocation of such a day as a race day for the area in which the race course is situated: Provided that nothing in this regulation shall prevent the holder of a race course licence from simultaneously applying for the allocation of more than one race day or the allocation of a series of days as race days in respect of any year.
- (2) Save for the provisions of sub-regulation (1) all other activities on race courses shall be regulated by the National Horse Racing Authority.

CHAPTER 10 FEES, TAXATION AND FINANCIAL ARRANGEMENTS

54. Manner of payment of taxes and fees

- (1) Payment of taxes and fees in terms of the Act and these regulations shall be made by way of cheque, debit or credit card payments or by electronic funds transfer.

- (2) Any payment by—
 - (a) post-dated cheque; or
 - (b) a cheque which is subsequently dishonoured, is deemed not to be payment in terms of this regulation.
- (3) Cheque, debit or credit card payments shall be made at any office of the board.
- (4) Payment shall be accompanied by such forms and information as the board may determine.

55. Keeping of books, accounts and accounting records

- (1) The board shall make rules as contemplated in section 81 of the Act regarding the books, accounts and records required to be kept by a licensee, including the format, information, manner and period of retention of the books and records.
- (2) The books, accounts and records referred to in sub-regulation (1) shall at all times—
 - (a) be kept in a safe place; and
 - (b) be immediately and easily accessible.

56. Gambling and accounting records

- (1) A licensee shall keep—
 - (a) accurate, complete, legible and permanent records of all gambling transactions; and
 - (b) accounting records in accordance with IFRS on a double entry system of accounting, which maintains detailed subsidiary records and identifies revenue, expenses, assets, liabilities and equity, and any other records that the board may determine.
- (2) The board may make further rules as contemplated in section 81 regarding further requirements for gambling and accounting records.

57. Other records

- (1) A licensee shall keep—
 - (a) in the case of a company—

- (i) a copy of the memorandum of incorporation, including any amendments thereto;
 - (ii) a copy of the certificate to commence business;
 - (iii) a permanent register of all licensed employees, reflecting the date of appointment, status and, where applicable, date of termination of employment;
 - (iv) minutes of all meetings of the shareholders;
 - (v) minutes of all meetings of the directors and committees of the board of directors;
 - (vi) a register of all shareholders, listing every shareholder's name, address, the number of shares held and the date on which the shares were acquired; and
 - (vii) any other information prescribed by the board; and
 - (b) in the case of a close corporation—
 - (i) a copy of its founding statement and any amendment of that statement;
 - (ii) the association agreement;
 - (iii) minutes of all meetings of the members of the corporation;
 - (iv) a register of members, indicating every member's name, address, interest expressed as a percentage and the date of admission as a member; and
 - (v) a permanent register as contemplated in sub-regulation (a) (iii).
- (2) A licensee shall cause a continuous written record to be kept of all gambling devices acquired, reflecting—
- (a) the date of acquisition;
 - (b) the name, address and licence number of the person from whom the device was acquired;
 - (c) a description of the device acquired;
 - (d) the serial number of the device acquired;
 - (e) the licence number of the device; and
 - (f) any further information required by the board.
- (3) A licensee shall cause a record to be kept of all gambling devices disposed of, which record shall include -
- (a) the date and manner of disposal;
 - (b) a description, and the number, of devices disposed of;

- (c) where applicable, the board's approval number;
- (d) where applicable, the serial numbers of all devices disposed of;
- (e) where applicable, the licence numbers of all devices disposed of;
- (f) the name, address and licence number of the person to whom the device was supplied; and
- (g) any further information required by the board.

A licensee and person registered in terms of section 61 of the Act shall keep a record of all alterations and repairs to gambling devices, reflecting—

- (a) the date of alteration;
- (b) the name, address and licence number of the owner of the device;
- (c) a description of work carried out;
- (d) the serial number of the device altered;
- (e) the licence number of the device altered;
- (f) the name, address and registration number of the person altering the device;
- (g) the place the alteration or repair was carried out;
- (h) the date the gambling device was removed from the licensed premises;
- (i) in the case of an alteration or modification, the number of the board's approval for such alteration or modification;
- (j) the date the gambling device was returned to the licensed premises;
- (k) the address to which the gambling device was returned.

58. Audited financial statements

- (1) A licensee must, at the end of each of its financial years, ensure the preparation of annual financial statements in accordance with IFRS.
- (2) A licensee shall appoint an independent accountant and auditor, registered with the Independent Regulatory Board of Auditors, who shall audit the licensee's annual financial statements in accordance with generally accepted auditing standards.
- (3) A licensee shall, not later than 180 days, or any extended period determined by the board, after the last day of the licensee's financial year, submit to the board copies of its audited annual financial statements and any reports communicating the results of the audit, including management letters.

- (4) The board may request additional information or documents from either the licensee or its auditor regarding the financial statements or the services performed by the auditor.
- (5) An internal auditor shall, as part of the annual audit, evaluate and report on the licensee's compliance with its system of internal control as approved by the board.
- (6) A report in terms of sub-regulation (5) shall be submitted to the board at the intervals and times determined by the board.

59. Returns to be rendered

- (1) A licensee shall cause the returns that the board may from time to time determine to be submitted in the manner and format determined by the board.
- (2) A licensee shall cause the board to be informed of any transfer of gambling equipment into or out of the Province, whether for repair or any other purposes within 24 hours of such transfer.

60. Stock records

A licensee shall cause continuous written stock records to be kept of all cards, dice, gambling devices and components gambling devices reflecting -

- (a) opening stock on hand;
- (b) stock purchased or manufactured;
- (c) distributions; and
- (d) closing stock on hand, and shall,
- (e) at the request of the board, immediately provide the board with those records.

61. Accessibility of records

A licensee must ensure that all records shall be organised and indexed in such a manner to provide immediate accessibility to the board.

62. Minimum internal controls

- (1) Each licensee shall establish and maintain administrative and accounting procedures for the purpose of determining such licensee's liability for taxes

and fees under the Act and for the purpose of exercising effective control over such licensee's internal financial affairs.

- (2) The procedures must be designed to reasonably ensure that—
- (a) assets are safeguarded;
 - (b) financial records are accurate and reliable;
 - (c) transactions are performed only in accordance with management's general or specific authorisation;
 - (d) transactions are recorded adequately to permit proper reporting of gambling revenue and of fees and taxes; and
 - (e) functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

63. Board to adopt minimum standards for internal control procedures

The board must adopt and make available to applicants and licensees minimum standards for internal control procedures with which licensees must comply.

64. Internal control system to be approved by board

- (1) Each licensee and each applicant for a licence shall describe, in such manner as the board may approve or require, its administrative and accounting procedures in detail in a written system of internal control and shall submit a copy thereof to the board for approval prior to implementation of the system.
- (2) Each system of internal control submitted for approval must include—
- (a) an organisational chart depicting segregation of functions and responsibilities;
 - (b) a description of the duties and responsibilities of each position shown on the organisational chart;
 - (c) a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of regulations 62 (2) and 63;
 - (d) a letter from the internal auditor stating that the system of internal control has been reviewed by the accountant and complies with the requirements of regulations 61, 62 and 63; and
 - (e) such further information as the board may require.

- (3) If the board determines that an applicant or licensee's system of internal control does not comply with the requirements of regulations 81, 82 and 83, it shall so notify the applicant or licensee in writing.
- (4) Within 30 days after receiving the notification contemplated in sub-regulation (3), the applicant or licensee shall amend its internal control system accordingly, and shall submit a copy of the amended system to the board for approval.

65. Amendment of system of internal control

- (1) A licensee wishing to amend its system of internal control shall, prior to implementing such amended system, submit to the board a copy of the written internal control system as amended, for approval.
- (2) The provisions of regulation 63 shall with the necessary changes apply to an application for approval contemplated in sub-regulation (1).

CHAPTER 11

GENERAL PROVISIONS RELATING TO GAMBLING AND GAMBLING DEVICES

66. Display of rules of gambling games and betting

- (1) The rules of each gambling game or betting in connection therewith must be displayed at the entrance of the licensed premises, or the entrance of each area where a gambling game and betting in connection therewith takes place.
- (2) The licensee must ensure that a copy of the rules shall be freely accessible to all patrons for examination.

67. Application for registration as a supplier or servicer of gambling devices

- (1) An application for registration to manufacture, assemble, maintain, repair, sell, distribute, import, acquire, market, rent or lease, alter or otherwise modify any gambling device or any associated equipment any as contemplated in section 61(1) of the Act shall be in accordance with Form 6 of Schedule "B" of these regulations, contain the information contemplated the Form, and shall call on interested persons to make

submissions to the board within 30 days of the date of publication of such notice.

- (2) An applicant for registration in terms of subsection (1) shall state the categories activity in respect of which registration is required.
- (3) A director of a company or member of a close corporation shall be separately registered in terms of section 68 of the Act before he or she may participate in the operations of a company or close corporation registered in terms of section 61 of the Act.
- (4) An application for registration shall be accompanied by three passport size photographs of the applicant (if a natural person).

68. Taking of fingerprints

- (1) An applicant for registration as contemplated in section 68 of the Act shall have his or her fingerprints taken as set out in in this Regulation.
- (2) If an applicant does not have fingerprints that can be taken, then the applicant's criminal background checking shall be done in the way determined by the South African Police Service.
- (3) The applicant shall have his or her fingerprints taken on a SAPS 91 (a) Form at a police station or at a fingerprint verification agency using the South African Police Service Automated Fingerprint Identification System (SAPS AFIS), for the purpose of criminal background checking, and furnish in black ink such particulars or information as may be required;
- (4) The fingerprints of any applicant shall be taken in the presence of at least one witness.
- (5) Refusal to allow fingerprints to be taken as contemplated in this regulation shall be grounds for refusal of registration as contemplated by section 61 of the Act.
- (6) Notwithstanding the provisions of this regulation, any person domiciled outside South Africa—

- (a) may furnish a set of fingerprints on Form SAPS 91(a) taken at a police station in such country or the equivalent of such form in such country; and
- (b) shall furnish a police clearance certificate issued by the police service of such country.

69. Registration form

Where the board approves an application for registration in terms of section 61 of the Act, the applicant shall be furnished with a certificate of registration in accordance with Form 7 of Schedule "B" of these regulations.

70. Particulars contained in register in terms of section 61(10) of the Act

- (1) The board shall keep a register as contemplated in section 61(10) of the Act: that contains the following particulars -
 - (a) full names;
 - (b) if a natural person, his or her identity number, if a legal person, its registration number;
 - (c) if a natural person, his or her home address, if a legal person, the address of its registered office;
 - (d) the address from which the person carries out the activity permitted by the registration;
 - (e) the type of activity in respect of which the person concerned is registered;
 - (f) the date of initial registration of the person;
 - (g) the periods for which the person has been registered as contemplated in this regulation;
 - (h) the reasons for any previous deregistration(s) of the person concerned;
 - (i) the whole employment record of the person if he or she has an employment record of less than 7 years, otherwise his or her employment history over the past 7 years;
 - (j) any offences of which the person has been convicted and of which dishonesty is an element;
 - (k) in the case of legal persons, the names of all directors of the person and all persons who hold a beneficial interest of more than 5% in the person concerned;
 - (l) the names of all registered key persons and gambling employees employed by the person concerned;

- (m) in the case of a natural person, his or her fingerprints and qualifications;
and
- (n) the tax number of the person concerned.

- (2) The records contemplated in sub-regulation (1) shall be kept by the board for a period of 20 years.

71. Provision of information

All persons registered in terms of section 61 of the Act shall inform the board of any change to the information contemplated in regulation 71 within 30 days of any such change.

72. Use of certain devices prohibited

- (1) Unless the board, upon the request of the licensee, approved in writing, no person may, at a licensed premises, use, or possess with the intent to use, any device to assist -
 - (a) in projecting the outcome of a game;
 - (b) in keeping track of the cards played;
 - (c) in analysing the probability of the occurrence of an event relating to a game; or
 - (d) in analysing the strategy for playing or betting to be used in a game.
- (2) The provisions of sub-regulation (1) shall not be deemed to prohibit -
 - (a) the making and referring to handwritten records of the cards played at punto banco or baccarat; or
 - (b) the making and referring to handwritten records of roulette results.

73. List of persons to be excluded or ejected.

- (1) The board shall compile a list contemplated in section 63(7) of the Act of persons who are to be excluded or ejected from the designated area specified in the list or prohibited from participating in such gambling specified in the list in the following circumstances -
 - (a) on receipt of the information that one or more of the instances referred to in section 67(8)(a) to (g) of the Act is applicable to a person;
 - (b) a person is considered by the board to suffer from a gambling problem as contemplated in section 63(8)(h) of the Act;

- (c) a person is considered by the board to suffer from a pathological gambling addiction as contemplated in section 63(8)(i); or
 - (d) a person, whilst gambling, leaves a child under the age of 10 years unattended for a period which is, in the circumstances, unreasonable as contemplated in section 63(8)(j) of the Act.
- (2) A licensee must provide the board with the full names, identity number and, if available, an address of every person to whom one or more of the instances referred to in section 63(8)(a) to (g) and section 63(8)(j) of the Act becomes applicable, as soon as reasonable possible, after it comes to his or her attention.
- (3) No name shall be placed on the list until such time as the person concerned has been given notice of the intention of placing his or her name on the list, specifying the grounds for placement on the list and advising that person that a request for a hearing may be made within 14 days from the date of the notice.
- (4) The provisions of sub-regulation (3) shall not be applicable to -
- (a) a person who requests the board in writing to add his or her name to such list; or
 - (b) a person whose name appears on the exclusion lists of any other gambling regulatory body.
- (5) A person's failure to respond to the notice by the board in terms of sub-regulation (3) to be heard, or failure to request the opportunity to be heard shall not result in the board being prevented from conducting such a hearing in the absence of that person, and from placing that person's name on such a list, if the evidence is sufficient.

74. Application by an interested person

- (1) An application by an interested person or interested party contemplated in section 63(8)(i) and (j) of the Act shall be in writing and contain a written motivation and all the information in support of the application.
- (2) The application must be submitted to the office of the chief executive officer together with all the relevant documents.

(3) The person concerned must be given notice of the application and advising that person that a request for a hearing may be made within 14 days from the date of the notice..

(4) A person's failure to respond to the notice by the board in terms of sub-regulation (3) to be heard, or failure to request the opportunity to be heard shall not result in the board being prevented from conducting such a hearing in the absence of that person, and from placing that person's name on a list as contemplated in section 63(7) of the Act, if the evidence is sufficient.

75. Hearing

The provisions of sections 28 (2) to (4), 29 and 30 of the Act and Chapter 2 of these regulations shall apply with the necessary changes in respect of a hearing held in terms of this Chapter.

76. Distribution and contents of the list

(1) For the purpose of ensuring compliance with the Act, the list contemplated in section 63 of the Act shall be open to inspection at the offices of the board, during normal office hours of the board and shall be distributed to –

- (a) every licensed gambling business within the Province; and
- (b) the National Gambling Board.

(2) The following information and data shall be provided for each excluded person—

- (a) the full name and all aliases the person is believed to have used;
- (b) description of the person's physical appearance, height, weight, type of build, colour of hair and eyes, and any other physical characteristics which may assist in the identification of the person;
- (c) date of birth, if available;
- (d) the date the person's name was placed on the list;
- (e) a photograph and the date thereof, if available;
- (f) the reason for placing the person's name on the list; and
- (g) the type or types of licensed premises or gambling to which the exclusion applies.

- (3) Notwithstanding the provisions of sub-regulation (1) the names and details of a person who has been excluded by reason of section 63(8)(f), (h), (i) and (j) of the Act shall not be open to public inspection and shall only be distributed to—
- (a) licensed gambling business in the Province from whom such person has been excluded or has sought to be excluded;
 - (b) in the case of persons contemplated in section 63(8)(f) of the Act, other gambling regulatory bodies in the Republic to whom such person wishes the application for self-exclusion to be submitted;
 - (c) in the case of persons contemplated in section 63(h), (i) and (j) of the Act, all gambling regulatory authorities in the Republic, where the board is of the opinion that the public interest so requires.
- (4) The board may distribute the list contemplated in section 63(7) of the Act by way of email, internet transmission or supply of information on a database.

77. Petition to be removed from the list

- (1) Any person whose name has been placed on the list of excluded persons may petition the board in writing and request that his or her name be removed from such list, specifying the grounds believed by the petitioner to constitute good cause for removal of his or her name.
- (2) The board shall, within 60 days of receipt of a petition, either deny the petition or set the petition for hearing.
- (3) The burden of showing good cause for removal from the list shall at all times rest with the petitioner.
- (4) The board may determine time periods during which a person whose name appears on the list of excluded persons may not petition the board for removal of his or her name from such list.

78. Excluded person prohibited from entering licensed premises or participating in gambling

An excluded person who knowingly enters licensed premises from which he or she is excluded or knowingly participates in any gambling from which he or she is excluded shall be guilty of an offence.

79. Maintenance and alteration of gambling devices

- (1) A licensee shall only use a maintenance provider or employee registered in accordance with section 61 of the Act to maintain gambling devices and equipment in a suitable condition: Provided that certain basic maintenance functions as determined by the board may be carried out by the licensee.
- (2) A licensee or person registered in terms of section 61 of the Act shall not alter or modify the operation of a licensed gambling device or any associated equipment without the prior approval of the board.

80. Equipment to be of approved type

- (1) Subject to regulation 79, a licensee shall not keep or expose for play any equipment which may be used in the operation of a gambling game other than equipment which is identical in all material respects to equipment approved by the board for distribution by the manufacturer or supplier.
- (2) No manufacturer or supplier shall supply any person in the Province with any equipment contemplated in sub-regulation (1) which has not been approved by the board.

81. Records to be kept by licensee

A licensee and person registered in terms of section 61 of the Act shall keep such records in respect of equipment contemplated in regulations 80 and 81 as in a manner that the board may require or approve.

82. Deregistration of gambling equipment

A licensee may at any time, in the manner and form determined by the board, apply for the deregistration of equipment licensed in terms of section 65 of the Act.

83. Standards for gambling devices

- (1) All gambling devices exposed for play and any electronic central monitoring system used to monitor such devices must —

- (a) comply with the standards laid down by the South African Bureau of Standards in standard number 1718: 1996 or any subsequent determinations;
 - (b) be certified by—
 - (i) the South African Bureau of Standards; or
 - (ii) subject to the provisions of the National Gambling Act, 2004 (Act No. 7 of 2004)), any other gambling equipment test laboratory approved by the board, as meeting the applicable standards.
- (2) The licensee shall be responsible for -
- (a) ensuring that its gambling devices meet the applicable standards laid down by the South African Bureau of Standards; and
 - (b) payment of fees of the South African Bureau of Standards or such other approved gambling equipment test laboratory for the certification process.

CHAPTER 12

REGISTRATION OF CERTAIN PERSONNEL

84. Application for registration as key person or gambling employee

- (1) An application for registration as a key person or gambling employee in terms of section 68 or 69 of the Act shall be made in accordance with Form 8 of Schedule "B" of these regulations.
- (2) The provisions of regulation 69 shall apply with the necessary changes to any application for registration as a key person or gambling employee.
- (3) An application for registration as a key person or gambling employee shall be accompanied by three passport size photographs of the applicant and such further forms as the board may require.
- (3) The board may require further information it deems fit from any applicant for registration as a key person or gambling employee.

85. Further key personnel and gambling employees to be registered

In addition to persons who are deemed to be key personnel and gambling employees in terms of section 68 and 69 of the Act, persons in the following or

substantially similar positions shall be regarded as key persons for the purposes of the Act:

- (a) any person who individually or as a member of a group formulates management policy;
- (b) any person who has authority to grant credit, complimentary services or tokens;
- (c) any person who has authority to be involved in the resolution or handling of patron disputes;
- (d) any person who has authority to appoint or terminate the appointment of supervisory staff registered in terms of the Act;
- (e) any person who has authority to supervise or direct a gambling or security activity shift, including, without being limited to, the supervision or direction of the entire pit operation and all gambling machines or other gambling operations, and any person who has authority to supervise or direct the first-mentioned person;
- (f) in the case of a company registered in terms of section 61 of the Act, any director thereof;
- (g) in the case of a close corporation registered in terms of section 61 of the Act, any member thereof;
- (h) any person who has authority to manage, or to be responsible for the management of, one or more of the departments or functions of a gambling operation, including, without being limited to—
 - (i) accounting;
 - (ii) creditors and collections;
 - (iii) the cage department;
 - (iv) staff;
 - (v) internal audit;
 - (vi) security; and
 - (vii) surveillance;
- (i) any person who has been specifically presented to the board by a licensee or an officer or a director of the licensee as being important or necessary for the operation of the business of the licensee.

86. Temporary registration of key persons and gambling employees

- (1) If an application for registration as a key person or a gambling employee has been made or the board has identified an employee of a licensee or person registered in terms of section 61 of the Act as a key person or a

gambling employee and has requested that person to apply for registration, and the board is satisfied that

- (a) the operation of the business of the licensee or person registered in terms of section 61 of the Act will be seriously prejudiced by a delay in employing the applicant or by the interruption of his or her employment; and
- (b) the commencement of the employment or the continued employment of the applicant will not prejudice the integrity and proper operation of the business of the licensee or person registered in terms of section 61 of the Act,

the board may grant the applicant temporary registration, pending the outcome of the application.

- (2) An applicant shall apply for temporary registration by annexing to the application for registration contemplated in regulation 85 a completed form in accordance with Form 9 of Schedule "B" and payment of the fee set out in Schedule "A" of these regulations
- (3) The issuing by the board of temporary registration in terms of sub-regulation (1) shall not found any expectation of the grant of registration in terms of section 68 or 69 of the Act.
- (4) If the application for registration in terms of sections 68 or 69 of the Act by the holder of a temporary registration contemplated in sub-regulation (1) is refused by the board, the licensee or person registered in terms of section 61 of the Act who employs that person shall, upon receipt of the board's decision, immediately cease to employ that person in any capacity in which he or she is required to be so registered.
- (5) The provisions of sub-regulation (4) shall be a condition of employment.

87. Certificate of registration as a key person or a gambling employee

The board shall on payment of the respective fees set out in Schedule II as adjusted, issue every person registered as a key person or gambling employee with a certificate of registration for in accordance with Form 10 of Schedule "B" of these regulations: Provided that, in the case of a temporary certificate of registration, the word "TEMPORARY" in red capital letters shall be stamped across the face of the certificate from bottom left to top right.

88. Certificate of registration on employment record.

- (1) A licensee shall at all times keep a copy of the certificate of registration of every person registered in terms of sections 68 and 69 of the Act and regulation 88 on the person's employment record.
- (2) If a person changes a position or wish to replace a registration certificate, the board shall on payment of the respective fees set out in Schedule A of these regulations issue such person with the necessary certificate.

CHAPTER 13**RESTRICTIONS, LIMITATION AND PROHIBITION****89. Undesirable advertising**

- (1) No person shall display, publish or broadcast any advertisement or form of advertising with regard to gambling as contemplated in section 70 of the Act -
 - (a) without the board's prior approval, or
 - (b) which has been declared to be undesirable in terms of this regulation.
- (2) The board shall not approve any advertisement or form of advertising which in the opinion of the board—
 - (a) is offensive;
 - (b) is in any way misleading;
 - (c) is in bad state;
 - (d) may cause over-stimulation of gambling; or
 - (e) contains a comparison between the advertiser and any other licensee in respect of—
 - (i) the size;
 - (ii) the number of games available; or
 - (iii) the house advantage, hold, win or any like indication of the probability of winning or losing.
- (3) The board may, by written notice to a licensee or bookmaker, declare any advertisement or form of advertising undesirable on any of the grounds specified in sub-regulation (2).

- (4) Notwithstanding the provisions of this regulation, it shall not be necessary for the board to grant prior approval for any advertisement advertising only ancillary non-gambling attractions or facilities of a casino resort, limited gambling machine site or racecourse and which does not refer or relate to gambling in any way.
- (5) Every advertisement published by or on behalf of a licensee which refers or relates to gambling must contain a slogan in clearly visible writing or which is clearly audible, as the case may be, which—
- (a) is approved by the board;
 - (b) alerts members of the public to the issue of problem gambling; and
 - (c) in the case of print advertisements—
 - (i) alludes to the fact that under 18's are not allowed to gamble or enter the designated area; and
 - (ii) contains the name and telephone number of the National Responsible Gambling Programme, stating the number is toll free;
- (6) The provisions of sub-regulation (5) shall not apply to—
- (a) every announcement promoting the licensee's gambling business over a communications network broadcasting only within a casino if at least one reference is made to problem gambling and the National Responsible Gambling Programme within an hour of any such advertisement over that system;
 - (b) any T-shirt or other garment;
 - (c) any advertisement for a sporting, social or other such even sponsored by a casino where only the logo or name of such casino appears; or
 - (d) any other advertisement where the board for reasons of practicality has in writing so approved.
- (7) Notwithstanding the provisions of this regulation, the holder of a route operator licence or gambling machine site licence shall only advertise in, or on the exterior of, a licensed limited gambling machine site.

90. Prohibited transactions by licensee

- (1) A licensee shall not exchange cash for cash except to enable a patron to participate in gambling where cash is used as the stake or for the purpose

of converting cash won by the client after participating in gambling for different denominations of cash.

- (2) A licensee shall not issue a cheque or other negotiable instrument nor shall any transfer of funds be effected to or on behalf of a patron in exchange for cash other than by means of negotiable instruments, value instruments, unless the licensee is satisfied that the patron has genuinely participated in gambling.

CHAPTER 14

SOCIAL GAMBLING

91. Social gambling not for profit

- (1)(a) A person seeking the board's approval for premises to conduct social gambling not for gain contemplated in paragraph (a) of the definition of "social gambling" in the Act may apply to the board on the form and according to the procedure determined by the board.
- (b) The board may approve such premises for a specific occasion or for a specified period.
- (2) All proceeds of social gambling contemplated in sub-regulation (1)(a), or goods representing the value of such proceeds, shall be returned to the players as prizes.
- (3) Persons conducting social gambling contemplated in sub-regulation (1)(a) on a basis more frequently than twice a month shall inform the board of such activities, their frequency and nature and the location of such gambling.
- (4) No person contemplated in this regulation who conducts social gambling shall deny access to the premises on which such social gambling is being conducted to an inspector or member of the South African Police Service.
- (5) The provisions of sub-regulation (3) shall not apply to social gambling conducted in a private home where the total amount wagered whilst such said gambling continues on any occasion does not exceed R1 000,00, the other provisions of paragraph (a) of the definition of "social gambling" are complied with and no more than 15 people participate in such social gambling.

92. Social gambling for fundraising purposes

- (1) A person who wishes to conduct social gambling as contemplated in paragraph (b) of the definition of “social gambling” in the Act, shall not conduct such social gambling without first being issued a temporary social gambling licence by the board, unless regulation is applicable to the social gambling.
- (2) An application for a temporary social gambling licence shall be made in the manner and form determined by the board.
- (3) A licence for social gambling shall not be issued for more than one occurrence at a time: Provided that a single licence may cover continuous social gambling on no more than three consecutive days.
- (4) A person shall not be issued with more than one temporary social gambling licence in any 30-day period.
- (5) A temporary licence to conduct social gambling shall not be issued unless the applicant is a suitable person to hold the licence or, if the application is made for a corporate entity, association or other such entity, each management member of the association would be a suitable person to hold the licence.
- (6) A person shall not be granted a licence to conduct social gambling for fundraising purposes unless the board is satisfied that —
 - (a) the person conducting the gambling game on behalf of the relevant organisation is a fit and proper person;
 - (b) the organisation concerned has adequate resources to provide facilities necessary for conducting the social gambling;
 - (c) no information given to the board in or in connection with the application for a temporary social gambling licence was materially false;
 - (d) the organisation does not share an address with any organisation issued a licence to conduct social gambling within the same calendar month;
 - (e) all social gambling conducted by or on behalf of the organisation during the past 12 months has been satisfactorily conducted;

- (f) no act or omission of a person who is or will be connected with the social gambling has caused —
 - (i) any person to be refused a licence to conduct social gambling;
 - (ii) social gambling to be improperly conducted;
 - (g) the organisation was established and exists for reasons not connected with gambling or betting;
 - (h) the governing body of the organisation concerned has approved the social gambling;
 - (i) gambling games are played —
 - (i) are lawful and will be run in accordance with sound financial principles;
 - (ii) will be conducted in a manner that does not allow for easy cheating; and
 - (iii) will permit players a reasonable chance of winning.
- (7) In deciding whether the applicant or a member thereof is a suitable person to hold the licence, the board may consider —
 - (a) the disqualifications contemplated in section 31 of the Act;
 - (b) the applicant and management members character and business reputation;
 - (c) the applicant and management members financial position and background;
 - (d) where the applicant is not an individual, whether the applicant has a satisfactory ownership, trust or corporate arrangement.
- (8) The person managing the social gambling must be —
 - (a) a member of the organisation on whose behalf the social gambling is conducted;
 - (b) an employee of that organisation acting in the course of his or her employment; or
 - (c) a person approved by the board and whose remuneration shall not exceed R1 000,00 for such occurrence.
- (9) The board or an inspector of the board may cause any social gambling under a licence to cease if such social gambling is a fraudulent scheme or does not present players a reasonable chance of winning.

- (10) The board may require an applicant for a social gambling licence or a person who has conducted social gambling to —
- (a) furnish the board with such information relating to the social gambling conducted or to be conducted as the board may require;
 - (b) allow any inspector or person authorised by the board to inspect and take copies of any documents of the organisation, including information held otherwise than in writing, relating to such social gambling;
 - (c) allow the board to inspect any aspect of the management of such social gambling;
 - (d) assist the board in viewing and taking copies of any information relating to the social gambling held on a computer.
- (11) The licensee shall keep accurate records of all social gambling and shall submit copies of the total amount wagered and the profit from the occurrence to the board, together with such other information as the board may require.
- (12) A person licensed by the board to conduct social gambling for profit shall supply to the board within 12 months of such social gambling a breakdown of how the profits from such social gambling were used, or, if they were put in the general funds of such organisation, how the funds of the organisation were spent.
- (13) Proper accounting records shall be kept by all persons to whom a temporary social gambling licence is issued and such person shall, on demand, produce such records to the board.
- (14) No holder of a licence for social gambling for the purpose of fundraising contemplated in this regulation shall allow —
- (a) a bingo game where the gross amount staked on a single bingo game exceeds R1 000,00;
 - (b) multiple bingo games on a single day where the total staked on all such games exceeds R25 000,00;
 - (c) gambling table games where the stake exceeds R20,00.
- (15) A person conducting social gambling for purposes of fundraising may not refuse entry to an inspector of the board or member of the South Africa

Police Service to the premises where the social gambling is being conducted or to the premises where the money relating to such social gambling is counted.

(16) A person conducting social gambling in terms of this regulation or regulation 97 shall not allow persons under the age of 18 years to attend or participate in such social gambling or to be present in any area of the premises on which such social gambling occurs.

(17) A person conducting social gambling contemplated in this regulation shall not expose for play any equipment which must be registered, in terms of section 65 of the Act, and which is not so registered.

93. Social gambling for fundraising purposes not requiring a licence

(1) Notwithstanding the provisions of regulation 96, a person contemplated in paragraph (b) of the definition of “social gambling” in the Act may conduct such social gambling, without a temporary social gambling licence if —

- (a) such social gambling is conducted for and by -
 - (i) the members of a church;
 - (ii) the parents and staff of a school;
 - (iii) the members of a sporting club;
 - (iv) the members of an entity duly authorised in terms of the Fundraising Act, 1978 (Act No. 107 of 1978); or
 - (v) such other entity as the board may, on application, determine which is not connected with any form of gambling or betting;
- (b) the persons conducting and participating in the social gambling are all members of the organisation for whom the social gambling is being conducted;
- (c) the governing body of the organisation concerned has in writing authorised the social gambling concerned;
- (d) no gambling equipment which in terms of section 65 of the Act needs to be registered is used in conducting such social gambling;
- (e) all proceeds, after deducting only the reasonable expenses of obtaining the cards or equipment used for social gambling, are devoted to the provision of pay outs to persons who participate in such

- social gambling, or are used for the purposes for which the church, school, sports club or fundraising institution was established;
- (f) no notice or advertisement of the social gambling is made, exhibited, published, distributed or broadcast other than within the premises of the organisation concerned;
 - (g) no person is employed for reward in any form whatsoever in connection with the conduct of the social gambling;
 - (h) the organisation conducting the social gambling was not established and is not continued for the purpose of gambling and betting;
 - (i) a person who participates in such social gambling does or did solely for the purpose of social gambling become a member of the organisation which conducts the social gambling or on whose behalf the social gambling is conducted;
 - (j) every person participating in the social gambling has been a member of such church, school or organisation for at least one month prior to such participation: Provided that in the case of a school, persons conducting and participating in the social gambling must be members of staff, members of the governing body of the school or parents of children who attend the school;
 - (k) no more than one social gambling event is held by such organisation in any calendar month;
 - (l) no bet of more than R5,00 is permitted in any game;
 - (m) the total amount staked in any single game of bingo shall not exceed R300,00; and
 - (n) the organisation concerned informs the board of such gambling and the beneficiary thereof at least 48 hours before the commencement thereof.
- (2) Notwithstanding the provisions of regulation 96 and sub-regulation (1), social gambling may be conducted without a licence if -
- (a) such social gambling is social gambling contemplated in paragraph (b) of the definition of social gambling in the Act;
 - (b) the only social gambling game played is bingo;
 - (c) all prizes are paid in the form of non-cash prizes;
 - (d) the total value of tickets sold for any game of bingo does not exceed R200,00, and for all games of bingo held on such day does not exceed R4 000,00;

- (e) the bingo is conducted during a course of a bazaar, fete, dinner, dance, sporting event or other entertainment of a similar nature occurring on the same premises;
 - (f) the organisation must have been established or continue for purposes not conducted with gambling or betting;
 - (g) the opportunity to participate in social gambling or such opportunity together with any other opportunity of participating in gambling or lotteries must not be the only substantial inducement to attend the entertainment concerned;
 - (h) all proceeds of the social gambling, after provision for the payment of costs of obtaining the equipment used and for the payment of prizes must be utilised by such church, school, sports club or entity authorised in terms of the Fundraising Act, 1978 (Act No. 107 of 1978) for the purposes for which such organisation was founded; or
 - (i) the provisions of paragraphs (c), (d), (g), (h), (k), (l) and (n) of sub-regulation (1) are complied with.
- (3) The provisions of regulation 96 (9), (10), (11), (12), (13), (15), (16) and (17) shall apply with the necessary changes to social gambling contemplated in this regulation.
- (4) Notwithstanding the provisions of sub-regulation (1) and (2), the board may prohibit a person from continuing with or again conducting social gambling if -
- (a) the games played are fraudulent or do not offer players a reasonable chance of a return;
 - (b) any person conducting or controlling the social gambling concerned is not a fit and proper person; or
 - (c) any member of the executive of the organisation concerned is not a fit and proper person:
- Provided that such organisation shall be allowed to present further social gambling if and when persons contemplated in paragraphs (b) and (c) are removed from such position.
- (5) Any person who was the reason for the board cancelling the privilege of any organisation to conduct social gambling shall not attend any social gambling presented by or on behalf of such organisation and no such

organisation shall present or allow to be presented such social gambling if such person attends.

CHAPTER 15

MISCELLANEOUS PROVISIONS

94. Oath and affirmation of office

- (1) The oath or solemn affirmation to be made by members of the board shall be as follows:

I, (Full name), do hereby swear/solemnly affirm that I will hold my office as member of the Eastern Cape Gambling Board with honour and dignity; that I will not divulge directly or indirectly any matters which are entrusted to me under secrecy; and that I will perform the duties of my office conscientiously and to the best of my ability, without fear, favour or prejudice; and that I am not disqualified in terms of the Eastern Cape Gambling Act, No. 5 of 1997, from holding such office.

- (2) The oath or solemn affirmation to be made by members of the staff of the board shall be as follows:

I, (Full name), do hereby swear/solemnly affirm that in the performance of my duties as a member of staff of the Eastern Cape Gambling Board: I will not divulge directly or indirectly any matters which are entrusted to me confidentially and that I am not disqualified in terms of the Eastern Cape Gambling Act, No. 5 of 1997, from being so employed.

- (3) In the case of an oath the words in sub-regulations (1) and (2) shall be followed by the words "So help me God", and in the case of an affirmation, the words in sub-regulations (1) and (2) shall be followed by the words "I solemnly affirm".

95. Resolution of patron disputes

- (1) Whenever a dispute arises as between a patron and a licensee, as to the payment of alleged winnings or precise amount thereof to the patron by the licensee, or payment of a gambling debt or precise amount thereof by a patron to the licensee, and the parties are unable to resolve the dispute

to the satisfaction of the parties, the disputes shall be resolved as provided for in this regulation.

- (2) The dispute may be referred by the patron or the licensee, or both the patron and the licensee to the chief executive officer of the board or his or her delegate for resolution.
- (3) The chief executive officer may, for the purposes of resolving the dispute, conduct such inquiries, inspect any books or documents and question such persons as are necessary or relevant or connected to the dispute: Provided that the chief executive officer shall afford both the patron and licensee an opportunity to present their cases to him or her before he or she resolves the dispute.
- (4) The chief executive officer shall, upon referral of the dispute, expeditiously resolve the dispute.
- (5) The chief executive officer's decision on the dispute shall be final and binding on the parties, subject to the right of appeal in terms of regulation 96.
- (6) The chief executive officer shall inform both parties of his or her decision and advise that a party aggrieved by his or her decision has a right of appeal against such decision to the board.
- (7) A party shall be obliged to pay the amount of the winnings or gambling debt as determined by the chief executive officer within the period determined by the chief executive officer.
- (8) The chief executive officer may delegate any power, function or duty in terms of this regulation to any member of the staff of the board, on such conditions as he or she may determine.

96. Appeal to the board: Patron disputes

- (1) A patron or licensee aggrieved by the decision of the chief executive officer made in terms of regulation 95, may within 14 days of being notified of such decision, lodge an appeal in writing to the board.
- (2) The board shall, with due regard to expedience, hear and determine the appeal, and may thereafter confirm, reverse or set aside the chief executive officer's decision or make any order that it deems appropriate.
- (3) The appeal shall be determined and be heard by the board in such a manner and in accordance with such procedure as the board may determine: Provided that the board shall afford the parties to the appeal the opportunity to present their cases before it makes a decision on appeal.
- (4) The decision of the board shall be final and binding on the parties to the appeal.
- (5) A party shall be obliged to pay the amount of the winnings or gambling debt as determined by the board on appeal within the period determined by the board.

97. Non-payment by patron

If a patron is obliged to pay a gambling debt in terms of an order made by the chief executive officer and has not appealed to the board against the said order, or is obliged to pay a gambling debt in terms of an order made by the board on appeal and has not made an application for review of the board's decision or order, but fails to make such a payment, the board may include such a patron's name in the list of excluded persons, as contemplated in regulation 74.

98. Gambling-related contracts

- (1) A gambling-related contract to which a licensee or an applicant for a licence is a party or intends to become a party shall be in writing if the total value of such contract exceeds the amount of R10 000,00 (ten thousand rand).
- (2) Gambling-related contracts with a single supplier shall also be in writing for a contracts concluded with a supplier if the total value of all previous

contracts with such supplier has exceeded R40 000,00 (forty thousand rand) in any year.

99. Submission of gambling-related contracts

- (1) A licensee or applicant for a licence shall, before entering into a gambling-related contract with a value of R300 000,00 (three hundred thousand rand) or more, submit the proposed contract or amended contract to the board for approval.
- (2) Every licensee shall, on a bi-monthly basis and within 14 days of the end of the second month of such period, submit to the board a schedule, in a form approved by the board, of all contracts entered into by such licensee, exceeding R10 000,00 in value, which schedule shall contain the name of the person within whom the contract is entered into, the goods or services provided and the value of the contract.
- (3) The board may request a copy of any contract entered into by a licensee for its approval.
- (4) The board may, when evaluating a contract or amendment of a contract, consider the suitability of the party as contemplated in section 86 of the Act with whom the licensee or applicant entered into a contract and may request such contractor to apply for a certificate of suitability as provided for in regulation 16.
- (5) The board may at any time review a contract referred to it for approval or approved by it in terms of this regulation.
- (6) If a contractor is found to be or becomes unsuitable, the board shall direct the licensee or applicant to terminate its contract with such contractor.
- (7) A licensee or an applicant required by the board to terminate a gambling related contract pursuant to this regulation shall do so within a time determined by the board.
- (8) Every gambling-related contract shall provide for its termination in the circumstances provided for in sub-regulations (4) and (5).

100. Summons.

A summons contemplated in section 30 of the Act shall be in in accordance with Form 11 of Schedule “B” of these regulations.

101. Repeal of Regulations

All regulations made in terms of the Act prior to the commencement of these regulations are hereby repealed.

102. Transitional Provisions

Any application, hearing, inquiry or action that commenced prior to the commencement of these regulations, shall continue in terms the repealed regulations until finalised.

103. Short title and commencement

These regulations are called the Provincial Gambling Regulations, 2017, and shall commence on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE "A"

NON -REFUNDABLE FEES PAYABLE BY THE APPLICANT

LICENCE OR ITEM	FEE PAYABLE	REGULATION REFERENCE
1. Gambling Machine Site Licence		
(a) Receipt of the request for proposal	R1000-00	Regulation 3
2. Bingo Licence		
(a) Receipt of the draft request for proposal	R1200-00	Regulation 3
(b) Attendance fee: Bidders Conference arranged by the board	R6000-00	Regulation 3
(c) Receipt of final Request for proposal	R6000-00	Regulation 3
3. Bookmakers Licence		
(a) Receipt of the draft request for proposal	R500-00	Regulation 3
(b) Attendance fee: Bidders Conference arranged by the board	R1000-00	Regulation 3
(c) Receipt of final Request for proposal	R1500-00	Regulation 3
4. Copies of application documentation	R2-00 per page	Regulation 6
5. Exclusivity of casino licence		
(a) amount payable per annum for the period of ten years escalating annually at inflation rate (CPI), if the value of the development does not exceed R200 Million	R500 000-00	Regulation 22(3)
(b) amount payable per annum for the period of ten years escalating annually at inflation rate (CPI), if the value of the development exceeds R200 Million	R1 000 000-00	Regulation 22(3)
6. Application for temporary key employee registration certificate	R175-00	Regulation 86
7. Application for temporary key employee registration certificate paid monthly on accrual basis within 7 days	R100-00	Regulation 86
8. Application for temporary Gambling employee registration certificate	R125-00	Regulation 86
9. Application for temporary gambling employee registration certificate paid monthly on accrual basis within 7 days	R75-00	Regulation 86
10. Change of position or replacement of the registration certificate	R70-00	Regulation 88

SCHEDULE "B"

FORM 1

APPLICATION FORM

I,, on behalf of the applicant hereby apply in terms of the Gambling Act, 1997 (Act No. 5 of 1997) (Eastern Cape), for a licence in the _____ magisterial district and confirm being aware of and understanding the provisions of the said Act and Regulations made thereunder, insofar as they pertain to this application.

Application for:	Section	Tick
Casino Licence	41	
Bingo Licence	48	
Route Operator Licence	49	
Bookmaker Licence	53	
Racecourse Licence	56	
Totalisator Licence	51	
Gambling Machine Site Licence	50	
Amendment of licence	35	
Transfer of licence	36	
Removal of business to other premises	37	
Addition of premises	37	
Deletion of licensed premises	37	
Acquisition of financial and controlling interest	40	
Certificate of suitability for third parties	86	

Details of the Applicant

Full name of applicant

.....

Physical business address

.....

Postal address

.....

Telephone number

Facsimile number

Physical address of the site in respect of which

application is made

.....

For and on behalf of the applicant

.....

Date (who warrants his authority)

.....

Name – print Capacity of signatory

FORM 2**EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997) NOTICE OF LODGEMENT OF APPLICATIONS FOR GAMBLING LICENCES**

Notice is hereby given that the applications for gambling licences, particulars of which appear in the Schedule hereunder, have been lodged with the Eastern Cape Gambling Board.

The applications may be inspected by any person at the offices of the Board and at [place of inspection in terms of regulation 8].

Any objections, petitions or representations shall be lodged with the chief executive officer of the Board within one month of the date of this notice.

All objections and comments shall specify: the application to which the objection or comment relates; the grounds on which the objection is founded; in the case of comment, full particulars and facts in substantiation thereof; the name, address, telephone and fax number of the objector or person making the comment and a statement whether the objector or person making the comment wishes to make oral representations when the application is heard.

A person lodging representations may show cause why the Board may determine that his or her identity should not be divulged.

The undermentioned figures used in brackets in the Schedule have the following meanings:

- (1) = The name and address of the applicant;
- (2) = If the applicant is a company or other corporate body, the names of all persons who have a financial or other interest of 5% or more in the applicant;
- (3) = In the case of a company, the initials and surnames of all directors of the company;
- (4) = The type of licence applied for;
- (5) = The address of the premises from which the applicant intends to operate.

FORM 3

EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997)

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that Public hearings in terms of section 28(1) of the Gambling and Betting Act, 1997 (Act No. 5 of 1997) (Eastern Cape) (as amended) ("the Act"), shall be held in respect of Applications received for, as set out in the Schedule(s) hereunder on at or as soon thereafter as the Board may be heard at

Chief Executive Officer

Eastern Cape Gambling Board

(Address of Board)

FORM 4

EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997)

CERTIFICATE OF SUITABILITY

It is hereby certified that the person whose particulars are set out hereunder has been found suitable by the Eastern Cape Gambling Board to:

(a) Procure an interest of..... in the business of.....being a licensee or applicant for a licence; or

(b) Supply goods and services, namely

.....

.....

.....to a licensee, namely

.....

.....

.....

(Delete one)

Chief Executive Officer
Eastern Cape Gambling Board
(Address of Board)

FORM 5**EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997)**

Notice is hereby given that the undernamed casino operator has applied for the extension of its right of exclusivity in the area mentioned hereunder and has tendered the lump sum payment set out hereunder. Any objections or representations thereto shall be lodged with the Chief Executive Officer of Eastern Cape Gambling Board within 30 days of the publication of this notice.

Applicant : _____

Licence Number : _____

Area of Exclusivity : _____

Lump sum : _____

The exclusivity fees payable in terms of section 44(4) are as follows:

Value of casino development	Exclusivity Fee
Where the value of the casino development does not exceed R200 million	R500 000,00 per annum for a period of ten years escalating annually at the inflation rate (CPI)
Where the value of the casino development exceeds R200 million	R1 000 000,00 per annum for a period of ten years escalating annually at the inflation rate (CPI)

Period for which exclusivity sought: _____

 Chief Executive Officer
 Eastern Cape Gambling Board
 (Address of Board)

FORM 6**EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997)**

**APPLICATION FOR REGISTRATION AS MANUFACTURER, ASSEMBLER, SELLER, DISTRIBUTOR,
IMPORTER, ACQUIRER, MARKETER, ALTERER OR MODIFIER OF GAMBLING DEVICES AS
SPECIFIED IN SECTION 61 OF THE ACT**

FOR OFFICE USE: REGISTRATION NO:

PHOTOGRAPH

Name:

Identity or registration number:

Tax number:

Address of Registered Office/Home Address:

Address from which activity in respect of which registration is sought is carried out:

Type(s) of activity in respect of which registration is sought:

Dates of previous periods of registration:

Reasons for any previous deregistration:

Employment Record: (Natural persons only)

Employer	Post held	From			To			Reason for leaving
		D	M	Y	D	M	Y	

Details of any prior convictions:

Crime	Date of Conviction	Sentence

Number of years completed	Contract No.	Trade

[illegible]

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery.

NOTE: A COMPLETED SAP 91 (a) FORM IN RESPECT OF THE APPLICANT MUST BE ANNEXED HERETO.

Names and Registration Numbers of all registered key persons and Gambling Employees in the Employ of the Applicant

Name	Key Persons Yes/No	Registration Number
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		

(If necessary annex further pages) I declare/truly affirm that the information furnished in this application and in the documents attached to it, is true.

Date _____

Signature of applicant or person authorised to sign application

I certify that this declaration has been signed and sworn to/affirmed before me at.....this.....day of..... by the applicant/person authorised to sign application who acknowledged that—

- (i) he/she knows and understands the contents of this declaration;
- (ii) he/she has no objection to taking the prescribed oath/affirmation: and
- (iii) he/she considers the prescribed oath to be binding on his/her conscience, and that he/she uttered the following words:

"I swear that the contents of this declaration are true, so help me God: / I truly affirm that the contents of this declaration are true".

Commissioner of Oaths

Full name _____
Business address _____
Designation _____
Area for which appointment is held _____
Office held if appointment is ex officio _____

FOR OFFICE USE

Date Received

Date of Registration

Approved/Disapproved - Reason _____

Registration No.: _____

Registration Fee Paid: _____

Receipt No.: _____

FORM 7

EASTERN CAPE GAMBLING ACT, (ACT NO. 5 OF 1997)

CERTIFICATE OF REGISTRATION

REGISTRATION AS MANUFACTURER, ASSEMBLER, MAINTAINER, REPAIRER, SELLER,
DISTRIBUTOR, IMPORTER, ACQUIRER, MARKETER, RENTER, LESSOR, ALTERER OR MODIFIER
OF GAMBLING DEVICES

It is hereby certified that

(FULL NAMES)

having the Identity/Registration number.....was registered with the Eastern Cape Gambling
Board as a.....

.....

.....

of gambling devices on this day of....., and has the
Board Registration Number

Chief Executive Officer
Eastern Cape Gambling Board
(Address of Board)
Date: _____

FORM 8

EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997)

APPLICATION FOR REGISTRATION AS KEY PERSON/GAMBLING EMPLOYEE FOR OFFICE USE:
REGISTRATION NO:

FOR OFFICE USE: REGISTRATION NO:	
----------------------------------	--

PHOTOGRAPH

Full Names:

Identity No:

Tax number:

Home Address:

.....

.....

Name of Employer:

Type of Registration of Employer:

Employer's licence /registration No:

Business Address:

.....

.....

Telephone No: (H) (W)

Type of Registration sought: Key person/ Gambling employee (delete one)

Present duties:

.....

Position held:

.....

Are you registered as Key Person/ Gambling Employee in another Province

Yes/No (delete one)

Details of above registration:

Province	Registration No.	Details

Employment Record: (Natural persons only)

		From	To	Reason
--	--	------	----	--------

Employer	Post held	D	M	Y	D	M	Y	for leaving

Details of any prior convictions:

Crime	Date of Conviction	Sentence

Qualifications:

NOTE: A COMPLETED SAP 91 (a) FORM IN RESPECT OF THE APPLICANT MUST BE ANNEXED TO THIS FORM.

I declare/truly affirm that the information furnished in this application and in the documents attached to it, is true.

Date _____

Signature of applicant or person authorised to sign

I certify that this declaration has been signed and sworn to/affirmed before me atthis.....day of..... by the applicant/person authorised to sign application who acknowledge that—

- (i) he/she knows and understand the contents of this declaration;
- (ii) he/she has no objection to taking the prescribed oath/affirmation; and
- (iii) he/she considers the prescribed oath to be binding on his/her conscience, and that he/she uttered the following words: "I swear that the contents of this declaration are true, so help me God". "I truly affirm that the contents of this declaration are true".

Commissioner of Oaths

Full names _____

Business Address _____

Designation Area for which appointment is held _____

Office held if appointment is ex officio _____

FOR OFFICE USE

Date Received

--	--	--

Approved/Disapproval Reason: _____

Registration No: _____

Registration Fee Paid: _____

Receipt No.: _____

FORM 9

EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997)
APPLICATION FOR TEMPORARY REGISTRATION AS KEY
PERSON/GAMBLING EMPLOYEE

Full Names: _____

Identity No: _____

Post for which Temporary Registration sought: _____

Employer: _____

Employers Licence/Registration No.: _____

Date of Lodgement of Application for Permanent Registration: _____

Only temporary registration is sought (Regulation 134 (9)) Yes/No (Delete one)

Reason for request for temporary registration: _____

I confirm that the operation of the above licensee / person registered in terms of section 61 of the Act will be seriously prejudiced by any delay in my employment / the interruption of my employment (delete one) and that my employment will not prejudice the integrity and proper operation of the business of the above licensee / registered person.

I declare/truly affirm that the information furnished in this application and in the documents attached to it, is true.

Date _____

Signature of applicant _____

I certify that this declaration has been signed and sworn to/affirmed before me atthis.....day of..... by the applicant/person authorised to sign application who acknowledge that—

- (i) he/she knows and understand the contents of this declaration;
- (ii) he/she has no objection to taking the prescribed oath/affirmation; and
- (iii) he/she considers the prescribed oath to be binding on his/her conscience, and that he/she uttered the following words: "I swear that the contents of this declaration are true, so help me God"./"I truly affirm that the contents of this declaration are true".

Commissioner of Oaths

Full names _____

Business Address _____

Designation _____

Area for which appointment is held _____

Office held if appointment is ex officio _____

DECLARATION BY LICENSEE/REGISTERED PERSON/EMPLOYER

I confirm that the operation of the above licensee / registered person will be seriously prejudiced by any delay in employing the applicant / by the interruption of his or her employment. (delete one) AND that the commencement of the employment or continued employment of the applicant will not prejudice the integrity and proper operation of the business of the above licensee / registered person (delete one).

I declare/truly affirm that the information furnished in this application and in the documents attached to it, is true.

Date _____

Signature or person authorised to sign on behalf of
licence registered person

I certify that this declaration has been signed and sworn to/affirmed before me atthis....day of.....
by the applicant/person authorised to sign application who acknowledge that—

- (i) he/she knows and understand the contents of this declaration;
- (ii) he/she has no objection to taking the prescribed oath/affirmation; and
- (iii) he/she considers the prescribed oath to be binding on his/her conscience, and that he/she uttered the following words: "I swear that the contents of this declaration are true, so help me God"/"I truly affirm that the contents of this declaration are true".

Commissioner of Oaths

Full names

Business Address _____

Designation _____

Area for which appointment is held _____

Office held if appointment is ex officio _____

FORM 10**EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997)****REGISTRATION CERTIFICATE**

It is hereby certified that the person whose particulars are set out hereunder is registered at the Eastern Cape Gambling Board as a Key Person/Gambling Employee (delete one).

FRONT:

<p>EASTERN CAPE GAMBLING BOARD REGISTRATION CERTIFICATE</p> <p>The bearer of this certificate is appointed as a— KEY PERSON/GAMBLING EMPLOYEE* in terms of section 68/69* of the Eastern Cape Gambling Act, 1997 (Act No. 5 of 1997)</p> <p>FULL NAMES: IDENTITY No.: POSITION HELD: REGISTRATION No.: ISSUE DATE EXPIRY DATE</p> <p>..... CHIEF EXECUTIVE OFFICER</p>	<p>PHOTOGRAPH</p>
---	-------------------

*Omit one.

BACK:

<p>THIS CERTIFICATE REMAINS THE PROPERTY OF THE EASTERN CAPE GAMBLING BOARD. IF FOUND PLEASE RETURN TO: P.O. BOX 15355, BEACON BAY, EAST LONDON, 5205 TEL. (043) 702 8300</p>

FORM 11**EASTERN CAPE GAMBLING ACT, 1997 (ACT NO. 5 OF 1997) SUMMONS IN TERMS OF SECTION 30 OF THE ACT**

TO:

Name:		
Address:		
Sex:	Age:	Id. No:

By virtue of the powers vested in the board by section 30 (4) of the Act, you are hereby directed to be present and give evidence /produce the documents or any other thing indicated in Annexure.....hereto at a meeting of the board which relates to..... and which will be held on the date, time and at the place indicated below.

Date	Time	Place

Your attention is invited to the fact that it is an offence not to appear or not to remain in attendance without the consent of the chairperson first having been obtained.

Place of issue: East London

Date _____
Chief Executive Officer

FOR OFFICIAL USE ONLY

I certify that I have served this notice upon the said person by—

*(a)	delivering a true copy to..... PERSONALLY;
(b)	delivering as he/she could not be found, a true copy to apparently over the age of 16 years and apparently residing or employed at the place of RESIDENCE/EMPLOYMENT/BUSINESS of the said

at _____

The nature and exigency of this notice was explained to the recipient thereof.

Time.....Day Month 19.....

SIGNATURE

FULL NAMES:

* Delete whichever is not applicable

SCHEDULE**SCHEDULE II - Application, licence and other fees payable**

The fees payable for applications in respect of licences are:

<i>Kinds of licences</i>	<i>Existing Application fee R</i>	<i>Revised Application fee R</i>
Casino Licence		
(a) Receipt of draft Request for Proposal (if made available by the board)	1 000	1 750
(b) Attendance Fee: Bidders conference arranged by the board	5 000	8 650
(c) Receipt of request for Proposal	5 000	8 650
(d) Application fee: Casino to be located within a radius of 75km of Port Elizabeth harbour or East London harbour	350 000	350 000
(e) Application fee: Casino to be located outside the area contemplated in (d)	200 000	346 550
(f) Application fee: Transfer of licence	100 000	173 000
(g) Application fee: Amendment of licence or removal to other premises	5 000	8 650
(h) Application fee: Consent for procurement of interest in licensee	5 000	8 650
(i) Application fee: Temporary licence	20 000	34 650
Route Operator Licence		
(a) Receipt of draft Request for Proposal (if made available by the board)	500	850
(b) Attendance Fee: Bidders conference arranged by the board	2 500	4 350
(c) Receipt of request for Proposal	2 500	4 350
(d) Application fee: Route Operator Licence	100 000	100 000
(e) Application fee: Transfer of licence	50 000	86 650
(f) Application fee: Amendment of licence	500	1 200
(g) Application fee: Consent for procurement of interest in licensee	2 500	4 350
(h) Application fee: Temporary licence	5 000	8 650
Gambling Machine Site Licence		
(a) Application for licence	1 000	2 500
(b) Application for transfer of licence	500	1 200
(c) Application for amendment of licence or removal to other premises	100	200
(d) Application for procurement of interest in licensee	250	600
(e) Application for temporary licence	250	425
Bingo Licence		
(a) Application for licence	15 000	37 000
(b) Application for transfer of licence	7 500	18 500
(c) Application for amendment of licence or removal to other premises	500	1 200
(d) Application for procurement of interest in licensee	250	600
(e) Application for temporary licence	500	850
Race Course Licence		
(a) Application for licence	1 000	2 500
(b) Application for transfer of licence	500	1 200
(c) Application for amendment of licence or removal to other premises	100	200
(d) Application for procurement of interest in licensee	250	600
(e) Application for temporary licence	250	425
Totalisator Licence		
(a) Application for licence	20 000	49 300
(b) Application for transfer of licence	10 000	17 350

<i>Kinds of licences</i>	<i>Existing Application fee</i> R	<i>Revised Application fee</i> R
(c) Application for amendment of licence or removal to other premises	500	850
(d) Application for procurement of interest in licensee	500	1 200
(e) Application for temporary licence	500	850
Bookmaker Licence		
(a) Application for licence	1 000	2 500
(b) Application for transfer of licence	500	1 200
(c) Application for amendment of licence or removal to other premises	100	200
(d) Application for procurement of interest in licensee	250	600
(e) Application for temporary licence	250	425
Temporary licence other than those stipulated above	100	150
Certificate of Suitability	1 000	1 750

B. The annual fees payable by licensees are:

<i>Kinds of licences</i>	<i>Existing Annual licence fee</i> R	<i>Existing Annual board administration fee</i> R	<i>Revised Annual licence fee</i> R	<i>Revised Annual board administration fee</i> R
1. Casino licence or Provisional licence				
(a) casino licence	15 000	50 000	250	160 000
(a) provisional licence for a casino	10 000	15 000	250	61 250
(b) temporary licence for a casino	5 000	35 000	250	98 500
2. Route operator licence	5 000	25 000	250	70 000
3. Gambling machine site licence and provisional gambling machine site licence (per site)	500	500	50	2 450
4. Bingo licence and provisional bingo licence (per bingo hall)	2 000	5 000	250	17 000
5. Race course licence and provisional race course licence (per race course)	1 000	1 000	50	4 750
6. Totalisator licence and provisional totalisator licence (per licensed premises)	500	500	50	2 450
7. Bookmaker licence and provisional bookmaker licence (per licensed premises)	500	500	50	2 450

C. Application fees in respect of registration are as follows:

<i>Kinds of registration</i>	<i>Existing Application fee</i> R	<i>Revised Application fee</i> R
Gambling device registration		
(a) Roulette wheels (per wheel)	500	1 200
(b) Roulette tables (per table)	500	1 200
(c) Electronic player terminals linked to a table game (per terminal)	100	250
(c) Gambling tables other than roulette tables (per table)	1 000	2 500
(d) Multiplayer gambling machines (per machine)	1 000	2 500
(e) Single player gambling machines other than limited gambling machines (per machine)	100	250
(f) Limited gambling machines (per machine)	50	100
(g) Devices to be registered not set out above (per device or class of device)	10	25
Transfer of registration not set out above (per device or class of device)	10	25
Section 61 registration		
(a) Manufacturers, importers and distributors who do not only manufacture, import or distribute computer software used in connection with gambling and betting	10 000	25 000
(b) Creators, manufacturers, importers and distributors of only computer software used in connection with gambling and betting	2 000	4 750
(c) Persons performing only activities other than those contemplated in (a) or (b)	1 000	2 500

Kinds of registration	Existing Application fee R	Revised Application fee R
(d) Transfer of registration: Persons contemplated in (a)	5 000	12 000
(e) Transfer of registration: Persons contemplated in (b)	1 000	2 500
(f) Transfer of registration: Persons contemplated in (c)	500	1 200
(g) Amendment of registration: Persons in (b) wanting to perform activities contemplated in (a)	8 000	20 000
(h) Amendment of registration: Persons in (c) wanting to perform activities contemplated in (a)	9 000	22 500
(i) Amendment of registration: Persons in (c) wanting to perform activities contemplated in (b)	1 000	2 500
(j) Amendment of registration other than those in (g), (h) and (i)	1 000	2 500
(j) Procurement of interest in registrant in terms of section 61	500	1 200

D. Annual fees payable for registration are as follows:

Kinds of registration	Existing Annual registration fee R	Existing Annual board administration fee R	Revised Annual registration fee R	Revised Annual board administration fee R
Gambling device registration				
(a) Roulette wheels (per wheel)	500	1 000	50	3 650
(b) Roulette tables (per table)	500	1 000	50	3 650
(c) Electronic player terminals linked to a table game (per terminal)	500	500	50	2 450
(d) Gambling tables other than roulette tables (per table)	1 000	2 000	150	7 250
(e) Multiplayer gambling machines (per machine)	1 000	1 000	150	4 750
(f) Single player gambling machines other than limited gambling machines (per machine)	500	500	50	2 450
(g) Limited gambling machines (per machine)	250	250	50	1 150
Section 61 registration				
(a) Manufacturers, importers and distributors	5 000	5 000	250	24 500
(b) Creators, manufacturers, importers and distributors of computer software used in connection with gambling and betting	1 000	1 000	250	4 750
(b) Persons performing only tasks other than those contemplated in (a) and (b)	500	500	-	2 500
Section 68 registration (per key person)	250	250	-	1 250
Section 69 registration (per gambling employee)	50	50	-	250

PROVINCIAL NOTICE 22 OF 2018
PROVINCE OF THE EASTERN CAPE

**DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS
AND TOURISM**

**PUBLICATION OF EASTERN CAPE PARKS AND TOURISM AGENCY BILL, 2018
FOR PUBLIC COMMENT**

I, **Sakhumzi Somyo**, Member of the Executive Council responsible for Economic Development, Environmental Affairs and Tourism in the Province of the Eastern Cape, hereby in terms of Rule 147 of the Standing Rules of Legislature, publish for public comment, the Eastern Cape Parks and Tourism Agency Bill, 2018.

Any person who wishes to comment on said Bill must submit such comments in writing within 45 days of publication hereof.

All written representations and comments must be submitted in writing to:

The Head of Department
Department of Economic Development, Environmental Affairs & Tourism
Private Bag X 0054
BHISHO
5605

Attention: Ronel de Bruin/Charnette Ferreira
Email: ronel.debruin@dedea.gov.za and Charnette.ferreira@dedea.gov.za

Tel: (043) 605 7058

Or hand delivered to:

The Head of Department
2nd Floor Old Metro Building
Cnr of Hargreaves and Hockley Close Street
Beacon Hill
KING WILLIAM'S TOWN

Attention: Ronel de Bruin / Charnette Ferreira

Tel: (043) 605 7058

Or sent by Email to: ronel.debruin@dedea.gov.za and

Charnette.ferreira@dedea.gov.za

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Comments received after the closing date will not be considered.

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PROVINCE OF THE EASTERN CAPE

EASTERN CAPE PARKS AND TOURISM AGENCY BILL, 2018

(As introduced)

(MEC FOR ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM)

BILL

To provide for the continuation of the Eastern Cape Parks and Tourism Agency in order to develop and manage protected areas and to promote and facilitate the development of tourism in the Province and to confer powers, functions and duties upon that Agency; to provide for the management thereof by a Board and the appointment of members thereof; to establish the Eastern Cape Tourism Development Fund and the Eastern Cape Biodiversity Conservation and Development Fund; to provide for the registration of certain persons and services involved in tourism; to provide for the collection of registration fees in respect of registered persons and services; to provide for the inspection of premises; to provide for transitional arrangements; and to provide for matters incidental thereto.

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CHAPTER 1

DEFINITIONS AND OBJECTS OF THE ACT

1. Definitions

In this Act, unless the context otherwise indicates –

"Agency" means the Eastern Cape Parks and Tourism Agency referred to in section 30;

"biodiversity" has the same meaning assigned to it in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

"Board" means the Board of the Eastern Cape Parks and Tourism Agency referred to in section 13;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department responsible for tourism and environmental affairs in the Province;

"Eastern Cape Parks and Tourism Agency Act, 2010" means the Eastern Cape Parks and Tourism Agency Act, 2010 (Eastern Cape), Act No. 2 of 2010;

"Gazette" means the Provincial Gazette of the Province;

"HOD" means the Head of the Department;

"management" in relation to a protected area, means the "management" as defined in the Protected Areas Act;

"management authority" in relation to a protected area means "management authority" as defined in the Protected Areas Act;

"MEC" means the Member of the Executive Council of the Province to whom the Premier has assigned tourism and environmental matters in the Province;

"municipality" means a municipality established under the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"National Environmental Management Act" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"Premier" means the Premier of the Province;

"prescribe" means prescribe by the MEC in terms of section 6;

"protected area" means a protected area as contemplated in section 9 of the Protected Areas Act, including a national protected area, a provincial protected area or a local protected area as defined, or any other land acquired or formally assigned to the Agency which is, at the time of commencement of this Act, managed by the Eastern Cape Parks and Tourism Agency as management authority under an assignment made by the Cabinet member responsible for national environmental management or forests, or the MEC under section 38 (1) or (2) of the Protected Areas Act, or managed in terms of an agreement with the organ of state responsible for environmental affairs;

"Protected Areas Act" means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

"Province" means the Province of the Eastern Cape established by section 103 of the Constitution;

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"registration fee" means a registration fee as provided in section 55;

"regulation" means a regulation made by the MEC in terms of section 6;

"SMME" means a small enterprise defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

"this Act" includes any regulations, proclamation, notice or guidelines issued in terms of a provision of this Act;

"Tourism Act" means the Tourism Act, 2014 (Act No. 3 of 2014); and

"tourist service" includes a tourist amenity or facility, tour operator, courier, travel agent, vehicle rental operator, activity operator or a tourism or biodiversity management training provider and a tourist service if that service is a hotel, lodge, guesthouse, bed and breakfast establishment, conference centre or restaurant.

2. Objects of the Act

The objectives of the Act are to –

- (a) provide, within the framework of national legislation, including the National Environmental Management Act, for the declaration and management of protected areas;
- (b) provide for co-operative governance in the declaration and management of protected areas;
- (c) give effect to a national and provincial system of protected areas in the Province as part of a strategy to manage and conserve its biodiversity;

- (d) provide for a representative system of protected areas on state land, private land and communal land;
- (e) promote sustainable utilisation of protected areas for the benefit of people in a manner that would preserve the natural ecological character of such areas;
- (f) promote participation of local communities in the management of protected areas where appropriate;
- (g) promote the participation of local communities in the biodiversity economy;
- (h) facilitate efforts towards transformation of the game industry;
- (i) promote the practising of responsible tourism, as contemplated in section 2(2) of the Tourism Act;
- (j) provide for the effective domestic and international marketing of South Africa as a tourist destination;
- (k) promote and facilitate quality tourism products and services;
- (l) promote growth, transformation and development of the tourism sector; and
- (m) enhance cooperation and coordination between all spheres of government in developing and managing biodiversity and tourism.

CHAPTER 2

DEPARTMENTAL OVERSIGHT AND EXECUTIVE AUTHORITY

3. Executive authority

- (1) The MEC is the executive authority for the Agency as contemplated in the Public Finance Management Act.
- (2) The MEC—
 - (a) must appoint the members of the Board and determine their remuneration in consultation with the Member of the Executive Council responsible for Finance;
 - (b) must appoint the Provincial Registrar for Tourist Guides as contemplated in section 49 of the Tourism Act;
 - (c) must establish and maintain clear channels of communication between him or her and the Agency;
 - (d) must monitor and annually review the performance of the Agency;

- (e) must, every third year, facilitate the review of the Agency's performance in relation to its objectives by an external evaluation panel, appointed in a manner ensuring transparency and openness, and drawn from the public and the private sector, and comprising at least—
 - (i) of persons with sound knowledge of and experience in tourism, marketing, conservation management and commercialisation; and
 - (ii) a person with sound knowledge and experience in public entity management and corporate governance;
- (f) may issue directives to the Agency to ensure that it operates effectively and with economic efficiency in achieving the strategic objectives of national and provincial government; and
- (g) may, notwithstanding the provisions of this Act, instruct the Agency to rectify any performance matters identified through the review process contemplated in paragraph (d) or (e) within a minimum of 30 days of receipt of a written notice to this effect, and, if the Agency fails to rectify the performance within the stipulated period, the Department may instruct the Agency to relinquish the function to the Department who must then exercise and perform that function on behalf of the Agency.

4. Provincial guidelines

- (1) The MEC may issue guidelines on matters applicable to the tourism and biodiversity management sectors, which are consistent with the objects of this Act, the Tourism Act, and related legislation in relation to—
 - (a) mechanisms to promote the participation of previously disadvantaged individuals, communities or SMMEs in the tourism and environmental management sectors;
 - (b) the promotion of service provision by the Agency;
 - (c) guidelines for the determination of fees and registration fees by the Board;
 - (d) the application of new technologies; or
 - (e) any other policy which may be necessary for the application of this Act or related legislation.
- (2) The Agency, in exercising its powers and performing its duties in terms of this Act, the Tourism Act, 2014, the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) and the related legislation, must consider guidelines issued by the MEC in terms of subsection (1).

5. Investigation and exercise and performance of departmental power and duty by Agency

The MEC may –

- (a) after consultation with the Agency and consideration of the availability of resources, request the Agency to investigate any matter pertaining to biodiversity management or tourism as he or she considers necessary;
- (b) after consultation with the Agency and consideration of the availability of resources, request the Agency to exercise or perform a power or duty of the Department or other organs of state pertaining to tourism or biodiversity management on behalf of the Department or organ of state; or
- (c) investigate the affairs or financial position of the Agency.

6. Regulations

- (1) The MEC may, by notice in the *Gazette*, make regulations consistent with this Act regarding–
 - (a) any matter that is required or permitted to be prescribed in terms of this Act;
 - (b) a code of conduct for members of the Board;
 - (c) any matter relating to the functioning of the Agency or the Board that is necessary to ensure the Agency's efficiency or to promote good order; or
 - (d) any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act.
- (2) Before the MEC makes any regulation under this section, he or she must publish a draft of the proposed regulation in the *Gazette*, together with a notice calling on interested persons to comment in writing, within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice.
- (3) If the MEC alters the draft regulations as a result of any comment received, he or she need not publish those alterations before making the regulations.

7. Delegation by MEC

The MEC may delegate any of his or her powers in terms of this Act, excluding the power to make regulations and guidelines and the power to appoint the members of the Board, to any official of the Department.

8. Declaration of provincial protected area

The MEC may declare any kind of provincial protected area in accordance with the provisions of the Protected Areas Act and any other applicable provincial legislation, and may assign the management of that area to the Agency, if appropriate.

9. Regulation and restrictions of activities in, and control of access to, provincial protected areas

The MEC must regulate and restrict activities in provincial protected areas, including the control of access to these areas as contemplated in section 49(b) of the Protected Areas Act.

10. Consolidation and expansion of provincial protected areas

- (1) The MEC may request the Premier, for purposes of consolidating and expanding the provincial protected area system, to acquire land, enter into an agreement with an owner of land, and assign public or state land in accordance with the provisions of the Eastern Cape Land Disposal Act, 2000 (Act No. 7 of 2000).
- (2) The MEC may request the Premier, acting with the concurrence of the Executive Council, and in accordance with the provisions of the Eastern Cape Land Disposal Act, 2000 (Act No. 7 of 2000), to acquire private land, or any right in or to private land, which has been or is proposed to be declared as a protected area, by–
 - (a) purchasing the land or right; or
 - (b) exchanging the land for other land.
- (3) The MEC may, in the prescribed manner, conclude an agreement with any owner of land for purposes of jointly undertaking biodiversity management on that land.
- (4) The MEC may assign the management of any public or state land from a provincial department or other provincial organ of state, in consultation with that provincial department or other provincial organ of state, to the Agency.

11. Extension of period of time

The MEC may on application for an extension, if reasonable grounds exist, extend any period of time determined in relation to anything provided for in this Act.

CHAPTER 3

GENERAL GOVERNANCE OF AGENCY

12. Role of Board

- (1) The Agency is managed by a Board that –

- (a) gives strategic direction to the Agency;
 - (b) is responsible for the performance of the Agency;
 - (c) is accountable to the MEC for the performance of the Agency; and
 - (d) is supported by a chief executive officer and other employees.
- (2) The Agency communicates with the MEC through the chairperson of the Board.

13. Constitution of Board

- (1) The Board consists of not less than seven and not more than nine members, appointed by the MEC from applications and nominations received as contemplated in section 14, of whom at least–
- (a) one must be an official employed by the Department to serve as an *ex officio* member;
 - (b) one must have skills and experience in tourism, tourism marketing and development;
 - (c) one must have skills and experience in biodiversity conservation and management;
 - (d) one must have skills and experience in business and financial management;
 - (e) one must have legal expertise and experience;
 - (f) one representative of the community nominated by the Province's People and Parks Forum, or a similar provincial forum or organisation; and
 - (g) one must represent the public.
- (2) The Board must be broadly representative of the population of the Province.

14. Nomination procedure

- (1) The MEC must, at least 90 days before the expiry of every term of office of the members of the Board, invite applications or nominations for persons to be appointed to the ensuing term of office of the Board by notice in the *Gazette* and an advertisement in a leading newspaper in the Province.
- (2) The invitation for applications or nominations referred to in subsection (1) must provide for the applications or nominations to be submitted within 30 days from the date of the invitation or the date of publication of the notice.
- (3) Any application or nomination made pursuant to a notice or an advertisement in terms of subsection (1) must be made in the form determined by the MEC and be accompanied by–

- (a) the personal details of the applicant or nominee;
 - (b) particulars of the applicant's or nominee's qualifications or experience in the matters listed in section 13(1);
 - (c) in the case of a nomination, a letter of acceptance of nomination by the nominee;
 - (d) a sworn declaration by the applicant or nominee that he or she is not disqualified in terms of section 15;
 - (e) a disclosure of the information contemplated in section 19; and
 - (f) permission by the applicant or nominee to verify the information provided by him or her.
- (4) The MEC must, within 30 days from the expiry of the date specified in the notice and the advertisement, evaluate the applications and nominations received by him or her, and appoint the members of the Board for the ensuing term of office of the Board.
- (5) When evaluating the nominations, the MEC must take into consideration—
- (a) the applicant's or nominee's knowledge and experience of the matters referred to in section 13(1);
 - (b) the need for appointing persons disadvantaged by unfair discrimination;
 - (c) the geographic spread in the Province;
 - (d) the need to ensure that the Board is composed of persons covering a broad range of appropriate experience and expertise; and
 - (e) the Agency's objectives.
- (6) If insufficient, unsuitable or no applications and nominations are received within the period specified in the invitations or the notice, the MEC may appoint to the Board the required number of persons who, but for the fact that they did not apply or were not nominated in terms of the procedure contemplated in this section, qualify to be appointed in terms of this Act.
- (7) The MEC must, as soon as practicable after the appointment of the members of the Board, publish by notice in the *Gazette*—
- (a) the name of every person appointed;
 - (b) the date from which the appointment takes effect; and
 - (c) the term of office referred to in section 21.

15. Disqualification from appointment to or remaining as member of Board

A person is disqualified from being appointed or remaining a member of the Board if that person—

- (a) is or becomes a Member of the National Assembly or National Council of Provinces, any provincial legislature or municipality, or is in the full-time employ of an organ of state with the exception of the representative of the Department contemplated in section 13(1);
- (b) is not a South African citizen or a permanent resident who is ordinarily resident in the Republic;
- (c) is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or agency of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;
- (d) is declared by the High Court to be of unsound mind or suffers from a mental illness, or has a severe or profound intellectual disability as contemplated in the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (e) has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, or any offence involving dishonesty, or of any offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or the Companies Act, 1973 (Act No. 61 of 1973), or of contravening this Act, and sentenced to imprisonment irrespective of whether such imprisonment was wholly or partly suspended or not;
- (f) has been convicted of an offence, other than an offence contemplated in paragraph (e), and sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not;
- (g) without authorisation discloses or improperly acts on information gained as a result of his or her membership of the Board; or
- (h) fails to disclose an interest as contemplated in section 19(1).

16. Resignation of member and vacation of office

- (1) A Member of the Board may at any time resign from the Board by giving one month's written notice tendered to the chairperson who must immediately inform the MEC, the Board and the chief executive officer accordingly.

- (2) A member of the Board who resigns as contemplated in subsection (1) must vacate his or her office at the end of the notice period contemplated therein.
- (3) A member of the Board ceases to be a member and must vacate his or her office with immediate effect if he or she—
 - (a) is no longer eligible in terms of section 15 to be a member; or
 - (b) is removed from office by the MEC in terms of section 17.

17. Removal of member of Board, dissolution of Board and appointment of interim Board

- (1) The MEC may, after due inquiry, or on recommendation of the Board after due enquiry, remove, with immediate effect, a member of the Board from office on account of any or all of the following—
 - (a) Misconduct;
 - (b) inability to perform the duties of his or her office efficiently;
 - (c) absence from three consecutive meetings of the Board without the permission of the Board, except on good cause shown; or
 - (d) failure to disclose an interest in terms of section 19, or voting or attendance at, or participation in, proceedings of the Board while having an interest contemplated in section 19.
- (2) The MEC may, after due inquiry, dissolve the Board with immediate effect, if it fails in any or all of the following:
 - (a) Discharging its fiduciary duties;
 - (b) achieving its objectives in terms of this Act; or
 - (c) carrying out its duties.
- (3) Upon the dissolution of the Board contemplated in subsection (2), the MEC must appoint an interim Board consisting of not less than seven and not more than nine members, and he or she does not have to follow the nomination and appointment procedure contemplated in section 14.
- (4) The MEC must appoint the interim Board within 30 days after the dissolution of the Board, and the term of office of the interim Board is a period not exceeding six months.
- (5) The MEC may only appoint the Board or the interim Board, or dissolve the Board after consultation with the Legislature's Portfolio Committee responsible for parks and tourism in the Province.
- (6) The Portfolio Committee must table a report on the consultation process to the Legislature.

(7) The MEC must appoint the chairperson and deputy chairperson of the interim Board.

(8) The provisions of this Act regarding the Board apply to the interim Board.

18. Appointment of member to vacant seat

(1) When a seat on the Board becomes vacant as a result of any action referred to in section 16, or if a Board member dies before the expiration of his or her term of office, the Board must, as soon as is practicable after the seat becomes vacant, notify the MEC that the seat has become vacant.

(2) The MEC must, as soon as is practicable after the receipt of the notification from the Board—

(a) in an open and transparent manner, invite applications or nominations for a person to be appointed to the vacant seat;

(b) evaluate the applications and nominations received; and

(c) appoint a nominee or candidate to the vacant seat.

(3) If insufficient, unsuitable or no nominations are received as contemplated in subsection (2) (b), the MEC may appoint to the vacant seat on the Board any person who, but for the fact that he or she was not nominated or did not apply in terms of the procedure contemplated in subsection (2), qualify to be appointed in terms of this Act.

(4) The MEC must, as soon as is practicable after the appointment of the member to the vacant seat on the Board, publish by notice in the *Gazette*—

(a) the name of the person appointed;

(b) the date from which the appointment takes effect; and

(c) the period for which the appointment is made as contemplated in subsection (5).

(5) The person who is appointed to the vacant seat on the Board fills the vacancy for the unexpired portion of the period of office of the vacating member.

19. Disclosure of interest

(1) A person may only be appointed to the Board if he or she has made the following disclosure:

(a) whether, directly or indirectly, personally or through his or her spouse, partner or associate, he or she has an interest in the tourism or biodiversity conservation industry, and must stipulate the nature and extent of that interest; or

(b) whether his or her spouse, partner or associate holds an office in, or is employed by, any

company, organisation or other body, whether corporate or incorporate, which has a direct or indirect financial interest of the nature contemplated in paragraph (a).

- (2) If at any stage during the course of any proceedings before the Board it appears that any Board member has or may have an interest which may cause a conflict of interest–
 - (a) that Board member must forthwith fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining Board members to discuss the matter and determine whether that Board member is precluded from participating in that meeting by reason of a conflict of interest; and
 - (b) the disclosure of interest by that member and the decision taken by the remaining Board members regarding the matter must be recorded in the minutes of the meeting in question.
- (3) If any Board member fails to disclose any interest as required by subsection (2) or, subject to the provisions of that subsection, he or she is present at the venue where a meeting of the Board is held, or in any manner whatsoever participates in the proceedings of the Board, the relevant proceedings of the Board will be null and void.

20. Chairperson and deputy chairperson

- (1) The MEC must appoint a chairperson and a deputy chairperson for every newly constituted Board.
- (2) The deputy chairperson must, if the chairperson is for any reason unable to act as chairperson, perform all the functions of the chairperson and may exercise all the powers of the chairperson.
- (3) If both the chairperson and the deputy chairperson are for any reason unable to preside at a Board meeting, the members present must elect one of the members to preside at that meeting and the person elected may perform all the functions and exercise all the powers of the chairperson.
- (4) A chairperson or deputy chairperson may vacate office as such, and such vacation does not terminate his or her membership of the Board, and, if the chairperson or deputy chairperson has vacated office, the MEC must appoint a chairperson or deputy chairperson from the Board members for the remaining term of office of the Board.

21. Term of office

- (1) A Board member holds office for a period of three years calculated from the date that his or her appointment takes effect, and may be eligible for re-appointment for one additional term not exceeding three years.
- (2) Despite subsection (1), the MEC may, by notice in the *Gazette*, after consultation with the Board, extend the term of office of all the Board members for a period of six months, but he or she may only extend the term of office of the Board twice.

- (3) Despite the duration of office referred to in subsection (1), Board members continue in office until the succeeding Board is duly constituted by the MEC.

22. Meetings of Board

- (1) The MEC must, as soon as is practicable after the appointment of the Board for the first term of office, determine the time and place of its first meeting.
- (2) The Board must determine the time and place of any future meetings for the first and subsequent terms of office of the Board.
- (3) The Board meets as often as circumstances require, but at least four times in every financial year.
- (4) A majority of Board members constitutes a quorum at a meeting.
- (5) Every Board member, including the chairperson, has one vote and, in the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.
- (6) Subject to the approval of the Board, any person who is not a Board member may attend or take part, but may not vote, in a meeting of the Board.
- (7) The Board must adopt governance rules, which provide for the conduct of proceedings at meetings and recording of the proceedings, including the governance rules for special meetings.

23. Decisions of Board

- (1) A decision of the majority of Board members present at any duly constituted meeting constitutes a decision of the Board.
- (2) No decision taken by or act performed under the authority of the Board is invalid only by reason of–
- (a) a vacancy on the Board at the time the decision was taken or the act was authorised; or
- (b) the fact that any person who was not entitled to sit as a Board member, participated in the meeting at the time the decision was taken or the act was authorised, if the members who were present at the time followed the required procedure for decisions.

24. Duties of Board

- (1) In addition to the duties and responsibilities as accounting authority of the Agency provided for in the Public Finance Management Act, the Board must–
- (a) provide effective, transparent and accountable corporate governance and conduct effective oversight of the affairs of the Agency by adopting governance rules in accordance with

subsection (2);

(b) comply with all applicable legislation and agreements; and

(c) at all times act in accordance with the code of conduct for members of the Board as may be prescribed by the MEC.

(2) The Board must adopt governance rules that substantially comply with the principles of good governance for a public entity and which provide for at least the following–

(a) The role and meetings of the Board;

(b) the role of the chairperson of the Board;

(c) performance assessment of Board members;

(d) the role of the chief executive officer;

(e) performance assessment of the chief executive officer;

(f) the composition and procedures for and conduct of meetings of committees of the Board;

(g) the financial management of the Agency as contemplated in the Public Finance Management Act;

(h) a procurement policy; and

(i) a remuneration policy for employees of the Agency, developed in consultation with the MEC and the MEC responsible for Finance in the Province.

25. Executive management and employees

(1) The Board must–

(a) appoint a chief executive officer;

(b) determine the period of office of the chief executive officer, provided that the period may not exceed 5 years; and

(c) determine the conditions of appointment of the chief executive officer.

(2) The chief executive officer must enter into a performance agreement with the Board on acceptance of his or her appointment, and he or she is accountable to the Board.

(3) The chief executive officer is the head of the Agency's administration and, subject to directives from the Board, the functions of the chief executive officer are, amongst others, to–

- (a) manage the affairs of the Agency;
 - (b) implement the policies and decisions of the Board;
 - (c) manage and recruit employees to perform the work necessary to achieve the objects of the Agency; and
 - (d) develop efficient, transparent and cost-effective administrative systems.
- (4) The Agency must determine the conditions of service for its employees, including remuneration which must be determined in accordance with the remuneration policy referred to in section 24(2)(i).
- (5) The chief executive officer may delegate any original or delegated duty or power to any employee appointed in terms of subsection (3)(c) in accordance with section 29(1)(c).

26. Committees

- (1) The Board may, subject to subsection (2), establish any committee to assist it in the performance of its functions and appoint members to that committee, and it may at any time dissolve or reconstitute any such committee.
- (2) The Board may co-opt any person outside the Board to assist on any of its committees if the person concerned has specific expertise, provided that he or she does not have voting rights.
- (3) The Board must, at least, establish the following permanent committees:
- (a) An executive committee;
 - (b) an audit committee;
 - (c) a remuneration committee; and
 - (d) a disciplinary appeals committee.
- (4) The Board must determine, subject to any applicable legislation, the number of members and the terms of reference of each committee.
- (5) The Board may appoint to any of its committees people who are not members of the Board, provided that they will serve in an advisory capacity and have no voting rights.
- (6) The Board may summarily terminate the membership of a member of a committee if—
- (a) the performance by the member of the powers and functions of that committee is unsatisfactory;

- (b) the member, either through illness or for any other reason, is unable to perform the functions of the committee effectively; or
 - (c) the member has failed to comply with or breached any legislation regulating the conduct of members.
- (7) If this Act or the Board does not designate a chairperson for a committee, the committee may elect a chairperson from among its members.

27. Executive committee

- (1) The executive committee established in terms of section 26(3)(a) consists of the chairperson of the Board who must act as chairperson of the executive committee, one other member of the Board elected by the Board, the chief executive officer, and any other appropriate executive manager of the Agency.
- (2) The purpose of the executive committee is to oversee the activities of the Agency in order to ensure that the strategic decisions of the Board are implemented effectively and timeously and that the Agency complies with the provisions of this Act, the Public Finance Management Act and any other applicable law.

28. General powers and duties of Board

The Board may—

- (a) after consultation with the MEC, determine the staff establishment of the Agency, including the secretariat to the Provincial Registrar for Tourist Guides contemplated in section 49 of the Tourism Act, and appoint the executive management and other employees as contemplated in section 25;
- (b) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment;
- (c) acquire or dispose of any right in or to immovable property, subject to the approval of the MEC, or acquire or dispose of any right in or to movable property and hire or let any property;
- (d) open and operate a bank account;
- (e) invest any funds of the Agency;
- (f) borrow money, subject to the Public Finance Management Act;
- (g) charge fees for any work performed or services rendered by it, or collect royalties resulting from any discoveries, inventions or computer programmes;
- (h) insure against—

- (i) any loss, damage or risk; or
- (ii) any liability it may incur in the application of this Act;
- (i) insure members of the Board and staff members in respect of bodily injury, disablement or death resulting solely and directly from an accident occurring in the course of the performance of their duties; and
- (j) perform legal acts, including acts in association with or on behalf of any other person or organ of state.

29. Delegations by Board

- (1) The Board must develop a system of delegation to maximise administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system, may–
 - (a) in writing delegate appropriate powers, excluding the power to establish a committee, prescribe governance rules for a committee and appropriating funds to a committee, the chief executive officer, a member of the Board or an employee of the Agency;
 - (b) assign the performance of any of its functions to a committee, the chief executive officer, a member of the Board, executive manager or an employee of the Agency; and
 - (c) approve the delegation and assignment of any of the powers or functions delegated or assigned to the chief executive officer by the Board, or granted to him or her under this Act, to any employee of the Agency.
- (2) A delegation or assignment in terms of subsection (1) –
 - (a) is subject to such limitations and conditions as the Board may impose;
 - (b) may authorise sub-delegation; or
 - (c) does not divest the Board or the chief executive officer in the event of a delegation or assignment in terms of subsection (1)(c) of the delegated power or function.

CHAPTER 4

ESTABLISHMENT AND OBJECTIVES OF AGENCY

30. Establishment of Eastern Cape Parks and Tourism Agency

CONTINUES ON PAGE 130 - PART 2



PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

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No. 3997

PART 2 OF 2

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The continuation of the Eastern Cape Parks and Tourism Agency as a juristic person is hereby confirmed.

31. Objects of Agency

(1) The objects of the Agency are to—

- (a) attain the objects of this Act;
- (b) manage biodiversity in protected areas located in the Province;
- (c) manage tourism in the Province;
- (d) ensure the effective implementation of its biodiversity management and tourism and powers and duties granted in terms of this Act and any other law; and
- (e) ensure excellence in the business and resource management of the Agency.

(2) In pursuing its objects, the Agency must, amongst others—

- (a) facilitate strategic leadership in biodiversity management and tourism through the development of the necessary strategic perspectives;
- (b) contribute to other strategic frameworks of government to ensure intergovernmental coordination and focused financial and natural resource utilisation;
- (c) promote innovation and best practice in relation to biodiversity management and tourism;
- (d) provide for effective biodiversity management in the protected areas in accordance with, amongst others, applicable national legislation;
- (e) optimise the linkages between biodiversity management and the socio-economic benefits to be derived therefrom;
- (f) undertake infrastructure management in the protected areas;
- (g) market, promote and develop tourism in the Province;
- (h) promote socio-economic growth and transformation within the biodiversity management sector and tourism industry, thereby creating economic and employment opportunities for previously disadvantaged individuals and local communities in the Province;
- (i) facilitate the promotion of investment in the biodiversity management sector and tourism industry; and
- (j) adhere to the good corporate governance principles and resource management

requirements contemplated in this Act, the Public Finance Management Act and other applicable laws.

(3) In achieving its objects, the Agency must endeavour to–

- (a) progressively increase its own revenue generation and collection; and
- (b) maintain a system of internal policies, planning and decision making which integrate the objectives and functions relating to biodiversity management and tourism towards development, and in accordance with the national and provincial strategic objectives.

CHAPTER 5

PROTECTED AREAS

32. Management authority of protected areas

The Agency is the management authority of those protected areas of which the management was assigned to it as contemplated in section 38(2) of the Protected Areas Act.

33. Powers and duties of Agency relating to protected area management

- (1) The Agency is responsible for biodiversity conservation through the effective management of the protected areas in accordance with applicable national and provincial environmental legislation.
- (2) The Agency, in addition to any other power or duty provided for in this Act or applicable national and provincial legislation, must, amongst others–
 - (a) control, manage and maintain the protected areas so as to exercise supervision and control of the protected areas;
 - (b) manage and maintain any infrastructure, or works and facilities in the protected area;
 - (c) conduct research and ecological monitoring to support protected area management and expansion;
 - (d) manage and facilitate external research activities;
 - (e) take the necessary steps to ensure the security of visitors and animal and plant life in the protected area;
 - (f) take the necessary steps to ensure appropriate ecological management of the protected area;
 - (g) perform the duties and functions required of a management authority of a protected area in terms of the relevant national legislation;

- (h) in addition to the management plans required in terms of the Protected Areas Act, prepare and submit to the MEC, in the prescribed manner, for his or her approval, management plans for those protected areas referred to in sections 13, 14, 15 and 16 of the Protected Areas Act that are not part of a nature reserve as contemplated in that Act.
 - (i) lead and facilitate the development of public private partnerships and community public private partnerships as part of the management processes and eco-tourism development in the protected areas;
 - (j) undertake investigative and law enforcement activities in the protected areas;
 - (k) manage and control the numbers and spread of alien and invasive species and of damage-causing animals in the protected areas; and
 - (l) participate in relevant public participation programmes to consolidate and expand the protected area system.
- (3) The Agency may in a protected area assigned to it –
- (a) subject to the applicable environmental permits and authorisations, construct or erect any infrastructure, other works and facilities in accordance with its management plan;
 - (b) sell, exchange or donate any animal, plant or other organism occurring in a protected area, or purchase, exchange or otherwise acquire any indigenous species which it may consider desirable to reintroduce into a specific protected area, subject to the required authorisations and permits;
 - (c) by agreement with –
 - (i) a municipality, provide any service in a park which that municipality may or must provide in terms of legislation; or
 - (ii) any other organ of state, perform a function in a park which that organ of state may or must perform in terms of legislation; or
 - (d) perform such other functions as may be prescribed.
 - (e) exercise the powers granted to a management authority in terms of the relevant national legislation.
- (4) The Agency may make recommendations to the MEC regarding any matter relating to a protected area, including land use and the expansion of a protected area.
- (5) Notwithstanding the provisions of subsections (1) and (2), the Agency may, outside the protected areas–

- (a) carry out research and other scientific activities to guide and inform biodiversity management and protected area expansion in the Province;
 - (b) develop biodiversity stewardship programmes in the prescribed manner and enter into agreements with land owners and the MEC;
 - (c) participate in relevant public participation programmes to increase the protected area system throughout the Province and facilitate the co-management in the areas adjacent to, and beyond the boundaries of, the protected areas;
 - (d) undertake investigative and law enforcement activities if the activities relate to offences or infringements committed within the protected areas; or
 - (e) take any action it considers necessary in order to manage and control the numbers and spread of alien and invasive species and problem animals that could impact on the protected areas.
- (6) The Agency must, subject to subsection (7), prior to the exercise or performance of any power or function referred to in subsection (5)(a), (b), (c), (d) or (e), inform the Department of its intention to do so and the Department may, in agreement with the Agency, participate in any of the activities referred to in therein.
- (7) Notwithstanding the provisions of subsection (6), the Agency may, in an emergency, undertake the activities referred to in subsection (5)(d) without informing the Department of its intention to do so, but must as soon as practicable inform the Department thereof.
- (8) In order to effectively exercise and perform its power and duties as contemplated in this section, the Agency must, amongst others—
- (a) develop and maintain appropriate research and information management systems; and
 - (b) develop and submit to the MEC, within 24 months from the date of commencement of this Act, a register identifying all the protected areas that the Agency managed when this Act commenced and any other protected area assigned to the Agency after commencement of this Act in terms of the applicable national and provincial legislation, together with a description of the land, and must maintain and annually update the register;

34. Functions of the Agency in relation to protected areas

- (1) The Agency must –
- (a) manage all protected areas assigned to it by the MEC in accordance with this Act and any specific environmental management Act referred to in the National Environmental Management Act;
 - (b) manage world heritage sites assigned to it by the MEC or the Minister in accordance with all

national cultural heritage legislation as may be applicable to and required for proper management and protection of such world heritage sites, provided that the Agency's authority to enforce such legislation is provided for in a written instrument of delegation issued by the Minister or MEC to this effect under and in terms of such legislation;

(c) on the MEC's request, advise the MEC on any matter concerning –

- (i) the conservation and management of biodiversity; and
- (ii) proposed protected areas and additions to or exclusions from existing protected areas.

(2) The Agency may in a protected area assigned to it –

- (a) control, remove or eradicate any species or specimens of species which it considers undesirable to protect and conserve in a protected area, or that may negatively impact on the biodiversity of the protected area;
 - (b) carry out any development and construct or erect any works necessary in terms of the management plans of a protected area, subject to the required authorisations and permits; and
 - (c) manage and control access to all protected areas in accordance with the provisions of the Protected Areas Act.
- (3) Subsection (2) applies to other protected areas managed by the Agency, and the powers contained in that subsection may be exercised by it to the extent that those powers are consistent with the purpose for which any such area was declared as a protected area.

CHAPTER 6

TOURISM

35. Tourism responsibility

- (1) The Agency must facilitate and promote a sustainable tourism economy in the Province, with domestic and international components, based on innovation, service excellence, meaningful participation and partnerships.
- (2) The Agency must develop and implement a tourism strategy based on the Eastern Cape Tourism Master Plan of the Department.

36. Powers and duties of Agency relating to tourism

- (1) The Agency is responsible for the marketing, promotion and development of responsible tourism in the Province and the transformation of the tourism industry in accordance with the Tourism Act.

- (2) The Agency, in addition to any other power or function provided for in this Act, must–
- (a) market the Province as a preferred destination for international, regional and domestic tourists by, amongst others–
 - (i) developing and implementing marketing strategies that target international, regional and domestic tourists; and
 - (ii) participating in tourism marketing initiatives and strategies of the Department or other organs of state;
 - (b) promote tourism in the Province by, amongst others–
 - (i) advertising or making known the tourist attractions of the Province, including the tourism products in its protected areas, in any manner it deems fit;
 - (ii) producing, publishing, printing and selling, and by circulating and distributing, with or without charge, travel or tourist books or guides, maps, posters, placards, brochures, pamphlets and publications of any nature calculated to be useful to tourists within the Province, or otherwise calculated to promote the achievement of its objects, whether directly or indirectly; and
 - (iii) producing and distributing, with or without charge, motion pictures, photographs or other pictorial material (including video and digital material), and by sponsoring, arranging or organising displays, broadcasts, telecasts, talks and public lectures relating to the tourism industry within the Province;
 - (c) develop tourism in the Province by, amongst others–
 - (i) identifying tourism development opportunities and implementing appropriate initiatives and programmes to exploit it;
 - (ii) implementing effective measures to facilitate the enhancement of the level of standards of tourism products and services being offered in the Province;
 - (iii) identifying tourism training needs and facilitating tourism training initiatives;
 - (iv) assisting with and participating in the development and implementation of a national system of standards, classification and grading for tourist accommodation, establishments, products and services; and
 - (v) facilitating tourism investment and potential tourism investment opportunities in the Eastern Cape in cooperation with organs of state or entities responsible for investment promotion or promoting investment in the Province; and
 - (d) facilitate the transformation of the tourism industry by creating opportunities for the participation of previously disadvantaged individuals in mainstream tourism services on protected areas.

- (3) In order to effectively exercise and perform its powers and duties as contemplated in this section, the Agency must, amongst others–
- (a) develop and maintain appropriate research and information management systems for the purposes of tracking tourism activity and its economic contribution in the Province;
 - (b) develop and maintain a database of all tourism attractions, facilities, infrastructure, services, natural and cultural attractions and their location in the Province;
 - (c) provide the secretariat for the Provincial Registrar of Tourist Guides who is appointed by the MEC in terms of section 49 of the Tourism Act; and
 - (d) register any tourist service and person conducting or operating a tourist service as contemplated in chapter 6;

37. Registration as tourist service

- (1) Any tourist service, or person who conducts or operates a tourist service, or person who intends to conduct or operate a tourist service, must apply to the Agency for the registration of the tourist service.
- (2) An application referred to in subsection (1) must be made in the manner prescribed and accompanied by–
 - (a) the fee determined by the MEC in terms of guidelines issued in terms of section 4;
 - (b) any plans, documents and other information or particulars relating to the tourist service; or
 - (c) any additional documentation or information that may be required by the Agency.
- (3) The requirements which are to be complied with before any tourist service may be registered shall be those prescribed by the MEC in terms of section 6.

38. Register of tourist services in the Province

- (1) In addition to the register of tourist guides contemplated in section 49(2) of the Tourism Act, the Agency must develop and maintain a register of all persons conducting or operating a tourist service in the Province.
- (2) For purposes of this chapter, a person is conducting or operating a tourist service if such person delivers a service or a product as defined in this Act.
- (3) The Agency may, in consultation with the MEC, by notice in the *Gazette* designate any other type of service as a tourist service or tourist services for purposes of this Act.

39. Powers of Agency in relation to registration as tourist service

- (1) The Agency may, if in its opinion, the requirements for the registration of a tourist service –
 - (a) have been or will be complied with, register the tourist service or intended tourist service; or
 - (b) have not been complied with or will not be complied with, refuse to register the tourist service or intended tourist service.
- (2) Before registering a tourist service, the Agency –
 - (a) must inspect the tourist service or cause it to be inspected; or
 - (b) may conduct further investigation in regard to the tourist service.

40. Certificate of registration of tourist service

- (1) The Agency must issue to the tourist service or person conducting or operating the tourist service, a certificate of registration in the prescribed form.
- (2) If any tourist service or person conducting or operating the tourist service ceases to be registered, or if any person ceases to conduct or operate a tourist service, that tourist service or person must forthwith return the certificate of registration to the Agency.

41. Publication of list of registered tourist services

The Agency must publish periodically, in such manner as it may determine, a list and particulars of registered tourist services together with particulars of such tourist services.

42. Cancellation of registration of tourist service

- (1) The Agency may, if a registration requirement of a tourist service or a person conducting or operating a tourist service has not been complied with, give notice to that tourist service or person to satisfy that requirement within three months from the date of notice, failing which the Agency may withdraw the registration.
- (2) The Agency may, if it considers it necessary, extend the period referred to in subsection (1).
- (3) The person conducting or operating the tourist service in respect of which or to whom a notice has been given, may, before the lapse of the period of three months or any period so extended, make representations in writing to the Agency in regard to the proposed withdrawal of the registration of the tourist service.
- (4) If, upon the lapse of the period of three months or extended period, the Agency considers that the requirement concerned has not been complied with, the Agency may withdraw the registration and must give notice thereof to the person conducting or operating the tourist service.

43. Period of validity of registration and renewal as tourist service

- (1) Registration in terms of this Act is valid for a period of three years calculated from the date of issue of the registration certificate.
- (2) The person conducting or operating the tourist service must, at least 60 days before the expiry of the registration, apply to the Agency for the renewal of the registration.
- (3) An application referred to in subsection (2) must be—
 - (a) made in the manner prescribed; and
 - (b) accompanied by the renewal fee determined by the MEC in terms of guidelines issued in terms of section 4.
- (4) The Agency may, before renewing the registration of a tourist service –
 - (a) inspect the tourist service or cause it to be inspected; or
 - (b) conduct further investigation in regard to the tourist service.

44. Appeal against decision of Agency

- (1) Any person who is aggrieved by any decision of the Agency with regard to—
 - (a) refusal of an application for registration as a tourist service;
 - (b) withdrawal of any registration as a tourist service; or
 - (c) cancellation of any registration as a tourist service,may, in the prescribed manner, appeal to the MEC.
- (2) The MEC may require the Agency to furnish him or her with the written reasons for its decision and a record of the proceedings.
- (3) When an appeal is noted—
 - (a) the decision of the Agency must be suspended until the appeal is finalised; or
 - (b) against the refusal to renew any registration, the MEC may extend the validity of such registration until the appeal is finalised.
- (4) The MEC must, after considering the representation and reasons furnished by the Agency for its decision—

- (a) uphold the decision of the Agency; or
 - (b) set aside such decision,
- (5) If the MEC decides to set the decision aside, he or she must substitute it with a proper decision.
- (6) The decision of the MEC is final.

45. Registration of tourist guide in the Province

- (1) Any person who wishes to operate or provide a service as a tourist guide must apply to the Provincial Registrar of Tourist Guides as contemplated in section 50 of the Tourism Act.
- (2) Unless otherwise prescribed by the Minister as contemplated in the Tourism Act, an applicant to be registered as a tourist guide must –
 - (a) Submit an application form as provided for in the guidelines issued by the MEC in terms of section 4 of this Act;
 - (b) Pay the application fee as determined in the guidelines issued by the MEC in terms of section 4 of this Act;
 - (c) Submit proof of competence contemplated in section 51 of the Tourism Act.
- (3) The Provincial Registrar of Tourist Guides must ensure that the applicant complies with all the requirements as contemplated in the Tourism Act, and in particular sections 50 and 51 of the Tourism Act.
- (4) The Provincial Registrar of Tourist Guides must consider the application as contemplated in section 50 of the Tourism Act and register the applicant as a tourist guide, or refuse to register the applicant, subject to section 50(11) of the Tourism Act.

46. Period of registration and renewal of registration as a tourist guide

- (1) The registration as a tourist guide is valid for the period contemplated in section 50 of the Tourism Act.
- (2) Unless otherwise prescribed by the Minister as contemplated in the Tourism Act, any person registered as a tourist guide may, before the end of the period for which he or she has been registered, apply to the Provincial Registrar on the form as provided for in the guidelines issued by the MEC in terms of section 4 of this Act for the renewal of his or her registration as a tourist guide.
- (3) If the person so applies for the renewal of his or her registration, his or her registration must, upon payment of the fee guidelines issued by the MEC in terms of section 4 of this Act, be renewed, unless he or she has become subject to any disqualification in terms of the Tourist Act since the previous registration or renewal of registration.

CHAPTER 7**FINANCIAL MATTERS AND REPORTING****47. Financial year**

The financial year of the Agency is from 1 April to 31 March.

48. Revenue of Agency

The revenue of the Agency consists of–

- (a) fees, registration fees and other moneys received or raised by it under the provisions of this Act or any other law;
- (b) income derived by it from the performance of its functions;
- (c) money appropriated by the Legislature;
- (d) grants received from organs of state;
- (e) voluntary contributions, donations and bequests received by it;
- (f) money borrowed by it in terms of this Act;
- (g) income derived by it from investments;
- (h) penalties, fines and proceeds from sales of forfeited items received or recovered and allocated to the Agency under the provisions of this Act or any other law; and
- (i) money accrued to the Agency from any other source.

49. Annual budget of Agency

- (1) The Agency must, no later than 30 September in each financial year or any other period agreed to between the MEC and the Agency, submit, through the HOD, to the MEC a budget of its estimated revenue and expenditure for the ensuing financial year for approval by him or her as contemplated in the Public Finance Management Act.
- (2) The Agency may not budget for a deficit and may not accumulate surpluses unless the prior written approval of the Provincial Treasury has been obtained.
- (3) The Board is responsible for ensuring that the expenditure of the Agency is in accordance with the approved budget.

50. Contents of strategic plan

- (1) The Agency must, no later than 30 September in each financial year or any other period agreed to between the MEC and the Agency, submit, through the HOD, to the MEC a strategic plan for approval by him or her as contemplated in the Public Finance Management Act.
- (2) The strategic plan must—
 - (a) cover a period of at least three years;
 - (b) be updated annually on a rolling basis; and
 - (c) form the basis for the annual reports of the Agency.
- (3) In addition to the requirements of the Public Finance Management Act and any objectives and outcomes that the MEC may determine, the strategic plan of the Agency must provide for the manner in which the Agency intends to give effect to its objects as stated in section 31, inclusive of strategies, including an intergovernmental coordination strategy and an own revenue generation strategy and preliminary action plans.
- (4) The MEC and the Agency must develop and agree on a framework of acceptable levels of materiality and significance of the matters that must be contained in its annual report and financial statements as contemplated in section 55 (2) of the Public Finance Management Act.

51. Preparation and submission of annual report and financial statements of Agency

- (1) The Board is the accounting authority for the Agency and must prepare the annual report and the financial statements in terms of section 55 of the Public Finance Management Act and, together with the report of the auditor on the financial statements, submit it to the Provincial Treasury, the MEC and the Auditor-General, if the Auditor-General did not audit the financial statements.
- (2) For purposes of section 55 (3) of the Public Finance Management Act, the Board must submit the annual report and the financial statements through the HOD, to the MEC, for tabling in the Legislature.
- (3) The MEC must, within 20 days of receipt of the annual report and financial statements of the Agency, table it in the Provincial Legislature.

52. Quarterly reporting

- (1) The Board must submit to the MEC quarterly reports in strict compliance with the applicable provisions of the Public Finance Management Act and the Treasury Regulations issued in terms thereof.
- (2) Each quarterly report of the Agency must deal with the state of affairs, the activities, the

operations, and the financial position of the Agency, including–

- (a) the extent to which the Agency has achieved or advanced its objects during the financial quarter concerned;
 - (b) the relevant performance information regarding the economic, efficient and effective utilisation of resources;
 - (c) the amount of money, if any, received from the state or any other source and any other financial commitment furnished to the Agency; and
 - (d) the detailed staff establishment and composition of the Agency.
- (3) Notwithstanding the provisions of subsection (1), the MEC may, at any time, request the Board to submit to him or her, within a period determined by the MEC, an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Agency or pertaining to any specific matter identified by the MEC.
- (4) The Board must establish procedures for quarterly reporting to the MEC in terms of the Public Finance Management Act and this chapter in order to facilitate effective performance monitoring, evaluation and corrective action.

53. Tourism development fund

The MEC may, by way of regulation in terms of section 6 of this Act, establish a tourism development fund as an account in the Department, in order to develop tourism inside the provincial protected areas, and to empower and develop previously disadvantaged individuals, youth and women in the tourism sector.

54. Biodiversity conservation and development Fund

The MEC may, by way of regulation in terms of section 6 of this Act establish a biodiversity conservation and development Fund as an account in the Department, in order to support biodiversity conservation initiatives within the Province, to empower and develop previously disadvantaged individuals, youth and women and, to promote biodiversity conservation within the protected areas.

55. Provincial tourism development registration fee

- (1) The Agency may, in consultation with the MEC and by notice in the *Gazette*,–
- (a) institute a provincial tourism development registration fee payable by a person conducting or operating a tourist service or tourist services and registered as such in terms of this Act;

- (b) annually determine a surcharge, which must be added to the price of services rendered by the person conducting or operating a tourist service or service; or
 - (c) annually fix a registration fee calculated at the rate determined in the notice.
- (2) If the Agency institutes a provincial tourism development registration fee in accordance with this section, it may, by civil action in a competent court, recover the amount of the registration fee which is due in terms of this section from a person liable for payment.

CHAPTER 8

INSPECTIONS AND COMPLIANCE

56. Designation of environmental management inspectors

- (1) The MEC may designate an employee of the Agency as an environmental management inspector in accordance with section 31C and the other relevant provisions of the National Environmental Act.
- (2) An environmental management inspector has the powers, duties and functions contained in the National Environmental Act

57. Designation of provincial environmental officers

- (1) The MEC may –
 - (a) designate an employee of the Agency as a provincial environmental officer in accordance with the relevant provisions of provincial legislation regarding environmental management; and
 - (b) at any time withdraw a designation made in terms of paragraph (a).
- (2) A provincial environmental officer has the powers, duties and functions contained in the relevant provincial legislation regarding environmental management

58. Appointment or designation of tourism inspector

- (1) The Agency may appoint or designate any employee of the Agency as an inspector for purposes of enforcing any tourism related matter contemplated in this Act and the Tourism Act.
- (2) A certificate of appointment or designation in the prescribed form, issued by the Agency, certifying that a person has been appointed or designated as an inspector is *prima facie* proof of the appointment or designation.

59. Powers and duties of tourism inspector

- (1) A tourism inspector may conduct an inspection and monitor and enforce compliance with this Act or any other law which authorises him or her to conduct an inspection or monitor or enforce compliance of any tourism related matter.
- (2) Subject to any other law, an inspector who conducts an inspection may—
 - (a) question any person present on any land or premises in respect of any matter which may be relevant to the inspection;
 - (b) question any person whom the inspector believes may have information relevant to the inspection;
 - (c) inspect any document that a person is required to maintain in terms of this Act or any other law, or that may be relevant to any tourism related inspection;
 - (d) copy any document referred to in paragraph (c) or, if necessary, remove the document in order to copy it;
 - (e) take photographs or make audio-visual recordings of anything or any person, process, action or condition on, or regarding, any land or premises;
 - (f) issue compliance notices in terms of section 66; and
 - (g) do anything necessary for conducting the inspection.
- (3) An inspector who removes anything from land or premises being inspected, must—
 - (a) issue a receipt for it to the owner of, or person in control of, the land or premises; and
 - (b) return it as soon as is practicable after achieving the purpose for which it was removed.

60. Entry with warrant

- (1) A tourism inspector may enter any land or premises if a judicial officer has issued a warrant in accordance with subsection (2) to enter or inspect the land or premises, and the warrant is still valid.
- (2) A judicial officer may issue a warrant to enter and inspect any land or premises, if, from information in writing on oath, the judicial officer has reason to believe that—
 - (a) it is necessary to obtain information in the interest of the public that cannot be obtained without entering the land or those premises; or
 - (b) there is non-compliance with this Act.

- (3) A warrant in terms of subsection (2) may be issued at any time and must specifically–
- (a) identify the land or premises that may be entered and inspected; and
 - (b) authorise the tourism inspector to enter and inspect the land or premises and to do anything contemplated in section 59.
- (4) A warrant in terms of subsection (2) is valid until–
- (a) it is executed;
 - (b) it is cancelled by the judicial officer who issued it or, in his or her absence, by another judicial officer;
 - (c) the purpose for which it was issued has lapsed; or
 - (d) 90 days have passed since the date it was issued.
- (5) Before commencing any inspection, a tourism inspector who carries out a warrant must–
- (a) if the owner of, or a person apparently in control of, the land or premises is present,–
 - (i) identify himself or herself and explain his or her authority to that person or furnish proof of his or her appointment or designation; and
 - (ii) hand a copy of the warrant to that person or a person named in it; or
 - (b) if the owner or person apparently in control of the land or premises is absent or refuses to accept a copy, attach a copy of the warrant to the land or premises in a prominent and visible place.

61. Entry with permission

- (1) A tourism inspector who does not have a warrant in his or her possession may enter and inspect any land or premises with the consent of the owner or person apparently in control of the land or those premises if that person appears to be above the age of 18 years.
- (2) In addition to the entry permitted in terms of subsection (1), an inspector may enter any land or premises without a warrant–
- (a) if authorised to do so by any other law; or
 - (b) in respect of which there is an outstanding compliance notice issued in terms of section 66, for purposes of determining whether that notice has been complied with.

- (3) Before commencing an inspection on any land or premises in terms of this section, an inspector must identify himself or herself and explain his or her authority or furnish proof of his or her appointment or designation to the person apparently in control of the land or premises or the person who gave permission to enter.
- (4) Any entry and inspection of any land or premises without a warrant must be carried out between sunrise and sunset.

62. Resistance against entry or inspection

- (1) A tourism inspector carrying out a warrant in terms of section 60 may overcome any resistance to entry or inspection by using force that is reasonably necessary in the circumstances to overcome the resistance against such entry or inspection, including breaking a lock, door or window of the land or premises to be entered.
- (2) Before using force, the person carrying out the warrant must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with any object or document that is the object of the inspection.
- (3) Force may not be used to effect an entry or to conduct an inspection in terms of section 61, unless permitted in terms of any other law or in the case of an emergency.

63. Inspector may be accompanied

A tourism inspector may be accompanied during an inspection by a member of the South African Police Services, or any other person reasonably required to assist in conducting the inspection.

64. Duty to produce document

Any person who is in possession of any document relevant to an inspection must produce it at the request of a tourism inspector.

65. Duty to answer questions and assist tourism inspector

- (1) Any person who is questioned by a tourism inspector in terms of this chapter must first be informed of his or her constitutional rights before any questioning commences, and any voluntary answer thereafter by that person must be truthful and to the best of his or her ability.
- (2) An answer or explanation given to a tourism inspector may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to—
 - (a) the administration or taking of an oath;
 - (b) the making of false statements; or

(c) the failure to answer a lawful question fully and satisfactorily.

(3) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by a tourism inspector to perform his or her functions effectively.

66. Compliance notice

(1) A tourism inspector who is of the opinion that any provision of this Act has not been complied with, may, subject to subsection (2), issue a compliance notice in the prescribed form to the owner or person apparently in control of the relevant land or premises.

(2) A compliance notice contemplated in subsection (1) must set out–

(a) the provision that has allegedly not been complied with;

(b) details of the nature and extent of the alleged non-compliance;

(c) any steps that are required to be taken and the period within which those steps must be taken; and

(d) any penalty that may be imposed in terms of chapter 8 in the event of non-compliance with those steps.

(3) A compliance notice must remain in force until a tourism inspector issues a prescribed compliance certificate in respect of that notice.

(4) A tourism inspector who is satisfied that the owner or person apparently in control of any land or premises has satisfied the terms of a compliance notice may issue a prescribed compliance certificate to indicate that compliance.

CHAPTER 9

OFFENCES AND PENALTIES

67. General offences

(1) A person is guilty of an offence if that person contravenes or fails to comply with regulations for the control of access to protected areas, or contravenes or fails to comply with or undertakes any restricted activity contained in regulations made in terms of this Act or defined in national or provincial environmental management legislation.

(2) A person is guilty of an offence if that person wilfully publishes, or causes or allows to be published in any manner, false or misleading information relating to any tourist service.

- (3) A person is guilty of an offence if that person is required to register in terms of this Act and that person carries on a business as a tourist service without such registration, or contravenes or undertakes any activity subject to a prohibition in terms of the Tourism Act.
- (4) A person is guilty of an offence if that person contravenes any provision of this Act which is not elsewhere specifically declared to be an offence.

68. Offences relating to Board and Agency

A person is guilty of an offence if that person—

- (a) hinders or interferes with the Board, or a member of the Board, or an employee of the Agency, in the execution of official duties;
- (b) wilfully furnishes to the Agency, member of the Board, or an employee of the Agency, false or misleading information; or
- (c) falsely professes to be a member of the Board, or an employee of the Agency, or the interpreter or assistant of that employee.

69. Offences regarding inspections

A person is guilty of an offence if that person—

- (a) refuses to grant an inspector access to premises to which the inspector is duly authorised to have access;
- (b) obstructs, interferes, or hinders an inspector who is exercising a power or performing a duty in terms of this Act;
- (c) refuses to provide an inspector with a document or information that the person is lawfully required to provide in terms of this Act;
- (d) furnishes false or misleading information to an inspector;
- (e) unlawfully prevents the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Act;
- (f) pretends to be an inspector;
- (g) falsifies an authorisation or a warrant, compliance notice or compliance certificate contemplated in chapter 7;

- (h) fails to comply with a compliance notice issued in terms of section 66;
- (i) enters any land or premises without a warrant in circumstances requiring a warrant;
- (j) acts contrary to a warrant issued in terms of chapter 7;
- (k) without authority enters or inspects land or premises; or
- (l) discloses any information relating to the financial or business affairs of any person which was acquired in the exercise of any power or performance of any duty in terms of this Act except—
 - (i) to a person who requires that information in order to exercise a power or perform a duty in terms of this Act;
 - (ii) where the disclosure is ordered by a competent court; or
 - (iii) where the disclosure is in compliance with the provisions of any law.

70. Penalties

Any person who is convicted of an offence under this Act is liable—

- (a) in case of a contravention of the regulations referred to in section 67 (1) –
 - (i) on a first conviction, to a fine not exceeding R250 000,00 or imprisonment for a period not exceeding 15 years, or to both such a fine and such imprisonment; and
 - (ii) in the case of a second or subsequent conviction for the same, to a fine not exceeding R500 000,00 or imprisonment for a period not exceeding 30 years, or to both such a fine and such imprisonment;
- (b) in the case of an offence or prohibited activity referred to in section 67 (1), other than a contravention of the rules, to the penalty provided for in the national or provincial environmental management legislation concerned;
- (c) in the case of a general offence referred to in section 67(2) to (5), other than an offence or activity which is subject to a prohibition under the Tourism Act, to a fine or imprisonment for a period not exceeding two years, or to both such fine and imprisonment;
- (d) in the case of an offence or an activity which is subject to a prohibition under the Tourism Act, to the penalty provided for in the Tourism Act;
- (e) in case of an offence referred to in section 68, to a fine not exceeding R5 000,00 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; and

- (f) in the case of an offence referred to in section 69, to a fine or imprisonment not exceeding two years or to both such fine and imprisonment.

71. Jurisdiction of magistrate's court

A magistrate's court has jurisdiction to convict and impose any penalty provided for in this Act.

CHAPTER 10

TRANSITIONAL PROVISIONS

72. Legal successor

- (1) From the date of commencement of this Act, the Agency is, for all purposes in law, the legal successor to the Eastern Cape Parks and Tourism Agency, established under the Eastern Cape Parks and Tourism Agency Act, 2010 and—
- (a) retains all movable and immovable property of the Eastern Cape Parks and Tourism Agency;
 - (b) continues as contracting party for the Eastern Cape Parks and Tourism Agency in all contracts as if the Agency had been the contracting party at the time of contracting and the contractual rights, obligations and liabilities of the Eastern Cape Parks and Tourism Agency in terms thereof are retained by the Agency; and
 - (c) is deemed to have issued all financial instruments of the Eastern Cape Parks and Tourism Agency.
- (2) Any money standing to the credit of the Eastern Cape Parks and Tourism Agency in its bank account immediately before the commencement of this Act vests in the Agency.
- (3) Any reference in any law or document to the Eastern Cape Parks and Tourism Agency must be construed as a reference to the Agency, unless such construction is clearly inappropriate.

73. Board established in terms of the Eastern Cape Parks and Tourism Agency Act, 2010

The members of the Eastern Cape Parks and Tourism Agency Board established in terms of the Eastern Cape Parks and Tourism Agency Act, 2010 continue in office for the period of their appointment in terms of the Eastern Cape Parks and Tourism Agency Act, 2010, and the MEC must call for nominations in terms of section 14 of this Act at least 90 days before the expiry of their term of office in terms of that Act.

74. Legal proceedings and internal proceedings and investigations

- (1) All criminal proceedings which, immediately prior to the commencement of this Act, were instituted in terms of the provisions of the Eastern Cape Parks and Tourism Agency Act, 2010, and

which proceedings have not been concluded before the commencement of this Act, must be continued and concluded in all respects as if this Act had not been passed.

- (2) No provision of this Act affects any civil matter pending at the commencement of this Act, and such matter must be continued and concluded in every respect as if this Act had not been passed.
- (3) A civil matter is, for the purposes of this section, deemed to be pending if, at the commencement of this Act, summons had been issued but judgment has not been given, and to be concluded when judgment is given.
- (4) Any internal hearing, investigation or disciplinary proceedings or process instituted by the Eastern Cape Parks and Tourism Agency which is pending at the date of commencement of this Act, may be continued or instituted as if this Act had not been passed.

75. Financial, administrative and other records of Eastern Cape Parks and Tourism Agency

All financial, administrative and other records of the Eastern Cape Parks and Tourism Agency are deemed to be records of the Agency.

76. Employees of Eastern Cape Parks and Tourism Agency

- (1) A person who, immediately before the commencement of this Act, was in the employ of the Eastern Cape Parks and Tourism Agency, continues to be in the employ of the Agency with the retention of the salary, allowances and other conditions of service which applied in respect of that person before the commencement of the Act, and is deemed to be appointed under this Act.
- (2) The salary, allowances and other conditions of service of such person is regarded as having been determined under this Act, and any leave, pension or other benefits which have accrued in the person's favour by virtue of the person's service with the Eastern Cape Parks and Tourism Agency is regarded as having been accrued in the person's favour by virtue of service with the Agency.
- (3) Subject to the provisions of this Act, any—
 - (a) law regarding any condition of service;
 - (b) measure regarding the duties, functions and powers; or
 - (c) arrangement regarding any administrative function,

which applied to a person in the employ of the Eastern Cape Parks and Tourism Agency immediately before the date of commencement of this Act, remain in force until amended by the Agency and the employee concerned.

77. Continued registration of tour guides, tour operators, couriers, training providers, hotels, other accommodation establishments, conference centres, restaurants and designated tourist services

- (1) A person who, immediately prior to the commencement of this Act, was registered in terms of the Eastern Cape Parks and Tourism Agency Act, 2010, and was, by virtue of that registration, authorised to carry on a business as defined in that Act, is deemed to be registered in terms of this Act and is, subject to this Act, authorised to carry on that business subject to the conditions which had been determined in respect of such person in relation to such person's registration to carry on that business in terms of the Eastern Cape Parks and Tourism Agency Act, 2010.
- (2) A person referred to in subsection (1) must, before the date that the registration would have expired if the Eastern Cape Parks and Tourism Agency Act, 2010 had not been repealed, apply to the Agency in accordance with section 37 or section 45 for a certificate of registration issued in terms of this Act in exchange for the certificate of registration issued to such person under the Eastern Cape Parks and Tourism Agency Act, 2010.
- (3) Upon receipt of an application in terms of subsection (2), the Agency must issue the new certificate of registration in terms of this Act.

78. Investigations and law enforcement activities

Any investigation and law enforcement activity undertaken in terms of the Eastern Cape Parks and Tourism Agency Act, 2010 is deemed to be undertaken in terms of the provisions of this Act for the purposes of prosecution and findings of the court.

79. General

- (1) From the date of commencement of this Act, all assets, rights, obligations and liabilities of the Eastern Cape Parks and Tourism Agency not referred to in this chapter vest in the Agency.
- (2) Anything done or any decision made or steps taken by the Eastern Cape Parks and Tourism Agency in terms of any provision of the Eastern Cape Parks and Tourism Agency Act, 2010, is deemed to have been done, made or taken by the Agency and remain valid until repealed or amended by the Agency.
- (3) Any registration fees or fees determined by the Eastern Cape Parks and Tourism Agency in terms of the Eastern Cape Parks and Tourism Agency Act, 2010 before the commencement of this Act are deemed to have been determined under this Act and remain valid until repealed or amended by the Agency.

CHAPTER 11**GENERAL PROVISIONS****80. Repeal of Act**

The Eastern Cape Parks and Tourism Agency Act, 2010 is hereby repealed.

81. Short title and commencement

- (1) This Act is called the Eastern Cape Parks and Tourism Agency Act, 2018 and will come into operation on a date determined by the Premier by proclamation in the *Gazette*.
- (2) The Premier may determine different dates for commencement of different sections or chapters of this Act.

EXPLANATORY MEMORANDUM**PART I*****(OBJECTS AND PRINCIPLES OF THE BILL)*****1. OBJECTS OF THE BILL**

The objects of the Bill are to –

- (a) provide, within the framework of national legislation, including the National Environmental Management Act, for the declaration and management of protected areas;
- (b) provide for co-operative governance in the declaration and management of protected areas;
- (c) give effect to a national and provincial system of protected areas in the Province as part of a strategy to manage and conserve its biodiversity;
- (d) provide for a representative system of protected areas on state land, private land and communal land;
- (e) promote sustainable utilisation of protected areas for the benefit of people in a manner that would preserve the natural ecological character of such areas;
- (f) promote participation of local communities in the management of protected areas where appropriate;
- (g) promote the participation of local communities in the biodiversity economy;
- (h) facilitate efforts towards transformation of the game industry;
- (i) promote the practising of responsible tourism, as contemplated in section 2(2) of the Tourism Act;
- (j) provide for the effective domestic and international marketing of South Africa as a tourist destination;
- (k) promote and facilitate quality tourism products and services;
- (l) promote growth, transformation and development of the tourism sector; and
- (m) enhance cooperation and coordination between all spheres of government in developing and managing biodiversity and tourism.

2. THE REASONS FOR AND EFFECT OF THE BILL

Since the enactment of the Eastern Cape Parks and Tourism Agency Act, 2010 (Eastern Cape), Act No. 2 of 2010, the National Tourism Act, 2014 (Act No. 3 of 2014) came into operation and the National

Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) was amended extensively in 2014.

The Eastern Cape Parks and Tourism Agency Act, 2010 deals with important matters contained in those two Acts and it is therefore important that the Eastern Cape Act must be aligned to the those acts.

3. THE POLICY CONTEXT OF THE BILL AND HOW THE BILL RELATES TO ITS POLICY OBJECTIVES

Although there are no major policy deviations from the Eastern Cape Parks and Tourism Agency Act, 2010, it was found that it would be more appropriate to submit a new Bill, containing all the amendments rather than to amend the existing Bill extensively.

This Bill therefore provides for the continuation of the Eastern Cape Parks and Tourism Agency in order to develop and manage protected areas and to promote and facilitate the development of tourism in the Province and to confer powers, functions and duties upon that Agency. The Bill also seeks to provide for the management of the Agency by a Board, and to provide for the appointment of members thereof.

The Bill also provides for the registration of certain persons and services involved in tourism; to provide for the collection of registration fees in respect of registered persons and services; to provide for the inspection of premises.

4. THE SOCIAL AND ECONOMIC IMPACT OF THE BILL

The Bill shall be properly aligned to the relevant national legislation, including the objects and purposes of national legislation.

The Bill promotes the practising of responsible tourism for the benefit of the Republic and for the enjoyment of all its residents and foreign visitors as well as the promotion of quality tourism products and services.

It seeks to promote growth in and development of the tourism sector and seeks to avoid negative economic, environmental and social impacts.

It aims to generate greater economic benefits for local people, enhances the well-being of host communities and improves working conditions and access to the tourism sector. It involves local people in decisions that affect their lives and to make positive contributions to the conservation of natural and cultural heritage and to the maintenance of the world's diversity.

5. COMMENTS FROM STAKEHOLDERS AND THE PUBLIC AND DISCOUNTED IN THE DRAFTING PROCESS

The drafting of the Bill included consultation process with stakeholders, and having taken all these comments in consideration, it was decided to re-draft the Bill completely.

This Bill has been published for comment and if comments are received it shall be discounted in the Bill that is introduced and made available before the Legislature's consideration of the Bill.

PART II

(CLAUSE-BY-CLAUSE EXPLANATION OF THE CONTENT OF THE BILL)

DEFINITIONS AND OBJECTS OF THE ACT

- CLAUSE 1:** Provides for the definitions used in the Bill.
- CLAUSE 2:** Sets out the objects of the Bill.
- CLAUSE 3:** Determines the MEC to whom the Premier has assigned tourism and environmental matters in the Province, to be the executive authority of the Agency.
- CLAUSE 4:** Gives the power to the MEC to issue provincial guidelines on matters applicable to the tourism and biodiversity management sectors.
- CLAUSE 5:** Gives the power to the MEC to request the Agency to investigate and exercise and perform a departmental power and duty.
- CLAUSE 6:** Provides for regulations that may be issued by the MEC.
- CLAUSE 7:** Provides for the delegation of certain powers and duties by the MEC.
- CLAUSE 8:** Provides for the declaration of provincial protected areas by the MEC.
- CLAUSE 9:** Provides for the regulation and restriction of activities in, and control of access to, provincial protected areas.
- CLAUSE 10:** Provides for a process to consolidate and expand provincial protected areas.
- CLAUSE 11:** provides for the power to the MEC to allow an extension of period of time required in terms of the Bill.

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- CLAUSE 12:** Details the role of the Board of the Agency.
- CLAUSE 13:** Determines the constitution of Board of the Agency.
- CLAUSE 14:** Determines the nomination procedure for members of the Board.
- CLAUSE 15:** Provides for the circumstances for disqualification from appointment to or remaining as a member of the Board of the Agency.
- CLAUSE 16:** Provides for the process of resignation of a member of the Board and vacation of office.
- CLAUSE 17:** Provides for the circumstances of and process for removal of a member of Board, the dissolution of Board and the appointment of an interim Board.
- CLAUSE 18:** Provides for the process of appointment of a member to a vacant seat of the Board.
- CLAUSE 19:** Provides for the disclosure of interest by members of the Board.
- CLAUSE 20:** Provides that the MEC must appoint a chairperson and deputy chairperson of the Board.
- CLAUSE 21:** Determines the term of office of a member of the Board.
- CLAUSE 22:** Provides for the number of meetings of Board, the quorum of meetings and procedure at meetings of the Board.
- CLAUSE 23:** Provides for the requirements of decisions of the Board.
- CLAUSE 24:** Provides for the duties and responsibilities of the Board.
- CLAUSE 25:** Provides for the appointment and determination of conditions of service of the chief executive officer, management and employees of the Agency.
- CLAUSE 26:** Provides for the establishment of committees by the Board.
- CLAUSE 27:** Provides for the constitution and purpose of the executive committee established in terms of the Bill.

- CLAUSE 28:** Provides for the general powers and duties of the Board.
- CLAUSE 29:** Provides for the delegation of certain powers and duties by the Board.
- CLAUSE 30:** Confirms the continuation of the of Eastern Cape Parks and Tourism Agency.
- CLAUSE 31:** Sets out the objects of the Agency.
- CLAUSE 32:** Determines the management authority of protected areas in the Province.
- CLAUSE 33:** Provides for the powers and duties of the Agency relating to protected area management.
- CLAUSE 34:** Determines the functions of the Agency in relation to protected areas.
- CLAUSE 35:** Provides for the tourism responsibility of the Agency.
- CLAUSE 36:** Provides for the powers and duties of the Agency relating to tourism.
- CLAUSE 37:** Provides for the compulsory registration as a tourist service.
- CLAUSE 38:** Provides for the development and keeping of a register of tourist services in the Province.
- CLAUSE 39:** Provides for the powers of the Agency in relation to registration as a tourist service.
- CLAUSE 40:** Provides that the Agency must issue a certificate of registration of a tourist service.
- CLAUSE 41:** Provides that the Agency must publish a list of registered tourist services.
- CLAUSE 42:** Provides for the circumstances for the cancellation of registration of a tourist service.
- CLAUSE 43:** Determines the period of validity of registration and the process of renewal as a tourist service.

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- CLAUSE 44:** Provides for an appeal to the MEC against a decision of the Agency.
- CLAUSE 45:** Provides for the compulsory registration as a tourist guide in the Province.
- CLAUSE 46:** Determines the period of registration and the process of renewal of registration as a tourist guide.
- CLAUSE 47:** Determines the financial year of the Agency.
- CLAUSE 48:** Provides the revenue sources of the Agency.
- CLAUSE 49:** Provides the process of submission of the annual budget of the Agency.
- CLAUSE 50:** Provides for the contents of the strategic plan of the Agency.
- CLAUSE 51:** Provides for the process of preparation and submission of the annual report and financial statements of the Agency.
- CLAUSE 52:** Provides for the process of quarterly reporting by the Agency.
- CLAUSE 53:** Provides for the power to the MEC to establish a tourism development fund by way of regulation.
- CLAUSE 54:** Provides for the power to the MEC to establish a biodiversity conservation and development fund by way of regulation.
- CLAUSE 55:** Provides for the power to the Agency, in consultation with the MEC to institute a provincial tourism development registration fee.
- CLAUSE 56:** Provides for the designation of environmental management inspectors by the MEC.
- CLAUSE 57:** Provides for the designation of provincial environmental officers by the MEC.
- CLAUSE 58:** Provides for the appointment or designation of a tourism inspector by the Agency.
- CLAUSE 59:** Provides for the powers and duties of a tourism inspector.

- CLAUSE 60:** Provides for the entry of land or premises with a warrant by a tourism inspector.
- CLAUSE 61:** Provides for the entry of land or premises with permission of owner or person in control.
- CLAUSE 62:** Provides for a process in the case of resistance against entry or inspection with a warrant.
- CLAUSE 63:** Allows that a tourism Inspector may be accompanied by a member of the South African Police Service or another appropriate person.
- CLAUSE 64:** Provides for the duty to produce a document relevant to an inspection.
- CLAUSE 65:** Provides for a person's duty to answer questions and to assist tourism inspector.
- CLAUSE 66:** Provides for the issuing of a compliance notice by a tourism inspector.
- CLAUSE 67:** Provides for general offences and penalties for contravention of provisions of the Bill.
- CLAUSE 68:** Provides for offences relating to the Board and the Agency.
- CLAUSE 69:** Provides for offences regarding inspections.
- CLAUSE 70:** Provides for penalties payable in case of conviction in terms of the Bill.
- CLAUSE 71:** Provides for the jurisdiction of the magistrate's court for convictions.
- CLAUSE 72:** Provides that the Agency shall be the legal successor to the Agency established in terms of the 2010 Act.
- CLAUSE 73:** Provides for the continuance of the Board established in terms of the Eastern Cape Parks and Tourism Agency Act, 2010.
- CLAUSE 74:** Provides for the continuance of the legal proceedings and internal proceedings and investigations in terms of the Eastern Cape Parks and Tourism Agency Act, 2010.

- CLAUSE 75:** Deems the financial, administrative and other records of Eastern Cape Parks and Tourism Agency to be those of the new Agency.
- CLAUSE 76:** Provides for the continuance of the employees of the Eastern Cape Parks and Tourism Agency.
- CLAUSE 77:** Provides for the continued registration of tour guides, tour operators, couriers, training providers, hotels, other accommodation establishments, conference centres, restaurants and designated tourist services.
- CLAUSE 78:** Provides for the continued investigations and law enforcement activities.
- CLAUSE 79:** Provides for general transitional provisions.
- CLAUSE 80:** Provides for the repeal of the Eastern Cape Parks and Tourism Agency Act, 2010.
- CLAUSE 81:** Provides for the short title and commencement of the Act.

This Bill falls within the ambit of Schedule 4 of the Constitution.

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