

**THE PROVINCE OF
GAUTENG**



**DIE PROVINSIE VAN
GAUTENG**

Provincial Gazette Provinsiale Koerant

EXTRAORDINARY • BUITENGEWOON

Selling price • Verkoopprijs: **R2.50**
Other countries • Buitelands: **R3.25**

Vol: 28

PRETORIA
4 MARCH 2022
4 MAART 2022

No: 72

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-4520



9 771682 452005



0 0 0 7 2

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
	GENERAL NOTICES • ALGEMENE KENNISGEWINGS		
296	Gauteng Gambling Act (4/1995): Gauteng Department of Economic Development: Publication of the Final Gauteng Gambling Policy	72	3

GENERAL NOTICES • ALGEMENE KENNISGEWINGS**GENERAL NOTICE 296 OF 2022****GAUTENG DEPARTMENT OF ECONOMIC DEVELOPMENT****GAUTENG GAMBLING ACT, 1995 (ACT NO 4 OF 1995)****PUBLICATION OF THE FINAL GAUTENG GAMBLING POLICY**

The Member of the Executive Council responsible for Economic Development, Environment, Agriculture and Rural Development in the Province of Gauteng hereby publishes the Gauteng Gambling Policy which initiates the review of the Gauteng gambling legislation (Gauteng Gambling Act, 4 of 1995, Regulations and the Rules).



**MR MPHO FRANKLIN TAU (MPL)
MEMBER OF EXECUTIVE COUNCIL
ECONOMIC DEVELOPMENT,
AGRICULTURE AND ENVIRONMENT
DATE:**



**FINAL POLICY SUPPORTING THE REVIEW OF THE GAUTENG GAMBLING
ACT, 1995, its Regulations and Rules**

TABLE OF CONTENTS

ACRONYMS	4
EXECUTIVE SUMMARY	5
1. INTRODUCTION AND BACKGROUND	6
1.1 Background	6
1.1.1 Concurrent Jurisdiction	7
1.1.2 National Gambling Act, 1996 and 2004	8
1.1.3 Gauteng Gambling Act, 1995 (Act No. 4 of 1995)	8
1.2 Policy Issue Identification	9
1.2.2 Balancing legislative frameworks	10
1.2.3 Impact of Coronavirus	10
1.2.4 Litigation.....	11
1.3 Policy context and environment, links to other policies.....	12
1.3.1 Policy and Regulatory Opportunities	12
1.3.2 Links to other policies	13
1.4 PESTEL Analysis.....	15
1.5 Brief overview of the policy process followed.....	16
2. PROBLEM STATEMENT	16
2.1 Underlying Policy Statement.....	16
2.1.1 Legislative Alignment.....	17
2.1.2 Governance	18
2.1.3 Marketing and promotions	18
2.1.4 Introduction of Schedule of Offences and Fines.....	19
2.1.5 Contingencies	20
2.1.6 Fourth Industrial Revolution	20
2.1.8 Interactive gambling and alternative gambling types.....	20
2.1.9 Introduction of Alternative Dispute Resolution.....	21
2.1.10 Enforcement	22
2.1.11Transformation	22
3. POLICY VISION AND OBJECTIVES	24
3.1 Vision.....	24
3.2 Rationale for Policy Intervention.....	24
3.3 Strategic linkages.....	24
3.4 Theory of Change, Policy Objectives and Expected Outcomes	25
4. IMPLEMENTATION	27

4.1	Summarised Policy Focus Areas per problem statement	27
4.2	Target Beneficiaries and Stakeholders	28
4.3	Resource Allocations-Human, Financial, Systems	28
4.4	Roles and Responsibilities.....	28
4.5	Communication	29
5.	GOVERNANCE	29
5.1	Performance Reporting and Accountability	29
5.2	Transparency and information dissemination	30
6.	POLICY MONITORING, EVALUATION AND REVIEW	32
6.1	Programme performance measurement indicators and Monitoring Process	32
6.2	Evaluation of the Policy	34
6.3	Policy Review Schedule	34
7.	CONCLUSION	34
8.	REFERENCES	35

ACRONYMS

4IR	Fourth Industrial Revolution
ADR	Alternative Dispute Resolution
B-BBEE	Broad-Based Black Economic Empowerment
CEO	Chief Executive Officer
CSI	Corporate Social Investment
DTI	Department of Trade, Industry and Competition
EBT	Electronic Bingo Terminal
FIC	Financial Intelligence Centre
FICA	Financial Intelligence Centre Act, 2001 (Act No.38 of 2001)
GDED	Gauteng Department of Economic Development
GDP	Gross Domestic Product
GGB	Gauteng Gambling Board
GPG	Gauteng Provincial Government
MEC	Member of Executive Council
NGB	National Gambling Board
NGA	National Gambling Act, 2004 (Act No. 7 of 2004)
NRGP	National Responsible Gambling Programme
LPM	Limited Payout Machine
PLA	Provincial Licensing Authorities
“the Act”	Gauteng Gambling Act, 1995 (Act No. 4 of 1995)
SAPS	South African Police Service

EXECUTIVE SUMMARY

The gambling industry has grown and evolved substantially since the legalization of gambling in South Africa in 1994. Technological advancements on existing forms of gambling and new forms of gambling have emerged and have created challenges for regulators and policy makers. This once fledgling industry has developed into a competitive and flourishing sector which has its basis of operation as a government issued licence.

The unfortunate impact of COVID-19 is a crude realisation that the gambling industry in South Africa is losing out on opportunities related to the Fourth Industrial Revolution (4IR). As the biggest beneficiary of South Africa's gambling revenue, Gauteng – as a province – is, during the Pandemic, also the biggest loser. In response, the Gauteng Gambling Board (GGB) made an urgent request to the Provincial Command Council for the Premier of Gauteng to motivate, at a national level, the licensing and regulation of interactive gambling by existing licensees. This proposal would mean a reformed gambling industry and its regulation, chiefly to embrace the opportunities of the 4IR.

The Premier in his state of address¹ on 23 February 2021, mentioned that the Province is implementing the Gauteng 4IR Growth and Digitalisation Strategy which has four pillars: Digital Infrastructure, Enabling Environment, Enabling Technologies, and Human Capital Development. This will enable our City Region to build a dynamic digital economy that offers employment to the youth and opportunities to entrepreneurs.

Guided by the Gauteng 4IR and Digital Transformation Panel, the province is rolling out several initiatives to achieve amongst others: -

- Reliable connectivity that provides inclusive access, supports new business, creates new players and markets, and improves government services.
- Improve Gauteng's competitive positioning through 4IR and other technologies.
- Improve research, development, and innovation.
- New approaches to developing policies, frameworks, and standards (e.g. interoperability, privacy, and security) in the context of a rapidly changing world².

The Gauteng Gambling Policy therefore seeks to align to the digital age, create new and equal opportunities, enhance regulatory efficacy, while being mindful of its

¹ Premier David Makhura: Gauteng State of the Province Address 2021 available at <https://www.gov.za/speeches/premier-david-makhura-gauteng-state-province-address-2020-23-feb-2021-0000>, accessed on 26 February 2021.

² Gauteng Gambling Board Annual Report 2019/2020 available at <https://www.ggb.org.za/annual-reports/>, accessed on 27 February 2021.

objective of protecting the public. GGB endeavors to keep gambling fair, open, and crime free, while ensuring that it is protecting the general public.

1. INTRODUCTION AND BACKGROUND

1.1 Background

Prior to 1994 gambling was prohibited in South Africa and only took place in the former homeland areas, Transkei, Bophuthatswana, Venda, and Ciskei³. The Gambling Act of 1965⁴ allowed wagering in the former homelands, allowing casinos to operate there legally. Betting on horseracing activities was the only legal form of gambling allowed during that time. Between the 1970s and 1990s, as many as 2,000 illegal casinos began operating throughout South Africa.

The former policy on gambling was guided by the 1995 Wiehahn Commission Report⁵. The Commission was established in August 1994 by the Minister of Justice with a mandate to advise the government on the establishment of a national policy on gambling for South Africa, given that gambling, other than betting on horseracing, was illegal at that time. The report of the Wiehahn Commission has guided the managed rollout of gambling in South Africa since 1996, having identified the following key objectives for gambling policy:

- (a) The protection of society from the over-stimulation of latent gambling through the limitation of gambling opportunities;
- (b) The protection of players and integrity and fairness of the industry through the strict control and supervision of the industry;
- (c) The uniformity and harmonization of policy and legislation at all levels of government and across provinces through minimum norms and standards, co-operation and co-ordination;
- (d) The generation of revenue and taxes for provincial government and for good causes;
- (e) The economic empowerment of the historically disadvantaged; and
- (f) The promotion of economic growth, development and employment.

Pursuant to the report, a regulatory framework was put in place, closely following the recommendations and objectives of the Wiehahn Commission report. The National Gambling Act, 1996⁶ and the National Lotteries Act, 1997⁷ were

³Transkei, Bophuthatswana, Venda, and Ciskei (the so-called "TBVC States")

⁴ Act No. 51 of 1965

⁵ Wiehahn Commission Report of 1995

⁶ Act No. 33 of 1996

⁷ Act No. 57 of 1997

promulgated and the National Gambling Board and the National Lotteries Board were established. The National Gambling Board was not a regulatory body, but rather a body established to provide policy advice and to promote uniformity among provincial gambling regulators, who had the responsibility for the licensing and regulation of gambling activities in their respective provinces.

1.1.1 Concurrent Jurisdiction

Part A of Schedule 4 of the Constitution⁸ lists functional areas of concurrent national and provincial competence. This includes gambling and wagering but excludes *inter alia* lotteries. Thus, both the national and provincial spheres of government are empowered to pass gambling legislation. However, section 85(2)(a) of the Constitution read with section 125(2)(a) and (b) thereof requires all provincial and national legislation within functional areas of concurrent legislative competence to be implemented and administered by the Provincial Executive, except where the Constitution or Act of Parliament provides otherwise. The national legislation may provide a framework within which the provinces can effect implementation. Example, section 30 of the National Gambling Act⁹ recognizes the exclusive jurisdiction of provincial licensing authorities regarding licences.

Concurrent jurisdiction raises a number of particular challenges for the regulatory framework¹⁰:

- (a) The effective resolution of disputes between provincial regulators and the NGB and between provinces.
- (b) The effective implementation of co-operative governance, requiring a cooperative and consultative approach to policy-making and a relationship between all parties that is based on mutual respect and trust.
- (c) Ensuring consistency and uniformity in regulation through the development and consistent implementation of national norms and standards.
- (d) Balancing the rights and objectives of the province, with that of national government.
- (e) Advancing provincial objectives whilst balancing national considerations.

⁸ Constitution of the Republic of South Africa 108 of 1996

⁹ Act 7 of 2004

¹⁰ Nzimande, S., et al. 'Review of the South African gambling industry and its regulation. A report prepared by the Gambling Review Commission. Final report submitted to the Minister of Trade and Industry' available at <https://static.pmg.org.za/docs/110829gambling-review.pdf> (2010), accessed on 27 February 2021

1.1.2 National Gambling Act, 1996 and 2004

The review of the gambling industry by the Wiehahn Commission led to the National Gambling Act of 1996 being promulgated. The National Gambling Act, 1996 was promulgated to set national norms and standards for the regulation of gambling in South Africa, form a system for granting gambling licences, and to establish a National Gambling Board (NGB) mandated to oversee the regulation of legalised gambling.

The first review of National Gambling policy and legislation occurred in 2002. This review was propelled by ongoing disputes and contestation between provincial gambling regulatory authorities and the National Gambling Board, the rising concerns about the potentially negative socio-economic impact of gambling, and thirdly, to deal with forms of gambling that had not been dealt with or anticipated in the National Gambling Act, 1996, in particular interactive gambling and horseracing.

In 2004, the National Gambling Act of 1996 was repealed and replaced with the National Gambling Act of 2004¹¹ which recognised the concurrent powers by the national and provincial governments. The National Gambling Act, 2004 provided for uniform norms and standards applicable in South Africa and also established institutions responsible for coordinating and administrating national gambling policy.

The National Gambling Act sets some of the gambling activities that may be licensed by provincial licensing authorities. Gambling activities authorised in terms of the National Gambling Act include casinos, limited pay-out machines, bingo, amusement games and betting on racing and sports activities. Horse racing or race-meetings are regulated by provincial gambling laws.

1.1.3 Gauteng Gambling Act, 1995 (Act No. 4 of 1995)

The Gauteng Gambling Act, 1995¹² was promulgated in 1995 to regulate gambling within the province of Gauteng. The GGB is established in terms of section 3 of the Gauteng Gambling Act. The GGB is a Schedule 3C listed provincial public entity in terms of the Public Finance Management Act, 1999¹³ and is accountable to the Gauteng Provincial Legislature through the MEC for Economic Development who is the Executive Authority.

¹¹ Act No. 7 of 2004 as amended

¹² Act No. 4 of 1995

¹³ Act No. 1 of 1999

Since its establishment in 1995, the GGB continues to play a significant role in implementing the province's mandate to regulate and control gambling in the Province. This mandate is premised on two important pillars namely; protection of the public and revenue collection by -:

- (a) Licensing individuals and entities (companies) to conduct gambling;
- (b) Registering persons engaged in gambling;
- (c) Registering gambling devices;
- (d) Collecting taxes and levies – on behalf of the Province and others;
and
- (e) Ensuring compliance with gambling and other legislation.

1.2 Policy Issue Identification

The gambling industry remains a unique segment of entertainment in South Africa which depends on a large workforce and the support of thousands of both national and international vendors and suppliers, making it dynamic in creating jobs and fuelling economic growth. Therefore, making this industry more able to produce significant economic effects in the communities and regions in which it is located. Gambling seems to bring about more benefits such as increased property value and increased employment opportunities.

Owing to rapid changes in the socio-economic environment, the need for policy evolution is eminent. Since 1994, however, important socio-economic, demographic and policy shifts have occurred which necessitated the introduction of new, innovative and needs-oriented strategies to achieve the mandate of the Gauteng Provincial Government in so far as gambling is concerned.

Over the last two decades, the development of policies that promote economic growth have become an integral part of the public sector. But the apparent inability of these policies to sustain successful outcomes over time has led to policy makers exploring alternative avenues. Since 1994, there have been numerous policy and statutory developments in order to give effect to the new approach to gambling. As mentioned above, these include the National Gambling Act, 2004, National Gambling Amendment Act, 2008¹⁴, National Gambling Policy¹⁵, 2016 as well as provincial gambling legislation. Despite all these legislative frameworks, gaps still exist that hampers effective regulations of the gambling industry, and legislative intervention is required to increase the speed of adopting the principles to achieve socio-economic development.

¹⁴ Act No. 10 of 2008. It should be noted that this regulatory instrument has not been implemented.

¹⁵ National Gambling Policy 2016

1.2.2 Balancing legislative frameworks

Licensing of gambling forms the cornerstone of the legislative framework relating to gambling. Reviewing the licensing process and the criteria used when licences are granted is a key factor in determining the effectiveness of the existing framework. Gambling is regulated both nationally and provincially, there are two types of gambling licences, national licences and provincial licences. The Commission¹⁶ in its findings noted that the licensing criteria outlined in provincial laws have not been substantially updated or reviewed since their initial promulgation. As a result, differences in the factors considered across provinces remain in place.

Gambling operators pointed out that these differences are retained despite conflicts and inconsistencies with national legislation or regulation. There appears to be a number of inconsistencies between, for example, the national LPM regulations and provincial licensing processes. In instances where national regulation was altered, provincial legislation and requirements were not amended. Differences are retained despite conflicts and inconsistencies with national legislation or regulation¹⁷. This legislative process seeks to eradicate as many of these inconsistencies as possible, with heightened focus on the unique needs of the Province. The limit to seeking the legislation to be consistent with national legislation is informed by the Constitutional checks and balances, and will be informed by the desire to effect broader socio-economic upliftment in the Industry.

1.2.3 Impact of Coronavirus

The current gambling model of South Africa is predominantly land based, meaning that people gamble only at licensed brick and mortar establishments across the five legal modes of gambling, i.e., casinos, horse racing, sports betting sites, LPM sites and Bingo sites. Currently online gambling is prohibited by the National Gambling Act, with the exception of betting on sport, there is no other licensed online form of gambling offered within Gauteng. The casino gambling model in South Africa is such that casinos need to be attached to a hotel, which means that the gambling industry also benefits from visitors staying in those hotels, as they can easily access gambling facilities due to their proximity to the gambling activities. Gambling revenues in South Africa therefore relies heavily on the land-based gambling establishments which the public utilise, as well as which tourists visit – i.e. casinos. The covid-19 pandemic has had a devastating impact on the industry, it shed thousands of jobs,

¹⁶ Ibid

¹⁷ Ibid

and the public funds which gambling contributes towards were reduced. After one and a half years, it is envisaged that the covid-19 pandemic will still destabilise the industry in the near future. The bans on travel and being in public places – including places of entertainment and recreation, has adversely impacted on the industry.¹⁸ The coronavirus disease has also illustrated the need for the transformation of the gambling industry, and the removal of the vulnerabilities which the industry has, in that gambling should not only rely on land-based establishment. This need has informed the policy to enhance gambling offerings to a digital offering. In the absence of such development, the industry will continue to be vulnerable and will enter a decline as gambling becomes obsolete or is surpassed by other industries which advance through the adoption of technology and digitisation. The legislative amendments seek to mitigate against these vulnerabilities.

1.2.4 Litigation

Litigation within the broader gambling industry has been inundated since the early 1990s however, recently it has increased due to a perceived ambiguity of the Act. The GGB has, in some cases relied on the courts for interpretation of other provisions of the Act. This litigation has dealt with, amongst others:

- (i) unlicensed gambling operators, to prevent the prosecuting authorities from closing down their gambling operations (spoliation orders) and to prolong the eradication of illegal gambling¹⁹.
- (ii) the relationship between the national and provincial boards, for example as is the case in the Type B LPM's, i.e. more importantly, the judicial review of the decisions by the gambling boards – especially where it is related to processes²⁰ and matters of substance.
- (iii) Civil enforcement of gambling debts.
- (iv) Whether inspectors of the Board can search and seize allegedly unlicensed gambling premises without a search warrant²¹.

¹⁸ National Gambling Board Briefing Note – Corona Virus and its potential impact on the South African Gambling Industry (2020) <http://www.ngb.org.za/organisational-areas/news/briefing-note---corona-virus.aspx>, accessed 27 February 2021

¹⁹ Jasper Johannes Malan v The Minister of SAPS N.O. and Others Case No. 25953/18 (Unreported)

²⁰ Sunshine Entertainment CC t/a 'The New Maroela Hotel' and Another v Gauteng Gambling Board and Another (45777/2014) [2017] ZAGPJHC 173

²¹ Mogajane v Chairperson, North West Gambling Board and Others 2006 (5) SA 250 (CC)

- (v) Wagering on dog races alternatively offering fixed odds betting on the outcome of dog races held outside South Africa, which is currently prohibited in South Africa²².
- (vi) Possible reimbursement claims from excluded persons; pathological gambling²³.
- (vii) Illegality of non-casino operators who want to offer fixed odd bets on the outcome of a casino game, including the game of roulette²⁴.
- (viii) Third parties (retailers) acting as agents of bookmakers and/or as intermediaries between bookmakers and persons taking bets on sporting events²⁵.
- (ix) Marketing and promotions which leads to inducement to bet on a sporting event, etc.²⁶.

1.3 Policy context and environment, links to other policies

1.3.1 Policy and Regulatory Opportunities

The South African gambling industry has seen a recent wave in attempts to develop new regulatory instruments, from the amended National Gambling Act of 2008²⁷, to the National Gambling Policy of 2016 and the National Gambling Amendment Bill of 2018. To date, some of these regulatory instruments have not been implemented, while much of what is included in these instruments is pertinent to address the new regulatory challenges raised by the 4IR. An additional policy opportunity would include the drafting of 4IR policy responses by the Department of Trade Industry and Competition wherein provincial regulators will make inputs on policy responses for the gambling industry²⁸. The Gauteng government seeks to benefit from these policy and regulatory opportunities in a balanced manner, in the new legislation (which includes the Regulations and Rules).

²² South African Bookmakers Associations And 5 Others V National Gambling Board And 9 Others - Case No. 75953/17; *South African Federation of Sleddog Sports v National Council of the Society for the Prevention of Cruelty to Animals and another* (SGHC) unreported, case number (13/15774)

²³ *Imtiaz Suliman v Gauteng Gambling Board, Tsogo Sun Gaming (PTY) LTD* (49433/11)

²⁴ *Casino Association of South Africa v Portapa (Pty) and Others* 9547/2018

²⁵ *The Gauteng Gambling Board v OTT Mobile and Others* Case No: 12023/18 (Unreported)

²⁶ Disciplinary Committee Cases in terms of section 37 of the Gauteng Gambling Act, 1995 wherein licensees were charged for contravention of Section 57(2).

²⁷ Act No. 7 of 2008

²⁸ Adams, R et al 'Research to determine the potential impact of the fourth industrial revolution on the current and future regulation of gambling in South Africa' (2020) available at <http://repository.hsra.ac.za/handle/20.500.11910/15237>, accessed 28 February 2021

The amendment of the Act seeks to align with other relevant policies, bills and acts which are promulgated during the legislative process of the Act. These are to include the relevant provisions of, amongst others, General Laws Amendment Bills, reviews of the Gauteng Provincial Government Agencies, National Gambling Amendment Bill of 2018 and others.

1.3.2 Links to other policies

1.3.2.1 Constitution of the Republic of South Africa, 1996

The Constitution is the supreme law of the land and all other legislation need to be aligned to the Constitution in a balanced manner. The Board has therefore identified a need to review its legislation with a view to realign it with the Constitution since the Act was promulgated before it. Example: section 81(2) of the Gauteng Gambling Act empowers an inspector to enter any premises (not only licensed premises) in which any object connected with gambling is or is suspected to be or which are occupied or used or suspected to be occupied or used for the purposes of any gambling activity. This section has been viewed as giving the inspectors very broad powers and as it may be used to conduct search and seizure operations in premises ranging from business premisses to private homes. Whilst these provisions have not been found to be unconstitutional, it is the intention to enhance the powers of inspectors by simultaneously enhancing the legislation.

Consulted stakeholders submitted that this provision is constitutionally problematic as it allows for inspection of premises without a search warrant granted by a judicial officer. This is similar to the provision of the Medicines and Related Substances Control Act, 1965 which the Constitutional Court found to amount to an unconstitutional infringement of the right to privacy in *Mistry*²⁹.

1.3.2.2 National Gambling Act

In terms of the National Gambling Act, the role of the National Gambling Board (“NGB”), in this context is to set gambling norms and standards at a national level to be implemented by provinces. The details of implementation, includes licensing, monitoring of compliance and revenue collection. Example: Electronic bingo was prohibited in South Africa. The GGB amended its legislation

²⁹ *Mistry v Interim Medical and Dental Council of South Africa* 1998 (4) SA 1127 (CC) para 16. See also *Gaertner and Others v Minister of Finance and Others* 2014 (1) SA 442 (CC)

to cater for electronic bingo.³⁰ The National Gambling Policy, 2016, acknowledged that the prohibition of electronic bingo terminals is far outweighed by the demand for its regulation and therefore the decision by the GGB paved the way for incorporation of the electronic bingo in the gambling legislation³¹.

1.3.2.3 Financial Intelligence Centre Act, 2001³² – the purpose of this Act is to combat money laundering activities and was promulgated after the Act. There is therefore a need that the gambling legislation must be cognisant of the provisions of FICA.

1.3.2.4 Protection of Personal Information Act, 2013³³ – provides for the processing and retention of personal data gathered and extracted in processing license applications, exclusions etc. There is therefore a need that the gambling legislation must be cognisant of the provisions of POPIA.

1.3.2.5 Broad Based Black Economic Empowerment Act, 2003³⁴

In terms of the government policy and legislative framework, B-BBEE is one of the pillars utilised to promote inclusive economy by ensuring that persons who were previously disadvantaged are given an opportunity to participate in the economic benefits derived from gambling. Despite the existence of enabling legislation, the industry is not as inclusive as government requires, and does not represent the collective aspirations of our society. Some of the enabling existing legislative provisions include section 10 of the B-BBEE, and the provisions of the National Gambling Act. There is therefore a need that the gambling legislation must be realigned with B-BBEE and National Gambling Act, since it was promulgated after the Act, but that certain objectives must be enhanced beyond these Acts.

In an extract from National Treasury's 2017 Budget Review, it is stated that "Growth without transformation would only reinforce the inequitable patterns of wealth inherited from the past.

³⁰ Akani Egoli (Pty) Ltd v Chairperson Gauteng Gambling Board, Case No. 187891/06 (unreported)

³¹ Department of Trade & Industry National gambling policy 19 - The need to prohibit EBTs is outweighed by the demand to regulate the industry. However, there should be limitations to ensure that the operations of electronic bingo terminals do not pose unfair competition to existing forms of gambling especially the LPMs and casinos. The policy should focus on the numbers of licences and machines per province and per site; the location and accessibility; Corporate Social Investment (CSI) and the contribution to the responsible gambling programmes

³² Act 38 of 2001 as amended

³³ Act 4 of 2013

³⁴ Act 53 of 2003

Transformation without economic growth would be narrow and unsustainable. Government's objective is not merely to transfer ownership of assets or opportunities to contract with the state: it is to change the structure of the economy. Broad based transformation should promote growth, mobilise investment, create jobs and empower citizens. It must create new resources to support social change, including assets and livelihoods for the majority, and strengthen South Africa's constitutional foundations³⁵. A key output of the legislative process will be to impute transformative provisions, to enable greater and more meaningful participation of historically disadvantaged individuals in the gambling industry.

- 1.3.2.6 Promotion of Administrative Justice Act, 2000³⁶ – it gives effect to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the Constitution of the Republic of South Africa, 1996. This legislation will help inform the principles of procedural and substantive fairness to be adopted with each new process which the legislation is to embody, particularly when imposing socio-economic and transformational imperatives on licensees.

1.4 PESTEL Analysis

P	E	S	T	E	L
<ul style="list-style-type: none"> • Change in political administration affects policy directions • Concurrency of jurisdiction between provincial and national gambling boards causes conflict 	<ul style="list-style-type: none"> • Loss of revenue as a result of unlicensed operators • Low inclusivity of historically disadvantaged individuals in industry • Loss of employment opportunities and local economic activity as a 	<ul style="list-style-type: none"> • Responsible gambling programme as a mechanism to curb social harms to the public • Revenue collection for the provincial government to support provincial priorities 	<ul style="list-style-type: none"> • 4IR and other technological innovations 	<ul style="list-style-type: none"> • Considerations of e-waste (as a result of gambling devices) • Health and safety (Covid-19) issues towards consumers and the public have become important. 	<ul style="list-style-type: none"> • Change in various legislation • Litigation • International best practices

³⁵ Transformation and Growth Final Comprehensive Report 2020. <https://www.ngb.org.za/>

³⁶ 3 of 2000

	result of technology hindrances				
--	---------------------------------	--	--	--	--

1.5 Brief overview of the policy process followed

The GGB initiated its own policy review process due to the gaps that exist in its current legislation. Due to the ineffectiveness and inefficiency of some of the provisions of the provincial gambling legislation, the GGB in its deliberations arrived at the view that a more holistic and thorough review of the legislation was required. The focus of the review is based on the vast technological and socio-economic impacts of gambling on the community, the impact of online gambling, the need for alignment and enhancement of legislative prescripts with key national legislation as well as the efficacy of the current regulatory environment.

The GGB has engaged with internal departments and the relevant stakeholders (licensees) to solicit input and support to determine whether an amendment or repeal of existing legislation will be required. Comments and inputs have been received from the licensees in support of the review and subsequent repeal of the legislation.

2. PROBLEM STATEMENT

2.1 Underlying Policy Statement

The Gauteng Gambling Act, 1995³⁷ has continued to assist the Gauteng Provincial Government to address the historical consequences, social and economic challenges in the gambling industry. However, the GGB identified some challenges in regulating the gambling activities in a manner that achieves the desired change. Additionally, technological change is becoming more rapid within the gambling industry, and regulation needs to become more adaptable.

The Act was promulgated in 1995 and since then it has never been materially reviewed or meaningfully reflected on, therefore it is deemed that the legislation review must embody enhanced regulatory output, in order to achieve societal and transformative change, and to increase the opportunity for all. The Constitution is the supreme law of the land and all other legislation need to be aligned to the Constitution and its objects. The Board has therefore seen a need to review its legislation with a view to identifying and recommending for repeal or amendment of legislation or provisions in legislation that are inconsistent with the

³⁷ Act No. 4 of 1995

Constitution redundant or obsolete. The following are some examples of what necessitates the review:

2.1.1 Legislative Alignment

Some of the concerns regarding the relevance of the current regulatory framework of the gambling industry can be addressed through ensuring better alignment between gambling laws and other legislative frameworks which identify with the development needs of the Gauteng gambling sector. Gambling laws must be aligned to the enhanced benefits which other legislation provides.

Since the enactment of the gambling legislation, various forms of gambling have emerged, such as electronic bingo terminals and interactive gambling. National Gambling legislation does not make provision for the regulation of these forms of gambling, it is therefore necessary to review the provincial gambling legislation with mindfulness of the role of the National Gambling Board. The exposition of the gambling legislations indirectly sheds light on the need for review. The GGB amended its legislation to cater for electronic bingo³⁸. The National Gambling Policy, 2016, acknowledged that the prohibition of electronic bingo terminals is far outweighed by the demand for its regulation and therefore the decision by the Gauteng Gambling Board paved the way for incorporation of the electronic bingo in the gambling legislation³⁹.

Example:

- (a) Section 6(i) of the Gauteng Gambling Act still refers to the Corruption Act, 1992 which is outdated, and would need to be amended to refer to the Prevention and Combating of Corrupt Activities, 2004. In addition, reference may also need to be made to an offence under the Financial Intelligence Centre Act, 2001.
- (b) The Gauteng Gambling Act still makes reference to the Totalizator Agency Board (Transvaal) and Jockey Club, which no longer exists, this would have to be deleted and rationalised with the present regulatory framework bestowed on government.

³⁸ Akani Egoli (Pty) Ltd v Chairperson Gauteng Gambling Board (17891/06) [2008] ZAGPHC 262 (30 July 2008) (unreported)

³⁹ Department of Trade & Industry National gambling policy 19 - The need to prohibit EBTs is outweighed by the demand to regulate the industry. However, there should be limitations to ensure that the operations of electronic bingo terminals do not pose unfair competition to existing forms of gambling especially the LPMS and casinos. The policy should focus on the numbers of licences and machines per province and per site; the location and accessibility; Corporate Social Investment (CSI) and the contribution to the responsible gambling programmes

Policy Position: Review the Gauteng gambling legislation so as to align it with other legislative frameworks, and to remove immaterial aspects which do not serve the public and province's objectives. Enhance the regulatory powers of the Board so that it can operate in a flexible manner which is cognisant of its mandate and the interests of all stakeholders.

2.1.2 Governance

The Act must provide for the possible retention of certain percentage of Board members for continuity within the gambling regulation, or alternative comparable methods for ensuring continuity of skill and knowledge. The tenure of the board is 3 years wherein board members are eligible for reappointment. We propose that the number of reappointment of members of the Board be specified in the legislation, where appropriate circumstances exist, to ensure continuity of skills and expertise. The purpose and function of board members and all other key persons needs to be revisited, in light of the Public Finance Management Act, 1 of 1999, the Companies Act 71 of 2008, other legislation and the intention to increase the beneficial outputs of the GGB.

Policy Position: There must be a provision that empowers the MEC, where appropriate, to retain a certain amount of board members for purposes of continuity at the end of tenure, or such other process which would ensure continuity. The provisions relating to the governance of the GGB in general, including the roles of the accounting authority and account officer, need to be generally enhanced.

This policy is cognisant of the envisioned amendments to be made by the Gauteng General Laws Amendment Bill⁴⁰ on the governance structures of public entities across the GPG agencies.

Policy Position: The current governance structure will take cognisance of the Gauteng General Laws Amendment Act and what it promulgates.

2.1.3 Marketing and promotions

Section 57(2)⁴¹ hampers promotion and marketing for the licensees. It provides as follows:

"No licensed bookmaker shall, directly or indirectly, give or undertake to give to any other person money or other valuable

⁴⁰ Gauteng Provincial Laws General Amendment Bill, 2018 (Provincial Gazette 307 of October 2018)

⁴¹ Insert provision of section 57(2) of the Gauteng Gambling Act

consideration, other than the amount of a wager won by such other person, to induce that person to bet on a sporting event”.

Section 57(2) of the Act has become a contentious issue in particular with the way it is being interpreted. This is due to lack of proper guidelines which has caused a gap in its application and causing confusion amongst licensees, but also the inconsistency created through the wording. The misapplication of this section has hindered and/or stifled innovation and competition amongst licensees and as a result some have deemed it fit to operate in other provinces wherein the rules and regulations are conducive. Such movements to other provinces have resulted in revenue loss.

Policy Position: It is proposed that this section be deleted as it has become obsolete in that the gambling market is fast growing and licensees are innovating to attract existing and new customers with the purpose of growing their market base. It is also proposed that there be inclusion of provisions relating to advertising and marketing in a balanced manner, and in a way that is cognisant of the objectives of government and interests of all stakeholders.

2.1.4 Introduction of Schedule of Offences and Fines

Section 37 of the Act provides that the board may impose fines not exceeding R10 000 000.00 (ten million rand) or such higher amount as may be prescribed where a holder of a licence has failed to comply with the provisions of the Act. However, there is no schedule prescribing such offences and fines/penalties. This gap in the law has created inconsistencies in charging licensees and imposing fines and/or penalties. It is envisaged that the proposed amendments will cure the current gap in that the fine to be imposed will be provided for in the empowering legislation. The scope for enhancement of these fields will be contrasted with other applicable legislation and bills, including the National Gambling Bill, 2018 where desirable.

Policy Position: Introduction of schedule of fines and penalties that may be lawfully imposed on licensees that are found to have contravened the gambling laws. Introduction of enhanced enforcement provisions, including ascribing greater powers to inspectors (enforcement officials).

2.1.5 Contingencies

Operational Rules for Bookmakers⁴² defines *contingency* as an event or occurrence of which the outcome is uncertain or unknown to any person until it happens. Further, these Rules includes *other contingency* meaning any lawful event or contingency other than horseracing or a sporting contest. The interpretation of both definitions has created a lot of inconsistencies and different interpretations which led to disputes.

Policy Position: To provide clarity on the definition of contingency in the legislation and impute new imperatives and considerations to expand onto the initial legislative position.

2.1.6 Fourth Industrial Revolution

The Fourth Industrial Revolution is having, and will continue to have a significant and multi-faceted impact on the gambling industry in South Africa, raising a wide scope of new challenges and demands for regulators. The 4IR paradigm is dynamic, and at its conceptual core is the notion of change – the interplay between technological, economic, social and political changes. The exponential growth of computing power and internet connectivity continues to drive rapid global technological development, which in turn acts as a driver of social and economic change. The overarching implication for regulators, including policy makers and legislators, is that change is becoming more rapid, and regulation needs to become more adaptable⁴³.

Changes in manufacturing, including advances in robotics and 3D printing, are affecting the technological characteristics of the gambling sector. Regulators need to pay attention to possible uses of robotics to automate tasks in the casino environment whereby these may lead to unemployment, or other unanticipated consequences⁴⁴.

Policy Position: Introduction of provisions that deals with the advent of technology/software within the gambling industry, and the development of the industry in a manner which is conducive to the regulator's objectives.

2.1.8 Interactive gambling and alternative gambling types

Internet-based technology has now made it possible to offer gambling activities traditionally associated with land-based gambling

⁴² Approved Operational Rules for Bookmakers of 18 June 2008

⁴³ Ibid.

⁴⁴ Ibid.

establishments (that is, casinos) in a virtual space. This mode of gambling is known as interactive / online or remote gambling. Interactive gambling is deemed to be illegal in South Africa except online betting (sports and horseracing betting) through licensed bookmakers. With the exception of online gambling, no further gambling advancements have been contemplated, despite a changing gambling industry and consumer base. The amendment of the Act should take into account State's capacity to effectively regulate and control interactive and/or other forms of gambling. This must be balanced with the need to regulate and / or otherwise control these unregulated areas of gambling.

Policy Position: Internet gambling was intended to be a nationally regulated licence type. The National Gambling Amendment Act, 2008 was set to usher in and provide for the regulation of interactive gambling, but it has never come into operation because it has no commencement date, and the President has not proclaimed one. The Department of Trade Industry and Competition published the National Gambling Policy, 2016⁴⁵, proposing retention of the status quo, that is, continued prohibition of interactive gambling⁴⁶.

Discussions are at an advanced stage with all the other gambling boards, including the National Gambling Board (NGB) on the possibilities of legalisation of internet gambling. All parties are in agreement that the proposal has to be canvassed, through the provincial governments, with the Minister of Trade Industry and Competition to allow our current licensees to offer their products (games) through internet without necessarily issuing new forms of licenses. This is to be contemplated in the legislative framework. The regulator's flexibility in implementing change is to be imputed into the legislation, in order to make further gambling opportunities available to the industry in a sustainable manner.

2.1.9 Introduction of Alternative Dispute Resolution

The review of the Act seeks to introduce Alternative Dispute Resolution (ADR) mechanisms which is meant to be an alternative to parties approaching Court for relief. It provides an alternative method of resolving issues rather than going through time-consuming and restrictive civil litigation. Alternatives to litigation will reduce legal costs and provide for the ventilation of disputes in a manner that balances the rights of the stakeholders.

⁴⁵ National gambling Act National Gambling Policy, 2016 available at <https://www.ngb.org.za/SiteResources/documents/2016/Approved%20%20Published%20National%20Gambling%20Policy%202016%20-%2001%20April%202016.pdf>, accessed on 28 February 2021(Notice 389 of 2015

⁴⁶ Ibid

Policy Position: Introduction of Alternative Dispute Resolution (ADR) mechanisms to reduce the volume of litigation and to resolve matters internally through a sustainable manner, and with a sustainable funding method.

2.1.10 Enforcement

Illegal gambling creates vulnerabilities for the public, who are not protected by the Gauteng Gambling Board. It creates a breeding ground for further illicit trades and unlawful conduct, as well as takes away business from licensed operators, and deprives government of revenue. The Law Enforcement Inspectors of the Board do not have sufficient capacity and powers to effectively perform their functions in terms of the Act i.e. the power to execute raids, seize gambling equipment, execute arrests, apply for search or other warrants or participate in other legal procedures that are necessary to investigate and gather evidence that is admissible in a court of law. Law Enforcement Inspectors of the Board rely on other law enforcement agencies such as the South African Police Service in the investigation and eradication of illegal gambling operations. The inspectorate also lacks the ability to impose any penalties for frequent contraventions of the gambling laws by the same perpetrators.

Policy Position: The proposed amendments will provide the Board with the power to prescribe a criteria for the appointment of law enforcement officers to ensure that they have sufficient powers to enforce compliance and intensify the eradication of illegal gambling. To determine alternative regulatory and other means for curbing illegal gambling and enhancing the powers of the GGB's law enforcement officers. To generally enhance the enforcement capabilities of the inspectors and the Board in general and implement novel revenue generation methods to expand on the efforts to prevent, prosecute and eradicate illegal gambling.

2.1.11 Transformation

The precise status of transformation and inclusive growth within the South African Gambling Industry remains unknown. B-BBEE is an economic and a strategic objective of the South African Government. However, the gambling industry, to date, does not have its own transformation charter or industry code, and gambling operators are thus measured in terms of the Generic Scorecard and Codes of Good Practice as published by the DTIC.

In particular, it is the mandate of government to apply BEE criteria, as set out in the scorecard, whenever it:

- grants a licence to engage in a specific regulated economic activity, for example, gambling or mining;
- grants a concession to a private enterprise to operate an asset or enterprise on behalf of the state;
- sells an asset or a state-owned enterprise;
- enters into a public-private partnership; and
- engages in any economic activity.

Given the fact that there have not been substantial amendments in the provincial legislations, as a result there is a disjuncture in the application of transformative provisions within the industry. Since legalisation, Board issued licenses is near maximum output. Going forward, the possibility for providing further opportunities will be far less than in the past. Provincial Licensing Authorities generally do not have provisions in their respective legislations to regulate transformation, but rather enforce transformation through licensing conditions and Request for Application (RFA) or Invitation to Apply (ITA) based on the B-BBEE Act. Applicants are required, through the RFA or ITA to show commitment to BBB-EE structure by ensuring that at least 51% of ownership of the business is acquired by previously disadvantaged individuals. This requirement is not legislated but enacted through procedure.

Policy Position: Include clearly defined provisions in the legislation to promote transformation in the gambling industry, particularly Gauteng, and to achieve clearly identified targets for the achievement thereof. A key focus of the amendment of the Act should be to achieve access to entry to the gambling market by historically disadvantaged persons and small players. To provide for mechanisms to penalise licensees that do not conform to broad and identified transformational objectives and provide added support for those which do. Increase the Regulator's involvement in achieving transformational objectives amongst existing licensees through, amongst others, the creation of legal tools to enhance this achievement. To facilitate greater opportunities for historically disadvantaged individuals in new gambling opportunities.

3. POLICY VISION AND OBJECTIVES

3.1 Vision

The policy intends to ensure that there is alignment with national, provincial and local legislative frameworks, and transforming the industry to achieve the realization of government objectives in a sustainable manner. The policy also intends to ensure that regulation of gambling is adaptable given the rapid technological changes brought about by 4IR and other related changes. Increase gambling offerings and increase regulatory flexibility. The legislation must be clear, unambiguous and not be susceptible to different interpretations.

3.2 Rationale for Policy Intervention

Since its promulgation in 1995, the Act has never been materially reviewed, and the needs of society have changed and grown, so to has the demand on government. This was also confirmed by the Commission⁴⁷ in its findings that the licensing criteria outlined in provincial laws have not been substantially updated or reviewed since their initial promulgation. As a result, differences in the factors considered across provinces remain in place. The main reasons for the policy intervention is to reinforce the regulatory framework in the gambling industry, and create a regulatory framework that promotes broader benefit to the Province and general public. Reviewing the licensing process and the criteria used when licences are granted, transferred or amended is a key factor in determining the effectiveness of the existing framework.

3.3 Strategic linkages

The National Development Plan 2030 (NDP) aims to eliminate poverty and inequalities by 2030. According to the plan, South Africa can realise these goals by drawing on the energies of its people, growing an inclusive economy, building capabilities, enhancing the capacity of the state, and promoting leadership and partnerships throughout society⁴⁸.

The GPG - through the Gauteng Department of Economic Development (GDED) and in partnership with the local government, organised business, organised labour and civil society organisations - has developed and adopted a comprehensive and an overarching Gauteng City Region Economic Development Plan (GCR EDP) 2030 to radically Transform, Modernise and Re-industrialise (TMR) the Gauteng City Region Economy⁴⁹.

⁴⁷ Gambling Review Commission, 2010

⁴⁸ National Development Plan 2030

⁴⁹ Gauteng Department of Economic Development Annual Report 2018/2019

The GGB's mandate is linked to the GDED's Programme on Business Regulation and Governance. This programme's objective is to protect and promote the rights of consumers and facilitate ethical business practices in relation to customer services, while regulating the liquor and gambling industries and maximising the benefits from these industries that can accrue to broader socio-economic development in the province.

The GGB Strategic Plan for 2020 - 2025 has identified amongst others the need to prioritize revenue collection, illegal gambling and transformation in the industry in order to harmonize with the NDP.

3.4 Theory of Change, Policy Objectives and Expected Outcomes

3.4.1 Theory of Change

In today's business environment, more than in any preceding era, the only constant is change. Successful organizations effectively manage change, continuously adapting their bureaucracies, strategies, systems, products, and cultures to survive the shocks and prosper from the forces that decimate the competition.⁵⁰

3.4.2 Policy Objectives

The review of the Act is to ensure that it aligns to the digital age, the protection of the public especially punters/patrons at licensed gambling sites wherever they are gambling to ensure an equitable approach to regulation across different types of operators. The GGB aims to become more responsive to the needs of government, in achieving sustainable socio-economic change and transformation. GGB endeavors to keep gambling fair, open, and crime free, while ensuring that it is protecting the public and promoting benefit to the province and public. GGB endeavors to explore novel ways of increasing revenue generation from gambling enhancing gambling offerings and opportunities and becoming more flexible to modern needs. To achieve these objectives, the scope of review will have regard to, amongst others:

- The protection of punters/patrons of all forms of gambling, including rules to minimise the risks associated with online betting and the use of technology to support harm prevention.

⁵⁰ Fred R. David and Forest R David; Strategic Management: A Competitive Advantage Approach, Concepts and Cases, 16th Edition, ISBN 978-0-13-416784-8, published by Pearson Education 2017

- The effectiveness of our regulatory system, including the GGB's powers and resources to regulate and keeping abreast with the new technological pace of the licensed operators and challenge unlicensed operators to ensure that revenue flows from the legal gambling industry to GGB (regulator) and not to the illegal gambling industry.
- The availability and suitability of redress platforms for individual punters/patrons who feel they have been unfairly treated by gambling operators.
- The powers of all stakeholders in the legislation and restructuring the legislation to enhance governance to achieve the objectives of this policy.
- The enhancement of governance structures, the powers and functions of the board and the ability to implement change in an efficient and sustainable manner.
- In addition, as part of the gambling legislative review, we are looking at whether the regulatory system is delivering our objectives, particularly calling for evidence on whether the GGB's powers of investigation, enforcement and sanction are sufficient to effect change in operator behaviour and raise standards across the industry, or if there is scope for the GGB's existing powers to be used differently or more effectively to eradicate illegal gambling.

3.4.3 Expected Outcomes

It is expected that this policy development and the review of legislation which it initiates will rigorously and pragmatically address the challenges that GGB and its stakeholders encounter because of the gaps in legislation caused by technological advances, environmental, political and social disruption, sluggish economic growth and outdated regulatory framework. It will traverse each section, regulation and rule, and ensure it is fit for purpose, is cognizant of the broad imperatives of this Policy and is conducive for achieving the transformation of the gambling industry in Gauteng.

4. IMPLEMENTATION

4.1 Summarised Policy Focus Areas per problem statement

Problem statement	Policy Focus Areas
Legislative Alignment	Review the Gauteng gambling legislation so as to align it with key legislative frameworks, and enhance its effect and focal area.
Governance	Effectiveness and efficiency of the Board by clarifying governance structures, appointing a well-balanced board and ensuring continuity in the Board's operations
Provisions that hamper marketing and promotions	The review intends to do away with provisions that hampers fair competition in order to encourage investment thereby maximising revenue collection.
Fines and Offences	To introduce a schedule of fines and offences that it may lawfully impose on licensees and others that are found to have contravened the gambling laws.
Contingencies	To provide clarity on the definition of contingency in the legislation to avoid ambiguity.
4IR	To introduce provisions that deals with the advent of technology/software in order keep to abreast with the latest developments within the gambling industry, and to incorporate technological advancements.
Interactive gambling	The review process intends to introduce this subject in a complimentary manner, by enhancing the offerings already provided, meet the expectations of a changing society, and provide greater opportunities through alternative gambling types.
Alternative Dispute Resolution	To introduce Alternative Dispute Resolution (ADR) mechanisms in a sustainable manner, to facilitate the adjudication of disputes in a controlled manner between the regulator and licensees, and which, in the process curbs litigation and reduces legal costs.
Enforcement	To provide the Board with the power to prescribe a criteria for the appointment of law enforcement officers to ensure that they have sufficient powers to enforce compliance and intensify the eradication of illegal gambling. To explore novel ways of illegal gambling eradication and the enhancement of enforcement powers.
Transformation	Include provisions in the legislation to promote transformation in the gambling industry, particularly Gauteng, and to penalise non-compliance.

4.2 Target Beneficiaries and Stakeholders

TARGET BENEFICIARIES	STAKEHOLDERS
Licensees	Gauteng Provincial Legislature
Gauteng Provincial Government	National, Provincial and local government departments
Punters	Law Enforcement Agencies (e.g., SAPS, NPA)
General Public	National and Provincial Gambling Boards
South African Revenue Services	Financial Intelligence Centre
Service Providers	National Responsible Gambling Programme
GGB Board	Other regulatory bodies e.g., NRCS, SABS, NRC, etc.
GGB Staff	Auditor General
	Licensees
	Public
	Media

4.3 Resource Allocations-Human, Financial, Systems

4.3.1 Financial

- GGB is a self-sustaining entity through numerous revenue sources such as, application fees, levies, licensing fees and collection commission from the collection of gambling taxes.
- Implementation of this policy has been budgeted for under the 2020/2021 financial year. The costs are estimated at R1,800,000.00.

4.3.2 Human Resources – Staff Capability

- Staff of the Board with the assistance of the Service Provider.

4.3.3 Systems

- The policy and subsequent legislation will not require any system for implementation.

4.4 Roles and Responsibilities

Role Players	Responsibilities
Gauteng Provincial Legislature	Oversight and law making
EXCO (Cabinet of Gauteng)	Approve policy
MEC for GDED	Approve policy and table with EXCO / Legislature
State Law Advisor	Certification of Policies

GDED	Facilitation of policy development
Board	Endorse policy development and review
SMT	Provide inputs and comments
Staff of the Board	Development of the Policy

4.5 Communication

4.5.1 The Constitution prescribes in terms of section 195(1)(e) that people's needs must be responded to and the public must be encouraged to participate in policymaking. Therefore, the involvement of the public in policymaking is a constitutional obligation that government institutions must respect and institutionalize. Thus, Consultation with stakeholders should commence as early as possible prior to a decision taken on policy direction, including when identifying and conceptualising a policy issue⁵¹. More attention should be paid to everyone who may be particularly vulnerable to the risks posed by gambling and to the licensees (gambling operators). Parties will be asked specific questions on issues regarding the regulation of gambling in various sections of the consultation. GGB understands that successful policy implementation is more likely to happen if there has been consultation with beneficiaries and stakeholders.

4.5.2 The basis for the review of Gauteng gambling legislation will be on broader consultations through the following channels of communication:

- Websites, Print and Social Media;
- Engagement with licensees and affected parties;
- Broadcasting platforms such as television and radio; and
- Publications in the Government Gazettes and Newspapers

5. GOVERNANCE

5.1 Performance Reporting and Accountability

The GGB is already in existence, it is established in terms of section 3 of the Gauteng Gambling Act. The GGB is a Schedule 3C listed provincial public entity in terms of the Public Finance Management Act, 1999⁵² and is accountable to

⁵¹ National Development Policy Framework 2020

⁵² Public Finance Management Act No. 1 of 1999

the Gauteng Provincial Government / Legislature through the MEC for Economic Development who is the Executive Authority.

Various governance structures already exist at various levels to oversee and manage functions during the review and implementation of the gambling policy. This includes:

Governance Structures	Responsibilities
National Gambling Board	The National Gambling Board is responsible for the oversight of the regulation in the gambling industry throughout the country and to preserve the integrity of South Africa as a responsible global citizen.
National Gambling Policy Council	The Council was established in terms of section 61 of the National Gambling Act, 2004 and consists of the Minister and MECs of the nine provinces. Its main objective is to ensure that there is policy alignment between national and provincial regulatory bodies. It further ensures that all policy related issues at national and provincial level are considered by this joint-forum to eliminate policy contradictions at the two levels of government.
EXCO of the Gauteng Provincial Government.	Approves policies and ratifies legislative drafting process in the province
Gauteng Department of Economic Development	The GDED is responsible for oversight of the entity that regulates gambling in the province.
Gauteng Gambling Board	The Gauteng Gambling Board is responsible for regulating gambling in the province which includes collection of revenue, promoting of responsible gambling as well as protection of punters/ general public.

5.2 Transparency and information dissemination

The following are key principles that should inform the multilevel governance arrangements:

- Transparency
- Public participation
- Accountability
- Subsidiarity
- Co-responsibility
- Rule of law

Consultation arrangements on good governance for adoption or approval, a policy requires that all stakeholders have the opportunity to make final comment, change and improvements to draft policy. It is imperative that the policy should be prepared for publication. Political commitment is critical to success of the gambling policy. All draft policies, procedures and supporting documents will be made available to stakeholders and any other interested party on request and also provide an opportunity for a range of input, depending on how the policy and procedure is likely to impact on them.

Sufficient time will be allowed for the stakeholders and any other interested party to provide comments on the draft documents. All comments will be assessed and acknowledged by GGB. It may be appropriate to provide feedback to stakeholders or anyone who has made comments on how their comments have been considered in the revised in the final document.

6. POLICY MONITORING, EVALUATION AND REVIEW

6.1 Programme performance measurement indicators and Monitoring Process

Activity Description	Output	Indicator	Responsible person	Frequency of Reporting	Risk	
					Nature of risk	How to mitigate
1. Request comments/inputs from internal stakeholders	Comments received from internal stakeholders	100% Comments received	Senior Managers	Weekly	No response from senior managers	Weekly reminders Escalation to CEO and the Board
2. Request comments/inputs from external stakeholders	Comments received from external stakeholders	100% Comments received	Licensees	Weekly	No response from licensees	Weekly reminders
3. Development of the draft Gauteng Gambling Amendment Policy	Draft policy	100% policy drafted	GGB Staff	Weekly	Drafting team not meeting deadlines	Legal Manager and ensure that officials adhere to their Performance Contracts timeframes and project plan
4. Table the draft Policy before the Board for comments/inputs	Draft Policy endorsed by the Board	100% Endorsement	CEO, Snr Manager Legal, Board	Monthly	Unavailability of Board members	Request special meeting or Target dates where the Board would meet for operational issues
5. Table the draft Policy before the MEC for comments/inputs	Draft Policy endorsed by the MEC	100% Endorsement	Board, GDED Legal, MEC	Monthly	Change of political heads or Unavailability of the MEC	None
6. Submit draft Policy to the State Law Advisor for vetting	Draft policy vetted and ratified by the State Law Advisor	100% Comments received	GGB Legal, GDED Legal, State Law Advisor	Monthly	Delay in vetting the policy	Request special meeting Constant follow up by GDED and GGB
7. Publish the draft policy in the Government Gazette inviting public comments	Draft Policy published	Number of policies published	GGB Legal and Finance Team	Weekly	Delays by Government Printing Works (office closure or system challenges) Publication of errors No comments received for the period.	Observing the calendar for office closure and submit on time Publication will also be made in local newspapers and the GGB website Erratum publication

8. Evaluate and incorporate comments, finalise the draft Policy cabinet memo for approval by the MEC	Comments and inputs received and incorporated into the draft	100% Comments received	GGB Legal team, Board	Monthly	Unavailability of Board members	Request special meeting or target dates where the Board would meet for operational issues
9. Approval of the Cabinet memo to request approval of the Policy by EXCO	Submission for policy approval submitted to EXCO	Number of policies submitted to EXCO	MEC	Monthly	Not meeting EXCO Cycle Calendar	Observing the EXCO calendar
10. Policy approved by EXCO	Approved Gauteng Gambling Amendment Policy	Number of policies approved	MEC, CEO, EXCO	Monthly	Policy rejected and necessitates re-drafting	Follow the path to Legislation and involvement of all stakeholders including the Board, GDED and State Law Advisor
11. Publishing and printing of the final Gauteng Gambling Amendment Policy for distribution.	Policy published on the website and printed for broader community	Number of policies printed and distributed	GGB Legal team, Communications Unit	Monthly	None	None

6.2 Evaluation of the Policy

In its effort to develop a well-researched and extensively consultative policy document, the GGB will strive to engage various stakeholders that have a vested interest in effectively and managing the licensing and authorization as well as the regulation of gambling in the Gauteng Province.

6.3 Policy Review Schedule

The GGB will comprehensively engage with various stakeholders to secure input and support for the Draft Gauteng Gambling Amendment Policy; and determine to what extent the policy will impact on the revision of existing legislation and determine whether an amendment or repeal of existing legislation will be required.

7. CONCLUSION

The implementation of the Gauteng Gambling Policy will, amongst others:-

- clarify inconsistencies between the national regulations and the provincial licensing processes by eliminating ambiguity of the provisions of the legislation;
- realign it with the Constitution and other applicable legislations;
- define roles and responsibilities of staff of the board e.g. inspectors, maximise jobs and revenue;
- consider regulating online gambling by taking into account the role of the National Gambling Board;
- consider the scope and applicability of various forms of gambling and role players;
- Provide provisions to provide for the continuation or transfer of board member skills from one board to the next;
- maximise investment in the province;
- enable the enhancement of revenue generation means;
- introduction of fines on licensees who have contravened the legislation and including admission of guilt fine when charging licensees;
- promotion of societal and government objectives through the legislation; and
- protection of punters and members of the public from all forms of gambling and address the gaps identified including technological advances, environmental and transforming the gambling industry.

It is therefore submitted that the review of the Act in its entirety will ensure that most challenges that currently face the regulation of gambling will be addressed.

8. REFERENCES

1. Premier David Makhura: Gauteng State of the Province Address 2021 available at <https://www.gov.za/speeches/premier-david-makhura-gauteng-state-province-address-2020-23-feb-2021-0000>, accessed on 26 February 2021.
2. Gauteng Gambling Board Annual Report 2019/2020 available at <https://www.ggb.org.za/annual-reports/>, accessed on 27 February 2021.
3. Wiehahn Commission Report, 1995
4. National Gambling Policy 2016
5. National Gambling Board Briefing Note – Corona Virus and its potential impact on the South African Gambling Industry (2020) <http://www.ngb.org.za/organisational-areas/news/briefing-note---corona-virus.aspx>
6. Approved Operational Rules for Bookmakers of 18 June 2008
7. Adams, R et al 'Research to determine the potential impact of the fourth industrial revolution on the current and future regulation of gambling in South Africa' (2020) available at <http://repository.hsrc.ac.za/handle/20.500.11910/15237>, accessed 28 February 2021
8. National gambling Act National Gambling Policy, 2016 available at <https://www.ngb.org.za/SiteResources/documents/2016/Approved%20%20Published%20National%20Gambling%20Policy%202016%20-%202001%20April%202016.pdf>, accessed on 28 February 2021(Notice 389 of 2015
9. Fred R. David and Forest R David; Strategic Management: A Competitive Advantage Approach, Concepts and Cases, 16th Edition, ISBN 978-0-13-416784-8, published by Pearson Education 2017

Printed by the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001,
for the **Gauteng Provincial Administration**, Johannesburg.

Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

This gazette is also available free online at www.gpwnline.co.za