

NORTHERN CAPE PROVINCE

PROFENSIYA KAPA-BOKONE



NOORD-KAAP PROVINSIE

IPHONDO LOMNTLA KOLONI

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS**GENERAL NOTICE 372 OF 2023****NOTICE****Spatial Planning and Land Use Management By-Law**

Land description: Erf 754, Kathu, Situated in the Kathu Town Extension 1, Gamagara Municipality, Northern Cape Province.
Area: 1240m²
Physical address: 48 Kromhout Street, Kathu
Zoning: Residential Zone I.
Owner: Jacomina Magrieta Du Toit (Id. No. 601111 0096 08 9)
Applicant: Macroplan (Represented by Cobus Kühn).
Nature of application: Removal of restrictive title deed conditions as enumerated in property deed [T4321/2007, P. 3-5, §B. 3, 6, 7 (a) & (b), 8 & 9].

Intent: It is the intent of this application to obtain the necessary land use rights in order to construct a 9-bedroom guesthouse on Erf 754, Kathu.

A copy of the application and supporting documentation is available for viewing during office hours (Monday to Thursday from 7:30 to 16:30 and Friday from 7:30 to 15:00) at the offices of the Gamagara Local Municipality in Kathu located at the Civic Centre, Cnr. Hendrick van Eck & Frikkie Meyer, Strategic Services Directorate, Town Planning Section, Office 19 and 20. The sharing of the application in digital format can also be requested and shared via e-mail.

Members of the public are invited to address and submit written comments, objections, or representations, together with the reasons to Ms Ntsieleni Nkhanedzeni (Tel: 053 723 6000; E-mail: ntsielenin@gamagara.co.za) at the above-mentioned address, on or before **MONDAY 12 JUNE 2023**.

Any person who cannot write may during office hours come to the above mentioned address where Ms Ntsieleni Nkhanedzeni will assist by transcribing their objections, comments or representations.

LEBOGANG SEETILE
WAARNEMENDE MUNISIPALE BESTUURDER/ACTING MUNICIPAL MANAGER
Burgersentrum/Civic Centre, Posbus/P.O. Box 1001, KATHU,

ALGEMENE KENNISGEWING 372 VAN 2023

MUNISIPALITEIT GAMAGARA MUNICIPALITY

KENNISGEWING

Ruimtelike Bepanning en Grondgebruikbestuur Verordening

Grondbeskrywing: Erf 754, Kathu, Geleë in die Kathu Dorpsuitbreiding 1, Gamagara Plaaslike Munisipaliteit, Provinsie Noord-Kaap
Oppervlakte: 1240m²
Fisiese adres: Kromhoutstraat 48, Kathu
Sonering: Residensieel I
Eienaar: Jacomina Magrieta Du Toit. (Id. No. 601111 0096 08 9)
Aansoeker: Macroplan (Verteenwoordig deur Cobus Kühn)
Aard van aansoek: Opheffing van beperkende titelakte voorwaardes soos vervat in eiendomsakte [T4321/2007, Bl.3-5 §B. 3, 6, 7 (a) & (b), 8 & 9.

Voorname: Die doel van hierdie aansoek is om die nodige grondgebruiksregte te verkry om 'n 9-slaapkamer gastehuis op Erf 754, Kathu te ontwikkel.

'n Afskrif van die aansoek en stawende dokumentasie is gedurende kantoorure (Maandag tot Donderdag van 7:30 tot 16:30 en Vrydag van 7:30 tot 15:00) by die kantore van die Gamagara Plaaslike Munisipaliteit in Kathu te die Burgersentrum, H/v. Hendrick van Eck & Frikkie Meyer, Direktoraat Strategiese Dienste, Stadsbeplanningsafdeling, Kantoor 19 en 20 beskikbaar vir besigtiging. Die digitale kopie van die aansoek kan ook per e-pos aangevra en aan u verskaf word.

Lede van die publiek word genooi om voor of op **MAANDAG, 12 JUNIE 2023** skriftelike kommentaar, besware of verhoë te rig en voor te lê, tesame met die redes aan Me Ntsieleni Nkhanedzeni (Tel: 053 723 6000; E-pos: ntsielenin@gamagara.co.za) by bogenoemde adres.

Enige persoon wat nie kan skryf nie, kan gedurende kantoorure na bogenoemde adres kom waar Me Ntsieleni Nkhanedzeni sal help om hul besware, kommentaar of verhoë te transkribeer.

LEBOGANG SEETILE

WAARNEMENDE MUNISIPALE BESTUURDER/ACTING MUNICIPAL MANAGER

Burgersentrum/Civic Centre, Posbus/P.O. Box 1001, KATHU, 8446

GENERAL NOTICE 373 OF 2023**TOWN PLANNING NOTICE - HANTAM MUNICIPALITY****PROPOSED PARTIAL REZONING OF ERF 1644, CALVINIA, HANTAM MUNICIPALITY,**
NORTHERN CAPE PROVINCE

NOTICE is hereby given in terms of Section 27 of the Hantam Spatial Planning and Land Use Management By-Law that Hantam Municipality has received an application in accordance with Section 3(2)(i) of the said By-law read together with the Spatial Planning and Land Use Management Act, Act 16 of 2013, for the following:

- Partial rezoning of a portion ($\pm 56\text{m}^2$) of Erf 1644, Calvinia from Open Space Zone II to Utility Zone II in terms of Section 3 (2)(i) of the Hantam Municipality Spatial Planning and Land Use Management By-Law for the use of a 25m freestanding base telecommunication station on the subject property.

Particulars regarding this application can be obtained between 07:30am and 16:30 pm, Mondays to Thursdays and 07:30 to 13:00 on Fridays, from the Town Planning Section, Hantam Municipal Commando Offices, Hantampark, Dorp Street, Calvinia.

Comments, objections or representations, if any, regarding this application must be submitted in writing to both the local authority and applicant (see contact details below) on or before **Thursday, 15 June 2023**. Comment(s), objection(s) or representation(s) must state reasons and stipulate the particulars of the submitter(s) (name, postal address, street address, telephone numbers(s) and e-mail address).

Any person who cannot write may visit the Municipal Offices at the abovementioned address where Ms. Riana Lock, the Town Planner of the Municipality, will assist that person to register their comment, objection or representation.

LOCAL AUTHORITY:

The Acting Municipal Manager:	Ms. S. Titus
Postal Address:	Private Bag X14, Calvinia, 8190
Tel No. (w):	(027) 341 8501
Email:	lockg@hantam.gov.za

APPLICANT:

Full Name:	CK Rumboll & Partners
Postal Address:	P.O. Box 211, Malmesbury, 7299
Tel No. (w):	022 482 1845
E-mail:	planning3@rumboll.co.za

ALGEMENE KENNISGEWING 373 VAN 2023**DORPSBEPLANNINGSKENNISGEWING - HANTAM MUNISIPALITEIT****VOORGESTELDE GEDEELTELIKE HERSONERING VAN ERF 1699, CALVINIA AFDELING,****HANTAM MUNISIPALITEIT, NOORD KAAP PROVINSIE**

KENNISGEWING geskied hiermee ingevolge Artikel 27 van Hantam Munisipaliteit se Ruimtelike Beplanning en Grondgebruiksbeheerverordening dat Hantam Munisipaliteit 'n aansoek ontvang het ooreenkomstig met Artikel 3(2)(i) van genoemde verordening saamgelees met die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, Wet 16 van 2013, vir die volgende:

- Voorgestelde hersonering van 'n gedeelte ($\pm 56\text{m}^2$) van Erf 1644, Calvinia vanaf Oopruimtesone II na Nutsone II ingevolge Artikel 3(2)(i) van die Hantam Munisipaliteit Ruimtelike Beplanning en Grondgebruikbestuurverordening vir die gebruik of 'n 25m vrystaande basistelekommunikasiestasie op die onderwerpeïendom.

Besonderhede aangaande hierdie aansoek kan verkry word tussen 07:30 en 16:30, Maandag tot Donderdag en Vrydae 07:30 tot 13:00, by die Stadsbeplanningsafdeling, Hantam Munisipale Kommando Kantore, Hantampark, Dorpstraat Calvinia.

Kommentaar, besware of verhoë, indien enige, aangaande hierdie aansoek moet voor of op **Woensdag 15 Junie 2023** skriftelik aan die plaaslike owerheid en aansoeker (sien kontakbesonderhede hieronder) voorgelê word. Kommentaar(re), beswaar(re) of voorstelling(s) moet redes verstrek en die besonderhede van die indiener(s) (naam, posadres, straatadres, telefoonnommers en e-pos adres) spesifiseer.

Enige persoon wat nie kan skryf nie, kan die Munisipale Kantore by bogenoemde adres besoek waar Me. Riana Lock, die Stadsbeplanner van die Munisipaliteit, daardie persoon sal help om hul kommentaar, beswaar of voorlegging te registreer.

PLAASLIKE OWERHEID:

Die Waarnemende Munisipale Bestuurder:

Posadres:

Tel. (W):

E-pos:

Me. S. Titus

Privaatsak X14, Calvinia, 8190

(027) 341 8501

lockg@hantam.gov.za

AANSOEKER:

Volle Naam:

Posadres:

Tel. (W):

E-pos:

CK Rumboll & Vennote

Posbus 211, Malmesbury, 7299

022 482 1845

planning3@rumboll.co.za

GENERAL NOTICE 374 OF 2023**NORTHERN CAPE PROVINCIAL GOVERNMENT****DEPARTMENT OF ECONOMIC DEVELOPMENT AND TOURISM****NORTHERN CAPE ECONOMIC DEVELOPMENT TRADE AND INVESTMENT PROMOTION AGENCY
BILL**

I, Mr Abraham Vosloo MPL, Member of Executive Council of Finance, Economic Development and Tourism, Northern Cape do hereby publish the NORTHERN CAPE ECONOMIC DEVELOPMENT TRADE AND INVESTMENT PROMOTION AGENCY BILL, in terms of Rule 164 of The Standing Rules of the Provincial Legislature, for public comment.

Any person who wishes to comment on the said Bill must submit such comment in writing within 30 days of publication hereof.

Comments must be submitted-

By post to :

The Head of Department
Department of Economic Development and Tourism
Private Bag X6108,
Kimberley
8300
Tel : 053 839 4002

Or

Hand delivered to :

The Head of Department
Department of Economic Development and Tourism
13th Floor,
Metlife Towers,
Kimberley

Or emailed to :

Attention : **The Head of Department**
Email : UNgomane@ncpg.gov.za

Any enquiries in connection with the intended Bill can be directed to Mr S Gxotha at 0835194753

Comments submitted after closing date will not be considered.



HON. ABRAHAM VOSLOO
MEC FOR ECONOMIC DEVELOPMENT AND TOURISM
NORTHERN CAPE

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

**NORTHERN CAPE ECONOMIC DEVELOPMENT, TRADE AND INVESTMENT
PROMOTION AGENCY AMENDMENT BILL, 2023**

(Act No.2023)

To amend the Northern Cape Economic Development, Trade and Investment Promotion Agency Act, 2008, so as to incorporate functions of Northern Cape Tourism Authority; to provide for matters relating to the staff complement, Board composition, to repeal the Northern Cape Tourism Entity Act, 2008 and to provide for matters incidental thereto.

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

Amendment of Section 2 of Act No. 4 of 2008

1. Section 2 (1) of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act is hereby amended by inserting subsection (c):

Establishment of the Agency

2. (1) An economic development, trade and investment promotion agency for the Northern Cape Province is hereby established as a juristic person to consist of-
 - (a) an economic development unit; and
 - (b) a trade and investment promotion unit; and
 - (c) tourism promotion unit.

Amendment of Section 3 of Act No. 4 of 2008

2. Section 3 (1) and (2) of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act is hereby amended by substituting it with the following subsection and renumbering section 3(2) as subsection (3):

Objects of the Agency

3. (1) The objects of the Agency, regarding the units referred to in Section 2(1)(a) and (b) above, are to ensure enterprise development that will significantly contribute to economic growth and development within the Province by-
 - (a) planning and assistance with business enterprise and rural development;

- (b) the provision of funding in respect of approved enterprise development;
- (c) project management, development and management of immovable property; and
- (d) the promotion of foreign trade and investment.

(2) The objects of the Agency, regarding the unit referred to in Section(1)(c) and without infringing on the rights of municipalities regarding local tourism, is to market and promote the Province as a tourist destination and in order to do so must pursue the following objectives:

- (a) the managing, planning and directing of the marketing activities of all sectors of the Province's tourism industry,

(3) In achieving its objects, the Agency must endeavour to progressively increase its own revenue generation and collection.

Amendment of section 6 of Act No. 4 of 2008

3. Section 6 of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act is hereby amended by the substitution for of the following subsections:

Composition of the Board

6. (1) The Board consists of 7 members eligible to vote at meetings of the Board, appointed by the responsible Member, which must include-
- (i) [at least 5 members, but no more than 12 members, by virtue of their proven acumen, knowledge or experience of business or with related skills having due regard to the inclusion of previously disadvantaged persons, young persons, women, disabled persons and persons from the various district municipalities of the Province;]
 - at least 1 member by virtue of their proven acumen, knowledge or experience of tourism or with related professional skills in the tourism industry;
 - (iii) Head of Department or officer designated by the Provincial Head of Department of Economic Development and Tourism to represent that department;
 - (iv) Head of Department or officer designated by the Provincial Head of Department of Roads and Public Works to represent the department;
 - (v) one member must be admitted to practice as a legal practitioner in the Northern Cape Province with at least 5 years of experience

(vi) one member qualified as an accountant or auditor in the Northern Cape Province with at least 5 years of experience and

(vii) two members with at least 2 years of experience in business

- (2) The Chief Executive Officer and Head of Department, or an officer designated by the Head of Department, are entitled to be present and take part in the discussions at meetings of the Board, but the Chief Executive Officer is an ex-officio member of the Board and may not vote at such meetings.

Amendment of Section 12 of Act No 4 of 2008

4. Section 12 (1)(a) of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act is hereby amended by the substitution of the following subsections:

Staff of Agency and remuneration

12.

- (1) The MEC, in consultation with the Board –
- (a) Must, subject to section 13, 14 and 15, appoint a suitably qualified and experienced person as chief executive officer, who –
 - (b) [subject to the discretion and control of the Board] is responsible for all financial and administrative responsibilities pertaining to the function of the Agency; and
 - (ii) is accountable to the Agency;
 - (iii) authorise the terms and conditions of employment of the Chief Executive Officer

Amendment of Section 27

5. Section 12 (1)(a) of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act is hereby amended by the substitution for of the following subsections on transitional Northern Cape Economic Development, Trade and Investment Promotion Agency arrangements

27 Transitional arrangements

- (1) The Premier shall stipulate, by notice in the Provincial Gazette, a date upon which the Northern Cape Economic Development, Trade and Investment Promotion Agency shall take transfer of the personnel and assets and further assume the liabilities, rights and obligations of the Northern Cape Tourism Entity.
- (2) All persons employed by the Northern Cape Tourism Entity, shall be deemed to be employed by the Northern Cape Economic Development, Trade and Investment Promotion Agency, to perform their duties in terms of the Northern

Cape Economic Development, Trade and Investment Promotion Agency Act of 2008

- (3) Anything done by or in respect of the Northern Cape Tourism Entity is deemed to have been done by the Northern Cape Economic Development, Trade and Investment Promotion Agency
- (4) Decisions made or resolutions taken by the Northern Cape Tourism Entity, which were in force immediately before the commencement of this Act remain in force until amended, replaced or repealed by the Northern Cape Economic Development, Trade and Investment Promotion Agency.

7 Short title and commencement

This Act is called the Northern Cape Economic Development, Trade and Investment Promotion Agency Amendment Act, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*

8. Repeal

This Act hereby repeals the Northern Cape Tourism Entity Act of 5 of 2008.

GENERAL NOTICE 375 OF 2023**NORTHERN CAPE PROVINCIAL GOVERNMENT****DEPARTMENT OF ECONOMIC DEVELOPMENT AND TOURISM****NORTHERN CAPE GAMBLING AND LIQUOR BILL**

I, Mr Abraham Vosloo MPL, Member of Executive Council of Finance, Economic Development and Tourism, Northern Cape do hereby publish the Northern Cape Gambling and Liquor Bill, in terms of Rule 164 of The Standing Rules of the Provincial Legislature, for public comment.

Any person who wishes to comment on the said Bill must submit such comment in writing within 30 days of publication hereof.

Comments must be submitted-

By post to :

The Head of Department
Department of Economic Development and Tourism
Private Bag X6108,
Kimberley
8300
Tel : 053 839 4002

Or

Hand delivered to :

The Head of Department
Department of Economic Development and Tourism
13th Floor,
Metlife Towers,
Kimberley

Or emailed to :

Attention : **The Head of Department**
Email : UNgomane@ncpg.gov.za

Any enquiries in connection with the intended Bill can be directed to Mr S Gxotha at 0835194753

Comments submitted after closing date will not be considered.



HON. ABRAHAM VOSLOO
MEC FOR ECONOMIC DEVELOPMENT AND TOURISM
NORTHERN CAPE

Northern Cape Gambling and Liquor Bill

To repeal the Northern Cape Gambling Act (No 3 of 2008), Northern Cape Liquor Act (No 2 of 2008), and Northern Cape Gambling Levies Act (No. 4 of 2010), to provide for the establishment of one entity hereinafter referred to as the Northern Cape Gambling and Liquor Board, to confer power and functions upon the Board, to provide for matters relating to the staff compliment and Board composition, to provide for the functioning and administration of the Board, to regulate the application for licenses; to provide for public notification and participation; to regulate applications for the granting of different kinds of licenses relating to gambling and liquor , to provide for the promotion of responsible consumption of liquor in the Northern Cape Province; to reduce the socio-economic problems emanating from alcohol abuse and excessive gambling; , to provide for regulation of the gambling and liquor industry within the Northern Cape Province and to provide for matters connected therewith, to provide for transitional arrangements and to provide for matters incidental thereto.

WHEREAS a need exists within the Northern Cape Province to rationalize the public entities

AND WHEREAS socio-economic problems in the community emanates from alcohol abuse and excessive gambling;

AND WHEREAS this entity will provide a regulatory unit to address these social ills, by promoting responsible consumption of alcohol and responsible gambling, as well as regulate both the liquor and gambling industries in the Northern Cape Province;

BE IT THEREFORE ENACTED by the Northern Cape Provincial Legislature, as follows: -

ARRANGEMENT OF ACT

CHAPTER I

DEFINITIONS

Definitions

1. In this Act, unless the context otherwise indicates -

“**amusement game**” means a game that has a restricted prize;

“**amusement machine**” means a machine or device on which an amusement game may be played;

“**applicant**” means any person who, or entity which requests the Board or any of its members, officers, appointees or delegates to exercise a power, and in the case of a company, corporation, association, partnership or trust, includes each director, member, partner, beneficiary or trustee thereof;

“**associate**” means –

- (a) an employer;
- (b) a partner in terms of a partnership agreement;
- (c) a co-shareholder of a private company contemplated in section 20 of the Companies Act, 1973 (Act No. 61 of 1973);
- (d) a co-member of a close corporation contemplated in section 2 of the Close Corporations Act, 1984 (Act No. 69 of 1984); or
- (e) a person to whom another person has granted or from whom another person has received a general power of attorney;

“**authorized officer**” means a person authorized by delegation in terms of section 12;

“**beer**” includes -

- (a) ale, cider and stout; and
- (b) any other fermented drink, other than traditional African beer -
 - (i) that is manufactured as, or sold under the name of, beer, ale, cider or stout, if it contains more than one per cent by volume of alcohol; or
 - (ii) that is declared to be beer under section 42(2)(a) of the National Liquor Act;

“**bingo**” means a game, including a game played in whole or in part by electronic means -

- (a) that is played for consideration, using cards or other devices –
 - (i) that are divided into spaces each of which bears a different number, picture or symbol; and
 - (ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols;
- (b) in which an operator or announcer calls or displays a series of numbers, pictures or

symbols in random order and the players match each such number, picture or symbol on the card or device as it is called or displayed; and

- (c) in which the player who is first to match all the spaces on the card or device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize,

or any other substantially similar game declared to be bingo in terms of section 6(4) of the National Gambling Act;

“bingo operator license” means any license contemplated in section....;

“Board” means the Northern Cape Gambling and Liquor Board established in terms of section 4 of this Act.

“bookmaker” means any person who directly or indirectly lays or takes fixed-odds, bets or open bets with members of the public or takes such bets with other bookmakers;

“bookmaker license” means any license contemplated in section....;

“casino” means premises where gambling games are played, or are available to be played, but does not include premises in which –

- (a) only bingo and no other gambling game is played or available to be played;
- (b) only limited pay-out machines are available to be played; or
- (c) limited pay-out machines and bingo, but no other gambling game are played or available to be played;

“casino operator license” means any license contemplated in section 43;

“chairperson” means a person appointed as chairperson of the Board in terms of this Act, which will strategically lead the Board and sign off all licenses.

“chief executive officer” means the Accounting Officer in terms of the Public Finance Management Act and chief executive officer of the Board appointed in terms of section 12(1)(a);

“closed day” means

- (a) Sunday;
- (b) Good Friday;
- (c) Christmas Day;

“Companies Act” means the Companies Act, 1973 (Act No. 61 of 1973);

“Competition Act” means the Competition Act, 1998 (Act No. 89 of 1998);

“concoction” means any fermented drink used as a substitute for liquor, which is unsafe for human consumption;

“consideration” means –

- (a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar object; or
- (b) any other thing, undertaking, promise, agreement or assurance, regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

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

“designated police officer” means a police officer designated as such under section 37;

“designated area” –

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

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

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

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

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

“family member” means a person’s –

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

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

“financial interest” means –

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

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

“gambling activity” means any activity described as such in section...;

“gambling device” means equipment or any other thing that is used, or at the time of its manufacture was designed to be used, in determining the result of a gambling activity;

“gambling employee certificate” means a certificate contemplated in section...;

“gambling game” means an activity described as such in section ...;

“gambling machine” means any mechanical, electrical, video, electronic, electro-mechanical or other device, contrivance, machine or software, other than an amusement machine, that –

- (a) is available to be played or operated upon payment of a consideration; and
- (b) may, as a result of playing or operating it, entitle the player or operator to a pay-out, or deliver a pay-out to the player or operator;

"Head of Department" means the Head of the Department of Economic Development and Tourism in the Northern Cape Provincial Government;

"inspector" means an inspector appointed in terms of this Act

"interim Board" means the interim Board appointed by the Responsible Member in terms of this Act during the transitional period in terms of S 136(16) or in terms of Section 5(9) in the event that the Board's term expires or is disbanded

"license" means a license as may be issued by the Board in terms of this Act in order to engage in liquor or gambling activities

"licensed premises" means any premises licensed in terms of this Act;

"limited pay-out machine" means a gambling machine with a restricted prize, described in the National Gambling Act;

"liquor" means:

- (a) "liquor product" as defined in section 1 of the Liquor Products Act, 1989 (*Act* No. 60 of 1989) as amended;
- (b) beer or sorghum beer;
- (c) any other substance or drink declared to be "liquor" under section 42(2)(a) of the National Liquor Act; or
- (d) any other beverage containing more than 2% alcohol by volume or weight;

"methyated spirits" means spirits denatured in accordance with any law on the denaturation or methylation of spirits or any other denatured, medicated, perfumed or otherwise treated spirit declared to be "methyated spirit" under any other law;

"micro-manufacturer" means a person licensed in terms of this Act to manufacture liquor at or below the threshold volume prescribed in terms of the National Liquor Act;

"minor" means a person under the age of 18 years;

"municipality" means a municipality contemplated in section 8, 9 or 10 of the Local Government: Municipal Structures Act, 1998 (*Act* No. 117 of 1998);

"National Gambling Act" means the National Gambling Act, 2004 (*Act* No. 7 of 2004) as amended and/ or a regulation made under that Act;

"National Gambling Board" means the National Gambling Board retained and constituted by Part B of Chapter 4 of the National Gambling Act;

"National Liquor Act" means the Liquor Act, 2003 (*Act* No. 59 of 2003) including regulations made under that Act;

"National license" means a license issued in terms of the National Gambling Act;

"open bet" means –

- (a) a bet, other than a totalisator bet, taken by a bookmaker on one or more contingencies, in which no fixed-odds are agreed at the time the bet is placed; or
- (b) a bet in respect of which the pay-out is determined after the outcome of the contingency on which such a bet is struck became known, with reference to dividends generated by a totalisator;

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

“**permanent license**” is a license issued by the Board, which is renewable annually subject to compliance with section 39 of this Act;

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

“**political office-bearer**” means –

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

“**police officer**” means a member of the police service;

“**police service**” means the national police service contemplated in section 205 of the Constitution of the Republic of South Africa, 1996;

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

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

“**Premier**” means the Premier of the Northern Cape Province elected in terms of section 128 of the Constitution of the Republic of South Africa, 1996;

“**premises**” includes any place, land, building or conveyance or any part thereof;

“**prescribed**” means prescribed by regulations published in the *Provincial Gazette*;

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

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

“**Province**” means the Province of the Northern Cape established by section 103(1) of the Constitution of the Republic of South Africa, 1996;

“**provincial commissioner**” means the person appointed in terms of section 207(3) of the Constitution of the Republic of South Africa, 1996, as the provincial commissioner of police for the Northern Cape Province;

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

“**public servant**” means a person employed within an organ of state, or within a court, or a judicial officer in terms of the Public Service Act;

“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No.1 of 1999) as amended and /or any regulations made thereunder;

“**public holiday**” means a public holiday contemplated in the Public Holidays Act, 1994 (Act No. 36 of 1994) and any holiday so declared by the President of the Republic of South Africa;

"responsible Member" means the Member of the Executive Council of the Northern Cape Province responsible for Economic Development and Tourism;

"race" means any horse race over a defined or agreed course held for the entertainment of the public and members of any association or club, but does not include –

- (a) any race in the nature of a public trial gallop at which no betting takes place, held under the management and control of the holder of a horse racing license; and
- (b) any race or contest of a private nature at which no betting takes place;

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

"regulatory authority" means the Board or the National Gambling or Liquor Board, whichever finds application;

"responsible Member" means the Member of the Executive Council of the Province responsible for gambling and liquor matters;

"restricted gambling activity" means a gambling activity other than an informal bet;

"rules" means the rules made by the Board in terms of this Act;

"second" means secondment in terms of Section 15 of the Public Service Act read with its Regulations;

"sell" includes exchange, offer, display, deliver, supply, dispose of for sale or authorize, direct or allow a sale;

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

"site operator license" means a license contemplated in section ..;

"sorghum beer" means a fermented drink manufactured from grain sorghum, millet or grain and includes "traditional African beer" as defined in section 1 (1) of the National Liquor Act;

"South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995);

"spouse" means a person's –

- (a) partner in a marriage or civil union;
- (b) partner in a customary union according to indigenous law; or
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

"supply" with regard to any liquor or methylated spirits means to place a person in possession or control of that liquor or methylated spirits, respectively;

"transitional period" the period of 12 months from the date when this Act comes into effect, which will be given for the two entities to merge into one entity.

"temporary license" means any license issued by the Board with certain conditions, which may become a permanent license once those conditions have been fulfilled within the time frame given by -and to the satisfaction of the Board;

“**this Act**” means the Northern Cape Gambling and Liquor Act and includes any regulation or rule made or issued under it; and

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

Chapter II **OBJECT AND APPLICATION OF THIS ACT**

Objects of the Act

2. The objects of this Act are –

(1) in relation to the liquor industry, to:

- (a) reduce the socio-economic and other costs of alcohol abuse by –
 - (i) implementing essential national norms and standards in the liquor industry as determined by the National Liquor Act;
 - (ii) regulating the micro-manufacturing and retail sale of liquor or methylated spirits;
 - (iii) providing for public participation in the consideration of applications for registration; and
- (b) promote the development of a responsible and sustainable liquor industry in a manner that facilitates –
 - (i) the entry of new participants into the industry;
 - (ii) diversity of ownership in the industry;
 - (iii) an ethos of social responsibility in the industry; and
 - (iv) local tourism and economic growth;

and

(2) in relation to the gambling industry, to:

- (a) implement national norms and standards in the gambling industry as determined by the National Gambling Act;
- (b) ensure that –
 - (i) gambling activities are effectively regulated, licenced, controlled and policed;
 - (ii) members of the public who participate in any licenced gambling activity are protected;
 - (iii) society and the economy are protected against over-stimulation of the latent demand for gambling; and
 - (iv) the licensing of gambling activities is transparent, fair and equitable;
- (c) generate revenue for the Province.

Application of the Act

3. Subject to the relevant provisions of the National Gambling Act and National Liquor Act, this Act applies to –

- (a) all retail, sale, consumption and micro-manufacturing of liquor or methylated spirits; and
- (b) gambling activities conducted in the Province.

Chapter III **ESTABLISHMENT AND ADMINISTRATION OF THE BOARD**

Establishment of Northern Cape Gambling and Liquor Board

4. (1) “There is hereby established a juristic person to be known as the Northern Cape Gambling and Liquor Board, to control and regulate, subject to this Act, the National Gambling Act and National Liquor Act and any other legal aspects related to racing, wagering and liquor industry in the Province.”.

Composition of the Board

5. (1) The Board consists of no more than nine 9 members appointed by the responsible Member, with due regard to women and persons with disabilities,, of whom –
- (a) one member must be admitted to practice as a legal practitioner in the Republic and has, for a cumulative period of at least five years after having so qualified, practiced as a legal practitioner or performed services related to the application or administration of the law;
 - (b) one member must be qualified as an accountant or auditor in the Republic and has, for a cumulative period of at least five years after having so qualified, practiced as an accountant or auditor;
 - (c) Four 4 members must, with due regard to regional, social, religious and other community interest in the Province, –
 - (i) have proven business acumen or applicable knowledge or experience in the field of community and socio-economic development; and
 - (ii) be fit and proper to represent the community at large; and
 - (d) Three 3 members must be appointed by virtue of their proven business acumen and knowledge of the gambling or liquor industry, however such member should not be a current holder of a gambling or liquor license, issued, regulated or operated in the Northern Cape Province.
- (2) The -
- (a) chief executive officer;
 - (b) police officer, designated from time to time by the provincial commissioner to represent the police service;
 - (c) officer designated by the Provincial Department of Economic Affairs to represent that department; and
 - (d) officer designated by the Provincial Department of Social Services and Population Development to represent that department,
- are entitled to be present and take part in the discussions at meetings of the Board, but are not members of the Board and may not vote at such meetings.
- (3) A member contemplated in subsection (1) may be appointed only after the responsible Member has, by notice in the *Provincial Gazette* and in not less than two newspapers circulating in the Province, invited interested parties to nominate persons suitable for appointment as members of the Board.
- (4) Members appointed in terms of subsection (1) are non-executive members of the Board.

- (5) The responsible Member appoints a member of the Board as chairperson and another member as deputy chairperson, which shall be the members as stipulated in subsection (1)(a) or (b).
- (6) The chairperson presides at all meetings of the Board and the deputy chairperson presides at meetings in the absence of the chairperson.
- (7) Before being appointed a member of the Board the candidate must submit to the responsible Member an affidavit in which such candidate declares that he or she –
 - (a) is eligible for such appointment; and
 - (b) is not disqualified in terms of this Act from such appointment.
- (8) The responsible Member is at any time entitled to call for proof to his or her satisfaction of the continued eligibility of any member or prospective member of the Board, or to undertake or cause to be undertaken any investigation or enquiry in that regard.
- (9) Thirty days before the appointment of the Board members the Responsible Member must publish the names of the persons he or she intends to appoint as such and the date on which such appointments are intended to be made in a Government Gazette and not less than two local newspapers circulating in the province.
- (10) Any person who wishes to object to the appointment of a particular person as a Board member may lodge an objection with the Responsible Member fourteen 14 days before the date of appointment as published by the Responsible Member stating the reasons or grounds that he or she believes disqualifies that particular person from appointment as a board member.
- (11) Notwithstanding any provision of this Act, the Responsible Member may appoint an interim Board, in the event that the Board disbands or its term expires, where such interim Board would:
 - a) be appointed without invitations being called for nominations;
 - b) consist of nine (9) members;
 - c) be appointed for a maximum period of three (3) months only, in which period a new Board must be appointed by the Responsible Member; and
 - d) exercise the powers and perform functions of the Board in terms of this Act excluding the granting and revocation of licenses.

Term of office of members of Board

- 6. (1) A member of the Board may be appointed for a term not exceeding 3 years and may be reappointed at the lapse of the initial term.
- (2) No person may be appointed as a member of the Board for more than two terms.

Eligibility to serve on the Board

- 7. (1) To be eligible for appointment as a member of the Board, and to continue to hold that office, a person must –
 - (a) be a citizen of the Republic and ordinarily resident in the Province;
 - (b) not be subject to any disqualification set out in subsection (2);
 - (c) have submitted to the responsible Member a written declaration stating that –

- (i) the person is not disqualified in terms of subsection (2); and
 - (ii) the person does not have any interests referred to in subsection (2)(c); and
 - (d) be a citizen of the Republic and ordinarily residing in the Province.
- (2) A person may not be a member of the Board if that person –
- (i) is a political office-bearer;
 - (ii) is a public servant, except if such an appointment is made in terms of section 5(2);
 - (iii) is listed in the register of excluded persons in accordance with section 14 of the National Gambling Act;
 - (iv) personally or through a spouse, partner or associate –
 - (i) has or acquires a direct or indirect financial interest in a license issued in terms of this Act, or in premises used for an activity that must be licensed in terms of this Act; or
 - (ii) has or acquires an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of a member of the Board;
 - (v) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;
 - (vi) was once, or is removed from an office of trust on account of misconduct;
 - (vii) is subject to an order of a competent court holding that person to be mentally deranged;
 - (viii) within the previous ten years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) or an offence involving dishonesty; or
 - (ix) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine.
- (3) For the purpose of subsection (2)(c), a financial interest does not include an indirect interest held in any fund or investment if the person contemplated in that subsection has no control over the investment decisions of that fund or investment.
- (4) The provisions of subsections (1), (2) and (3), read with the changes required by the context, apply to any official referred to in section 3(2).

Conflicting interests

8. (1) A member of the Board must promptly inform the responsible Member in writing after acquiring an interest that is, or is likely to become, an interest contemplated in section 5(2)(c)(ii).
- (2) A member of the Board must not -
- (a) engage in any activity that may undermine the integrity of the Board;
 - (b) attend, participate in or influence the proceedings during a meeting of the Board, if, in relation to the matter before the Board, that member has an interest -
 - (i) contemplated in section 5(2)(c)(ii); or
 - (ii) that precludes the member from performing the duties of a member of the Board in a fair, unbiased and proper manner;
 - (c) vote at any meeting of the Board in connection with a matter contemplated in paragraph (b);
 - (d) make private use of, or profit from, any confidential information obtained as a result of performing that person's duties as a member of the Board; or
 - (e) divulge any information referred to in paragraph (d) to any third party, except as required as part of that person's official functions as a member of the Board.
- (3) If, at any time, it appears to a member of the Board that a matter before the Board concerns an interest of that member referred to in subsection (2)(b), the member must -
- (a) immediately and fully disclose the nature of that interest to the meeting; and
 - (b) withdraw from the meeting to allow the remaining members to discuss the matter and determine whether the member should be prohibited from participating in any further proceedings concerning that matter.
- (4) A disclosure by a member in terms of subsection (3)(a) and the decision by the Board in terms of subsection (3)(b) must be expressly recorded in the minutes of the meeting at which the disclosure is made.
- (5) The provisions of subsections (1), (2), (3) and (4), read with the changes required by the context, apply to any official referred to in section 3(2).

Removal from office

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

and inform the Board accordingly.

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

Meetings of the Board

- 10.
- (1) The chairperson may determine the date, time and place for the first meeting of the Board, and the chairperson, in consultation with the Chief Executive Officer, may determine the date, time and place for each subsequent meeting.
 - (2) The chairperson, in consultation with the Board, may determine procedure at meetings of the Board, after due consideration of the principles of openness and transparency.
 - (3) A majority of the members of the Board contemplated in section 3(1) is a quorum for a meeting of the Board.
 - (4) The Board must attempt to reach its decision by consensus.
 - (5) If the Board is unable to reach a consensual decision in any matter before it, the Board may resolve the matter by a simple majority vote on a motion.
 - (6) Each member present at a meeting has 1 vote on any matter before the Board, and in the event of a tie of votes, the chairperson has a casting vote.
 - (7) Subject to subsections (4) and (5), the Board may establish rules for its own proceedings.
 - (8) The chief executive officer is the secretariat of the Board and must cause minutes to be taken at meetings of the Board and Board meeting resolutions be captured accordingly.
 - (9) Minutes of the proceedings of meetings of the Board must be retained at the offices of the Board and must be open to the public for inspection.
 - (10) No person who has access to any information classified by the Board as confidential, may, without permission of the Board, divulge such information.
 - (11) If a particular person is able to assist the Board in the consideration of a particular matter, the Board may co-opt that person for that purpose.
 - (12) A person so co-opted is not entitled to vote at any meeting of the Board or a committee of the Board.
 - (13) The Board must meet at least once every 3 months to, amongst other things, consider the report referred to in section 14(3).
 - (14) The responsible Member may call a meeting of the Board if the Board fails to comply with subsection (13).
 - (15) The chairperson must call an extraordinary meeting of the Board, if so requested by the chief executive officer, to discuss an urgent matter or a matter referred to the Board by the responsible Member.

Committees of Board

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

Staff of Board and remuneration**12.****1. The Responsible Member –**

- (i) Must, in consultation with the Board, appoint a suitably qualified and experienced person, with at least a degree, as the Chief Executive Officer for a period of five years, who –
 - a. subject to the direction and control of the Board, is responsible for all financial and administrative responsibilities pertaining to the functions of the Board; and
 - b. is accountable to the Board;
- (ii) must determine a staff establishment for the Board; and
- (iii) must determine the post and salary levels in the establishment through the job evaluation system applicable in the Public Service as determined by the Minister of Public Service and Administration.
- (iv) Section 7 and 8 of this Act, read with the changes required by the context, apply to the chief executive officer and each staff member to be appointed in terms of this Act.
- (v) The Board, with concurrence of the department and the Provincial Treasury, may determine the remuneration, allowances, employment benefits and other terms and conditions of service of persons appointed in terms of subsection.
- (vi) The remuneration, allowances, employment benefits and other terms and conditions of service in subsection (3) above must be aligned to those that are applicable in the

Public Service as determined by the Minister of Public Service and Administration, from time to time.

- (vii) The Board may delegate its powers in terms of subsection (1)(c) to the chief executive officer in writing.

Remuneration of members of Board

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

Delegation

14. (1) The Board may, subject to subsections (2), (3) and (4), in writing, delegate any of its powers, functions or duties in terms of this Act, to the chief executive officer or a committee of the Board.
- (2) The chief executive officer may, with the written permission of the Board, sub-delegate any power, function or duty delegated to him or her in terms of subsection (1), to any member of the staff of the Board.
- (3) A delegation or sub-delegation, as the case may be, may be withdrawn by the Board or the chief executive officer with the concurrence of the Board, respectively.
- (4) The Board may not delegate -
- (a) the power to grant, transfer, remove or revoke a license referred to in this Act except for licenses referred to under section 23(1)(j), section 23(1)(k), section 23(1)(l) done in terms of the Act to the Chief Executive Officer;
- (b) any power to be exercised, function to be performed or duty to be carried out by it -
- (i) in terms of the National Gambling Act, National Liquor Act or any other applicable law; or
- (ii) in or after consultation with the responsible Member.

Finances

15. (1) The Board is financed from -
- (a) money appropriated by the Provincial Legislature for the Board;
- (b) any money payable to the Board in terms of this Act;

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

Accountability, audits and reports

16. (1) The Board is responsible to –
- (a) account for state and other money received by, or paid for or on account of the Board; and
 - (b) cause the necessary accounting and related records to be kept,
- in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (2) The records referred to in subsection (1)(b) must be audited by the Auditor-General.
 - (3) The Board must report at least quarterly in writing to the responsible Member on its activities.

- (4) The Board must submit the report and statements referred to in section 55(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the responsible Member in the way required by section 55(3) of that Act.
- (5) As soon as practicable after receiving the report and statements referred to in subsection (4), the responsible Member must table it in the Provincial Legislature.

Chapter III

POWERS AND FUNCTIONS OF THE BOARD

Powers and functions of the Board

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

CHAPTER IV GAMBLING

(All sections under this chapter relates to licenses, licensees and procedures relating to gambling and betting activities in the province)

18. (1) The Board may conduct or cause to be conducted –
- (a) hearings, investigations or enquiries in respect of –
 - (i) an application for a license under this Act; and
 - (ii) the revocation or suspension of a license issued under this Act; and
 - (b) investigations and enquiries pertaining to the integrity, character, reputation, prior conduct, habits, associations, financial standing and ability, criminal record, competence, experience, and suitability of –
 - (i) any applicant for a license;
 - (ii) any person having a financial interest in a license issued under this Act or in any gambling, racing or related activity or business; or
 - (iii) any license holder
- if it is necessary for the achievement of the objectives of this Act.
- (2) The Board may conduct a hearing in respect of an application for a license referred to in section 23, or where any license is to be suspended or revoked, as contemplated in section 40.
- (3) The procedure to be followed in the conduct of any hearing, investigation or enquiry in terms of subsection (1)(a) or (b), must, subject to section 21, be determined by the person presiding at such a hearing, investigation or enquiry.

- (4) The person presiding at a hearing or conducting an investigation must keep, or cause to be kept, a record of the proceedings at the hearing or investigation and of the evidence given.
- (5) At any hearing in respect of an application for a license under this Act, the person applying for such a license and any person objecting to the granting of such a license, is entitled -
 - (a) to appear before the Board and to call witnesses in support of the application or objection; and
 - (b) to cross-examine any witness not called by him or her.

Investigation costs in respect of licenses

19. In respect of a license -

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

Enforcement enquiries

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

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

Witnesses and evidence

21. (1) For the purposes of any hearing, investigation or inquiry, the Board may in writing summon any person who is or may be able to furnish information in relation to a particular matter to appear before it -
- (a) to give evidence; or
 - (b) to produce any book, document or thing which is in his or her possession or under his or her control and which relates or may relate to a matter to be considered at such hearing or investigation.
- (2) Compliance with the obligation to produce a book, document or anything in terms of the preceding subsection does not deprive the holder of any lien claimed with regard to such book, document or thing or any rights as a license holder.
- (3) A person who has received a summons in terms of subsection (1) must personally appear before the Board on the date and at the time and place set out in the summons, but if such a person is not competent or able to so appear, any person who by law is competent to act on his or her behalf or any person authorized thereto by the Board may so appear on his or her behalf.
- (4) Every person summoned in terms of subsection (1) is bound to obey the summons, and any person who, having been duly summoned to attend a hearing or an investigation of the Board, without sufficient cause fails to attend personally or by representative as set out in subsection (3), at the time and place specified in the summons, or to remain in attendance until excused by the chairperson from further attendance is guilty of an offence.
- (5) The provisions of subsections (2) and (3), apply with the changes required by the context, to any corporate body, organization or institution.
- (6) The law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law applies in relation to the examination of any such person or the production of any book, document or thing at a hearing or an investigation held which is open to the public.
- (7) Any person who appears before the Board as a party at a hearing or an investigation is entitled to be represented by his or her legal representative.
- (8) Any person who has been summoned in terms of this section or who has given evidence at a hearing or an investigation is entitled to the same witness fees as if he or she had been summoned to attend or had given evidence at a civil trial in a magistrate's court held at the place where the investigation is held, which witness fees must be paid by the Board.

LICENSING AND APPROVAL

Right to conduct gambling

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

Kinds of licenses and limitations

23. (1) The Board may, in writing, under this Act grant –
- (a) a casino operator license;

- (b) a route operator license;
 - (c) a site operator license;
 - (d) a bingo operator license;
 - (e) a junket agent license;
 - (f) a horse racing license;
 - (g) a totalisator operator license;
 - (h) a bookmaker license;
 - (i) an independent site operator license;
 - (j) Key employee license;
 - (k) Gambling Employee license;
 - (l) Suitability license;
 - (m) Distribution license;
 - (n) Manufacturing license; and
 - (o) Testing agent license;
- (2) A license referred to in paragraph (a), (b), (d), or (g) of subsection (1), may only be issued to a company registered in terms of the Companies Act.
- (3) An application for a license referred to in paragraph (a), (b), (c), (d) or (i) of subsection (1), may only be submitted to the Board in response to a notice, inviting applications for the license concerned, published by the Board in the *Provincial Gazette*.

National licenses

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

Disqualifications and restrictions for licenses

25. (1) A person may not hold a license issued in terms of this Act or any of the total financial interest in the licensee of such a license, if that person –
- (a) is under the age of 18 years;
 - (b) is a public servant or political office-bearer;
 - (c) is listed on the register of excluded persons;
 - (d) is a family member of a person who is a member or employee of a regulatory authority exercising oversight over that licensee;
 - (e) is an unrehabilitated insolvent;
 - (f) is not a fit and proper person to be involved in the business concerned;

- (g) is subject to an order of a competent court holding that person to be mentally unfit or deranged;
 - (h) was once removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money;
 - (i) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, corruption or an offence in terms of this Act or the National Gambling Act and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the amount prescribed in terms of the National Gambling Act, unless the person has received a grant of amnesty or free pardon for the offence; or
 - (j) is not of good financial standing and has inadequate means to undertake and sustain the activity for which the license is required.
- (2) The Board must refuse to issue a license to a person who is disqualified from holding an interest in a license, licensee, licensed premises, or the business to which a license relates, in terms of subsection (1), or the National Gambling Act.
- (3) The Board must refuse to issue a license to an applicant if, after conducting the investigations prescribed under the National Gambling Act, the Board has reason to believe that the applicant, any person who has a controlling interest in the applicant, any person who holds any of the total financial interest in the applicant, or any manager of the business concerned is –
- (a) a family member of a person who is a member of the Board; or
 - (b) disqualified from holding an interest in a license, licensee, or the business to which a license relates, in terms of subsection (1).

Disqualification after license issued

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

Acquisition of interest by disqualified person

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

Decisions of the Board

- 28.** (1) After considering an application for a license, the transfer or removal of a license or a certificate of employment, an application to transfer ownership or possession of a gambling machine or gambling device, or a request to transfer an interest in a license, licensee, licensed premises, or the business to which a license relates, the Board must either –
- (a) grant the license or certificate of employment, or in writing approve the transfer, as the case may be with or without conditions; or
 - (b) issue a written refusal to the applicant, with reasons for the decision.
- (2) The Board must maintain a register in which the particulars of any grant or approval contemplated in subsection (1)(a) must be recorded.

Further applications

- 29.** Any person not disqualified in terms of this Act or the National Gambling Act, may apply for a license, but –
- (a) any person –
 - (i) whose application has been refused because of the applicant being disqualified; or
 - (ii) whose license has been revoked under this Act or any other gambling legislation,may not apply for a license within 12 months from the date of such refusal or revocation; and
 - (b) any person –
 - (i) whose application has been refused more than once because of the applicant being disqualified; or
 - (ii) whose license has been revoked more than once under this Act or any other gambling legislation,may not reapply for a license within three years from the date of the latest refusal or revocation.

Licensing procedure

- 30.** (1) When a valid application for a license contemplated in section 25 is received by the Board, the Board must forthwith –
- (a) advertise the application in –
 - (i) the *Provincial Gazette*; and
 - (ii) any newspaper circulating in the area to which the application relates, to invite written representations or objections, to be submitted by interested persons no later than 30 days after the date on which the application was published in the *Provincial Gazette*; and

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

Hearing of application for license

- 31.**
- (1) If an objection against or representation in support of an application for a license is received by the Board, the Board must conduct a hearing to decide the application except where the granting of certain licenses in terms of this Act has been delegated to the Chief Executive Officer.
 - (2) If no objection against or representation in support of an application is received by the Board, the Board may, notwithstanding the provisions of subsection (1), conduct a hearing to obtain inputs from the public before deciding the application.
 - (3) The hearing of an application is open to the public, but not the deliberations of the Board to decide the application.

- (4) The Board must give notice of the time and venue of a hearing –
 - (a) in the *Provincial Gazette* and any newspaper circulating in the area to which the application relates; and
 - (b) by registered post or any other acceptable method of communication to the applicant, any complainant and any person who made representations as contemplated in subsection (1).

Procedure provided for by National Gambling Act to take precedence

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

Economic and social development issues to be considered

33. (1) When considering an application for a license or when considering an application for the transfer of a license, the Board –
- (a) must consider the commitments, if any, made by the applicant or proposed transferee in relation to –
 - (i) black economic empowerment or broad based black economic empowerment; and
 - (ii) combating the incidence of addictive and compulsive gambling;
 - (b) must consider the potential socio-economic impact on the community of the proposed license; and
 - (c) may impose reasonable and justifiable conditions on the license to the extent necessary to address the matters referred to in paragraphs (a) and (b).
- (2) At least once every year after the issuance of a license, the Board –
- (a) must review the commitments considered in terms of subsection (1)(a) and the achievements of the licensee in relation to those commitments; and
 - (b) may impose further or different reasonable and justifiable conditions on the license to the extent necessary to address the matters referred to in subsection (1)(a) and (b).

Competition issues to be considered

34. (1) When considering an application for a license, or when considering an application for the transfer of a license, the Board must consider whether approving the application is likely to substantially affect competition in the gambling industry generally, or in respect of the proposed activity –
- (a) within the province, in the case of a provincial license; or
 - (b) within the Republic, in the case of a national license.
- (2) After considering the matters contemplated in subsection (1), the Board must refuse the application unless there are overriding public interest reasons for approving it if it appears that approving the application would result in the applicant, alone or in conjunction with a related person, achieving market power.

- (3) For the purpose of subsection (2) -

“**market power**” has the meaning set out in section 1 of the Competition Act;

“**public interest reasons**” include the reasons set out in section 12A(3) of the Competition Act; and

“**a related person**” means a person –

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

State interests

35. (1) In this section –

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

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

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

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

- (3) A public body may -

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

- (4) An arrangement referred to in subsection (3)(a) is acceptable if -

- (a) it is an arm’s-length commercial transaction; and

- (b) any payment in terms of the arrangement to the public body is not directly or indirectly determined by reference to the turnover of, or profit from, the gambling activity.
- (5) An arrangement referred to in subsection (3)(b) or (c) is acceptable if any payment in terms of the arrangement to the public body is not directly or indirectly determined by reference to the turnover of, or profit from, the gambling activity.

License requirements

36. The Board -

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

External probity reports

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

License criteria, categories, conditions and special events licensing

38. (1) A license must specify –
- (a) the identity of the licensee;
 - (b) the activities that the license permits the licensee to engage in, conduct or make available to the public; and
 - (c) the premises at, in or from which the licensee is permitted to operate.
- (2) When issuing a license, the Board may issue it only as –
- (a) a permanent license;
 - (b) a temporary license, subject to the fulfillment of certain conditions within a specified period, with the intention that upon fulfillment of those conditions, a permanent license will be issued in substitution of the temporary license: Provided that once those conditions are fulfilled the permanent license would be granted within a period of ninety days;
 - (c) subject to subsection (3), a special event license which permits the licensed activity on specified dates only in a particular location set out in the license.
- (3) A special event license may not be issued in respect of the operation of a gambling machine.
- (4) When issuing a special license, the Board –
- (a) may issue it with or without conditions; and
 - (b) must set out in the license certificate –
 - (i) the duration of the license;
 - (ii) the specific activities permitted in terms of the license or a reference to the applicable law that describes such activities; and
 - (iii) the name or description of the specific premises in, on or from which the licensed activity may take place.
- (5) The provisions of subsections (1), (2), (3) and (4), with the exception of subsections (1)(c) and (4)(b)(iii), apply, with the changes required by the context, to employment certificates.

Renewal of licenses

39. (1) A license referred to in section 38(2)(a) or (b) must, subject to section 34(2), be renewed by the licensee no later than the last day of March in any year –
- (a) on application and in the form determined by the Board;
 - (b) on production of the license for the preceding year; and
 - (c) on payment of the investigating cost determined by the Board and the prescribed renewal fee.
- (2) An application for the renewal of a license in terms of subsection (1) must be submitted to the Board no later than 90 days prior to the date on which the license must be renewed.
- (3) Subsection (1) and (2), read with the necessary changes, shall be applicable to renewals of employee licenses.

Suspension or revocation of license

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

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

41. (1) A license granted under this Act may, subject to this section, not –
- (a) be transferred to another person; or
 - (b) be removed from the licensed premises to other premises.
- (2) If the holder of a license –
- (a) desires to transfer such license to another person, such license holder and such other person must make joint applications to the Board for such transfer; or

- (b) desires to remove such license from the licensed premises to any other premises, whether permanently or temporarily, such license holder must make an application to the Board for the removal of such license.
- (3) For the purpose of an application contemplated in subsection (2), the provisions of sections 19, 30 and 31, read with the changes required by the context, apply.
- (4) In addition to any investigation done in terms of this Act, the Board must also do such investigations as may be prescribed by regulation under the National Gambling Act, when considering an application contemplated in subsection (2).
- (5) A license may not -
 - (a) be transferred to a person who is disqualified in terms of this Act or the National Gambling Act to hold the license concerned;
 - (b) be removed from the licensed premises concerned to another premises unless the Board is satisfied that the other premises are or will on completion be suitable for the purpose for which they will be used under the license.
- (6) Upon granting an application for the transfer of a license to another person, the Board –
 - (a) issues a certificate of license to the transferee, who then becomes the licensee, with all rights and obligations of a licensee in terms of this Act; and
 - (b) cancels the original license.
- (7) Upon granting an application for the removal of a license to other premises, the Board must –
 - (a) issue a new license to the licensee, referring to the new premises as the licensed premises; and
 - (b) cancel the original license.
- (8) A person who acquires an interest in a licensee, must apply to the Board for approval of that acquisition, and for the purpose of such application, the provisions of subsections (2)(a), (3) and (5)(a), read with the changes required by the context, apply.

Duty to produce and display licenses

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

License application and annual license fees

43. (1) (a) An applicant for a new license must pay to the Board the prescribed fee upon submission of such application.
- (b) The license holder must, upon issue of the license and thereafter annually before the renewal thereof, pay to the Board the prescribed license fee.
- (a) The Board must pay the application fee referred to in paragraph (a) and the annual license fee referred to in paragraph (b) into the Provincial Revenue Fund.

- (b) No fee contemplated by this section is refundable.
- (2) The annual license fee becomes due on the last day of March in each consecutive year.
- (3) If the annual license fee is not paid within 90 days from the date on which the annual license fee for that license became due in accordance with subsection (2), the license lapses.
- (4) All fees due in terms of this Act exclude value-added tax.

Death, insolvency or incapability of a licensee

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

SPECIFIC LICENSES

Casino operator license

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

Junket agent license

46. A junket agent license is required by any person who, for commission, a share in gambling profits or any other consideration, in conjunction with the holder of a casino operator license plans or organizes a visit or an excursion to a casino by one or more persons who receive complimentary services such as transport, food and lodging as an inducement to gamble at the casino.

Route operator license

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

Site operator license

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

Independent site operator license

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

Bingo operator license

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

Horse racing license

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

Bookmaker license

52. A bookmaker license is required by any person who directly or indirectly lays fixed-odds bets or open bets with members of the public or other bookmakers, or takes such bets with other bookmakers.

Totalisator operator license

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

Manufacturer license

54. (1) A manufacturer license is required by every person who imports, acquires, manufactures, assembles, maintains, repairs, alters, distributes, leases or sells slot machines or any component thereof for use in the province.
- (2) A manufacturer license must only be issued to a company registered in terms of the Companies Act, 1973, or a close corporation registered in terms of the Close Corporations Act, 1984.

- (3) The provisions of sub-section (1) shall not apply to the holder of a casino license or the holder of a route operator license in respect of the maintenance of their machines, or the repair thereof, or any alterations conducted by them on any of the gambling device used by them, or in respect of the sale of such a device but such license holders in accordance with this Act.
- (4) A manufacturer license shall attach to the premises specified in the license unless an application, in terms of this Act, to remove such a license from its original premises to another has been approved by the Board.
- (5) A manufacturer license shall only authorize the importation, acquisition, manufacturing, assembling, maintenance, repairs, alterations, distribution, leasing, or selling of gambling devices set out in such a license.

Distributor license

- 55. (1) A distributor license is required by everyone who, directly or indirectly, imports, acquires, distributes, markets, leases or sells any gambling device or related system for use in the province, and/or anywhere in the country.
- (2) A distributor license must only be issued to a company registered in terms of the Companies Act, 1973, or a close corporation registered in terms of the Close Corporations Act, 1984.
- (3) A distributor license shall only authorize the importation, acquisition, distribution, marketing, leasing, or selling of gambling devices set out in such a license.
- (4) A distributor license shall attach to the premises specified in the license unless an application, in terms of this Act, to remove such a license from its original premises to another has been approved by the Board.
- (5) The provisions of this section shall not apply to the holder of a manufacturer license.

Testing Agent license

- 56. A testing agent license is required by a person who carries out tests on gambling machines and gambling devices in order to check their compliance and compatibility according to the South African National Standards as required in terms of any applicable Gambling Legislation.

Suitability license

- 57. (1) A suitability license is required by any supplier of goods or services who contracts with a holder of a gambling or betting license granted in terms of this Act, to supply such a license holder with goods or services.
- (2) A supplier of goods or services mentioned under subsection (1) must not enter into an agreement to provide such goods or services to a gambling license holder or betting license holder if such supplier has not applied and obtained a suitability license from the Board.
- (3) The provisions of this section shall not apply to the holders of a manufacturer license, distributor license, and testing licenses.

GAMBLING EMPLOYEE LICENSES

Disqualification for employment license

- 58. (1) A person may not hold an employment license issued in terms of this Act if that person
 - (a) is under the age of 18 years;

- (b) is a public servant or political office-bearer;
 - (c) is listed on the register of excluded persons;
 - (d) is subject to an order of a competent court holding that person to be mentally unfit or deranged;
 - (e) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or
 - (f) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, corruption or an offence in terms of this Act or the National Gambling Act and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the amount prescribed in terms of the National Gambling Act, unless the person has received a grant of amnesty or free pardon for the offence.
- (2) The Board may not issue an employment license to a person if the applicant falls within any of the enumerated disqualifications set out in subsection (1).
- (3) An employment license issued in terms of this Act is deemed to have been cancelled if the holder of the license becomes disqualified in terms of subsection (1) at any time after the license was granted.

Key employee license

59. (1) A key employee license is required by a person employed by the holder of a license issued in terms of this Act or the National Gambling Act, as an executive or other functionary in the business or as an agent of the license holder, who may –
- (a) exercise direct control over gambling operations or activities authorized by the license of the license holder; or
 - (b) exercise control over any licensed premises where gambling is conducted in accordance with the license of the license holder.
- (2) For the purposes of sub-section 1 above “**direct control over gambling operations**” or “**activities authorized by the license of the license holder**” means the express, implied or reasonably incidental authority to oversee, monitor, or otherwise control any activity in respect of gambling or betting operations which may reasonably enable the person on whom such authority is conferred –
- (a) to manipulate or alter the selection criteria which determine the result of any gambling game, event or contingency; or
 - (b) to misrepresent to any authority the tax liability of a license holder.
- (3) Persons employed in any of the following or substantially similar positions shall be regarded as key employees for the purposes of this section;
- (a) managers;
 - (b) supervisors;
 - (c) pit bosses;
 - (d) inspectors; and
 - (e) any other position considered by the Board to be that of a key employee generally or in relation to any gambling business in particular.
- (4) If the Board considers that an employee of any license holder is a key

employee in terms of sub-section (3)(e) above, it shall serve written notice to that effect upon the license holder by whom such employee is employed to require them to license such employee as key employee.

- (5) The license holder shall within thirty days of receipt of such notice submit to the
- (6) Board an application in a form determined by the Board for the licensing of such employee unless the employee is no longer under their employment, which prove they must still supply within the thirty days period to the Board.
- (7) When acting in terms of sub-section (3)(e) the Board is not restricted to the job title or designation of the employee but may consider the functions and responsibilities of such employee in making its decision.
- (8) An employee affected by the decision of the Board in terms of sub-section (3)(e) may apply to the Board, within the thirty days period provided to the employer to submit an application, and state reasons why he or she should not be considered a key employee.
- (9) If the Board is satisfied by the reasons provided by the employee in his or her application in terms of sub-section (7) the Board shall withdraw its decision in terms of sub-section (3)(e).
- (10) Failure by the license holder to comply with this section shall be an offence.

Gambling employee license

- 60.** (1) A gambling employee license is required by a person, other than the holder of a key employee license, employed by the holder of a license issued in terms of this Act or the National Gambling Act to –
- (a) a gambling business, or
 - (b) a holder of a manufacturer or distributor license, and who is directly involved in the activities performed under such a license.
- (2) Persons employed in any of the following or substantially the similar positions shall be regarded as gambling employees for the purpose of this section:
- (a) Cashiers and ticket sellers;
 - (b) Counting room personnel;
 - (c) Card dealers;
 - (d) Machine mechanics; and
 - (e) Bookmaker clerks.
- (3) If the Board considers that an employee of any license holder is a gambling employee, it shall serve written notice to that effect upon the license holder by whom such employee is employed to require them to license such employee as gambling employee, whereupon the provisions of section 59(5), (6), (7), (8), and
- (4) shall apply, read with the necessary changes.
- (5) No person required to hold a gambling employee license shall be employed by or assist any license holder until he or she has obtained a valid gambling employee license.

- (6) Key employee license holders shall not be required to obtain gambling employee licenses.

Notice of termination of service

61. The employer of either a key employee contemplated in section 59, or a gambling employee contemplated in section 60, must give notice to the Board within 14 days of the termination of the services of such employee as a key employee or a gambling employee, as the case may be.

Suspension or revocation of license of employment

62. For the purpose of the suspension or revocation of an employment license issued in terms of this Act, the provisions of section 40 apply with the changes required by the context.

Temporary employment license

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

Restrictions applicable to employees

64. No person who is required to hold a license in terms of section 59 or 60 may, in a casino or a bingo hall with which he or she is associated, as the case may be, participate in or play any game, but such a person may participate in such gambling if it is necessary for the performance of his or her functions as an employee.

OPERATIONAL MATTERS

Monitoring systems

65. (1) The holder of a license referred to in section 23(1)(a) or (d) must install, maintain and operate a surveillance system approved by the Board.
- (2) The holder of a license referred to in section 23(1)(b) or (i) must link any gambling machine, gambling device, associated system or accounting system to the national central electronic monitoring system referred to in section 27(1) of the National Gambling Act, including a system for continuous online real-time recording, monitoring and control of such significant gambling transactions as the Board may determine.

Collateral security

66. (1) The Board may require any applicant before commencing, or, in the case of a holder of a license, before continuing to carry on the business authorized under that license, to give security for the payment of all statutory or gambling obligations due, or which may become due, in such amount and form as may be determined by the Board.
- (2) The Board may from time to time order that the amount or value of the security referred to in subsection (1) be increased or decreased, whereupon the license holder concerned must, within the period determined by the Board, but not less than twenty one days of the receipt by him or her of a notification that the Board has so ordered, ensure that the security is increased or decreased in accordance with such order.
- (3) If any license holder fails to pay any tax fee, or honor any statutory obligation due by him or her, the chief executive officer must realize the security referred to in subsection (1) and apply any money derived from the realization of it for the payment of such tax fee, or to honor any such
- (4) Whenever a license issued in terms of this Act expires or is revoked or suspended, the chief executive officer must, after a period of 90 days after the date of such expiration, revocation or suspension and after compliance with the provisions of subsection (3), if such provisions are applicable, release the security or the balance of the security statutory obligations as may be due and payable.
- (5) Any license holder who contravenes or fails to comply with a provision of subsection (1) or (2) is guilty of an offence.

Restriction of betting through agent and unlawful inducement to bet

67. (1) No person may –
- (a) act as an agent for the holder of a bookmaker's license for the purpose of betting, whether or not for gain; or
- (b) whether or not for gain act as an intermediary between any holder of a bookmaker's license and any other person for the purpose of betting.
- (2) No licensed bookmaker may, directly or indirectly, give or undertake to give to any other person money or other valuable consideration, other than the amount of a wager won by such other person, to induce that person to bet.

Rules of gambling games

68. (1) No gambling game may be played or betting placed otherwise than in accordance with the rules approved therefore by the Board.
- (2) The holder of any license must, in respect of any game authorized by such license for which no rules have been approved by the Board, make rules relating to the playing of such game and submit rules to the Board for approval before such game may be played or betting conducted.

Availability of rules

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

Gambling devices

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

Standards for gambling devices

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

Books, accounts and records

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

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

73. (1) No person may advertise or promote –
- (a) any gambling activity –
- (i) in a false or misleading manner; or
- (iii) that is unlawful in terms of this Act or the National Gambling Act; or
- (b) a gambling activity in a manner intended to target or attract minors.
- (2) Any advertisement of a gambling machine or device, a gambling activity, or licensed premises at which gambling activities are available –
- (a) must include a statement, in the manner and form prescribed by regulation in terms of the National Gambling Act, warning against the dangers of addictive and compulsive gambling; and
- (b) must not include any element that directly or indirectly promotes or encourages the removal of a person from the register of excluded persons.

- (3) A person must not advertise or promote any gambling or related activity as being available to the public free of charge or at a discounted rate contrary to this Act or the National Gambling Act, as an inducement for gambling.

Restrictions on granting credit to gamblers

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

Approval of certain contracts

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

Non-compliance

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

ENFORCEMENT AND OFFENCES

Appointment of inspectors by Board

77. (1) The Chief Executive Officer may in consultation with the Board, subject to section 12, appoint any suitably qualified person as an inspector to perform any or all of the functions assigned to an inspector in terms of this Act.
- (2) The Chief Executive Officer must issue each inspector appointed in terms of sub-section (1) a certificate in the prescribed form stating that such person has been appointed [designated] as an inspector.
- (3) A valid certificate issued in terms of subsection (2) is sufficient evidence of the authority of the inspector named on it.
- (4) The inspector issued with a certificate in terms of subsection 2 must have it in his or her possession and, on request, produce it to any interested person when exercising any power or performing any duty in terms of or under this Act.
- (5) An inspector appointed in terms of this section may be declared a Peace Officer in

terms of section 334 of the Criminal Procedure Act, 1977 by the Responsible Minister and must satisfy all competency requirements requisite to become a peace officer as such, failing which he or she shall not be declared a peace officer in terms of this provision.

Powers and functions of inspectors

78. (1) An inspector may –
- (a) conduct inspections and monitor compliance with this Act;
 - (b) investigate complaints submitted to the Board;
 - (c) question any person in respect of any matter connected with this Act, which may be relevant to an inspection; or
 - (d) question any person whom the inspector reasonably believes may have information relevant to an inspection, and may, for the purpose of an inspection or investigation, enter any licensed premises during the hours that the licensee is permitted to do business in terms of the license.
- (2) An inspector may be accompanied during an inspection or investigation by a member of the South African Police Service or any other person reasonably required to assist in conducting the inspection or carrying out the investigation, as the case may be
- (3) An inspector may assist an inspector appointed in terms of the National Gambling Act to perform the functions contemplated in section 77 of that Act.
- (4) For the purpose of performing a function referred to in subsection (1)(a), (b), (c) or (d), an inspector may apply to the relevant authority for a warrant to enter any land or premises.
- (5) When executing a warrant contemplated in subsection (4), the inspector must act in accordance with the terms and conditions stipulated in the warrant.
- (6) No person other than an inspector, in the execution of his or her duties in terms of this Act, may play any gambling game or take part in any betting in or on, or visit, with the object of playing any gambling game or taking part in any betting, any premises which are not licensed under this Act.

Reward for informers

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

Control of entry to certain premises

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

Gambling Offences and penalties

81. (1) Any person who –
- (a) contravenes a provision of this Act;
 - (b) contravenes any condition of a license;
 - (c) in or on any licensed or unlicensed premises conducts any game or keeps any gambling device which is not approved under this Act, or conducts any game otherwise than in accordance with the approved rules of such game;
 - (d) hinders or obstructs any police official whilst taking steps for the prevention or investigation of an offence under this Act;
 - (e) makes any false statement in any application or return under this Act;
 - (f) having been summoned to give evidence at a hearing or an investigation under this Act, without sufficient cause fails to attend such hearing or investigation at the time and place specified in the summons, or to remain in attendance until the conclusion of the hearing or investigation or until excused by the Board from further attendance, or to produce any book, document or thing in his or her possession or custody or under his or her control, which he or she has been summoned to produce;
 - (g) having been summoned under this Act –
 - (i) refuses to testify or, subject to the law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law, refuses or fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her; or
 - (ii) gives false evidence before the Board at any enquiry or any matter, knowing such evidence to be false or not knowing or not believing it to be true;
 - (h) is in possession of any gambling device, other than playing cards or dice, which is not used under a license or in accordance with the provisions of this Act or who is not authorized by the Board to transport such device in or through the Province;
 - (i) uses a gambling device otherwise than in accordance with the provisions of this Act;
 - (j) by way of a scheme or arrangement directly or indirectly converts into cash, tokens, credit, debits, cheques or other value instruments any non-cash object or ticket received by a person in return for attending any premises on which an electronic, mechanical or electro-mechanical device, whether a gambling machine, an amusement machine or otherwise is exposed for play by members of the public or any section thereof or in return for playing such device;
 - (k) falsely represents himself or herself to be an inspector;
 - (l) willfully obstructs, hinders or delays any inspector or any person lawfully accompanying an inspector in the performance of his or her function under this Act;

- (m) without the written consent of an inspector, removes from the place where it has been left by the inspector, tampers with, destroys, or makes alterations to anything seized by such inspector in the performance of his or her functions, is guilty of an offence and on conviction liable to a fine not exceeding R10 000 000-00 or to imprisonment for a period not exceeding 10 years or both such fine and imprisonment, but in the event of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine or the period of such imprisonment, or both such fine and imprisonment.

- (2) All fines imposed in terms of this Act accrue to the Provincial Revenue Fund.

PROHIBITED GAMBLING, RESTRICTED ACTIVITIES AND STATUS OF GAMBLING DEBTS

Gambling in relation to illegal activities unlawful

82. No person may –

- (a) engage in, conduct or make available a gambling activity if the outcome of that activity depends directly, indirectly, partly or entirely on a contingency related to an event or activity that is itself unlawful in terms of any law;
- (b) permit any gambling machine or device under the person's control to be used for the purposes of a gambling activity contemplated in paragraph (a);
- (c) maintain or operate any premises, whether or not such premises are licensed premises, for the purposes of a gambling activity contemplated in paragraph (a); or
- (d) permit any premises under the person's control, whether or not such premises are licensed premises, to be used for the purposes of a gambling activity contemplated in paragraph (a).

Unlicensed gambling activities unlawful

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

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

Unlicensed dealing in machines and devices unlawful

84. No person may –

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

Unlicensed use of premises unlawful

85. (1) No person may –
- (a) maintain or operate any premises for the purposes of a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorized in terms of a license under this Act or the National Gambling Act;
 - (b) permit any premises under that person's control to be used for the purposes of a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorized in terms of a license under this Act or the National Gambling Act; or
 - (c) permit an individual in or on any premises under that person's control to engage in a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorized in terms of a license under this Act or the National Gambling Act.
- (2) A person must notify the Board and the National Gambling Board if the person -
- (a) owns, maintains, operates or has control over any premises, or any gambling machine or device; and
 - (b) believes, or has reason to believe, that those premises, or that gambling machine or device, is being, or has been used without that person's permission for any purpose that is unlawful in terms of this section or section 80, 81 or 82.

Protection of minors in gambling and betting activities

86. (1) A minor may not –
- (a) enter a designated area within any licensed premises;
 - (b) operate a gambling machine or gambling device;
 - (c) conduct or make available a gambling activity; or
 - (d) falsely claim to be 18 years of age or over, in order to –
 - (i) gain access to a designated area within licensed premises; or
 - (ii) gain access to a gambling machine or gambling device.
- (2) No person may falsely claim that a minor is 18 years of age or over, in order for that minor to -
- (a) gain access to a designated area within licensed premises;
 - (b) gain access to a gambling machine or gambling device; or
 - (i) engage in, conduct or make available a gambling activity.
- (3) A licensee, registered employee, or a person in control of licensed premises or a gambling machine or gambling device may not knowingly permit a minor to -
- (a) enter or remain in a designated area within such licensed premises;

- (b) operate that gambling machine or gambling device; or
 - (c) conduct or make available a gambling activity within such licensed premises.
- (4) A person referred to in subsection (3) must take reasonable measures to determine accurately whether or not a person is a minor, before permitting that person to do anything contemplated in subsection (3)(a) to (c).

Enforceability of gambling debts and forfeiture of unlawful winnings

87. (1) Subject to the provisions of the National Gambling Act –
- (a) a debt incurred by a person, other than an excluded person, subject to paragraph (d)(ii), or a minor, in the course of a gambling activity that is licensed in terms of this Act or the National Gambling Act, is enforceable in law;
 - (b) a debt incurred by a person other than an excluded person, subject to paragraph (d)(ii), or a minor, in the course of a gambling activity that is lawful but not required to be licensed, in terms of this Act or the National Gambling Act, is enforceable in law only to the extent that it is enforceable in terms of the common law or another law;
 - (c) a debt incurred by a person in the course of any gambling activity that is unlawful in terms of this Act or the National Gambling Act is not enforceable in law;
 - (d) a debt incurred in the course of a gambling activity –
 - (i) by a minor is not enforceable in law; or
 - (iii) by an excluded person is not enforceable in law, unless that excluded person gained access to that gambling activity by fraudulently claiming to be a different person; and
 - (e) an informal bet is not enforceable in law.
- (2) A person may not knowingly pay any winnings from a gambling activity to –
- (a) a minor;
 - (b) an excluded person; or
 - (c) any other person who won those winnings in a gambling activity that is unlawful in terms of this Act or the National Gambling Act.
- (3) Any person who is prevented from paying winnings referred to in subsection (2) must remit those winnings to the National Gambling Board in the manner and form prescribed by regulation in terms of the National Gambling Act, to be held by the National Gambling Board in trust, pending a decision regarding forfeiture in terms of section 16(4) of the National Gambling Act.

Cheating and cheating devices

88. (1) No person may –

- (a) cheat or knowingly allow anyone to cheat or to operate any cheating device or provide any person with information or with a device to cheat in any gambling game or betting;
 - (b) knowingly conduct, allow or expose for play any gambling game played with cards or with any gambling device which has been marked, tampered with, placed in a position or operated in a manner that tends to deceive players or the public, to alter the normal random chance of the game, or to determine or alter the result of the game; or
 - (c) knowingly make use of any counterfeit chip or token or contravene the rules of any game or interfere in any way with any gambling device or any other device used for gambling with the intention of obtaining any direct or indirect pecuniary advantage, whether for himself or herself or any other person.
- (2) For the purposes of this section, “**cheating**” also means -
- (a) the alteration of the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game; or
 - (b) the use of any scheme, arrangement, system or plan which the responsible Member may from time to time by notice in the *Provincial Gazette* declare to be cheating.

Prohibition of gambling by persons concerned with gambling business

89. No person who is in any way concerned with the management, supervision, control or administration of a gambling business, other than a bookmaking business or any game played at such a business, may participate in such game or in gambling at such business or at any other gambling business other than a bookmaker’s business operated by the same license holder in the Province, save in so far as he or she may be required to do so by the nature of his or her employment in the operation of such game so as to enable other persons to participate in the game or betting.

GAMBLING ACTIVITIES

Gambling activities generally

90. An activity is a gambling activity if it involves –
- (a) placing or accepting a bet or wager in terms of section 91(1);
 - (b) placing or accepting a totalisator bet in terms of section 91(2); or
 - (c) making available for play, or playing bingo or another gambling game in terms of section 92.

Bets and wagers

91. (1) A person places or accepts a bet or wager when that person –
- (a) being a player, stakes money or anything of value on a fixed odds bet, or an open bet, with a bookmaker on any contingency; or
 - (b) being a bookmaker –
 - (i) accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency; or

- (ii) stakes money or anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency;
 - (iv) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or
 - (iv) expressly or implicitly undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c).
- (2) A person places or accepts a totalisator bet when that person stakes money or anything of value on the outcome of an event or combination of events by means of -
 - (a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or
 - (b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles.

Gambling games

92. (1) An activity is a gambling game if –
- (a) it meets the following criteria:
 - (i) it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to, or receive a pay-out; and
 - (ii) the result might be determined by the skill of the player, the element of chance, or both; or
 - (b) it is a bet or wager in terms of section 91(1), that is placed in a casino in relation to an activity that meets the criteria in paragraph (a).
- (2) Despite subsection (1), for all purposes of this Act, none of the following activities is a gambling game:
- a) a bet or wager in terms of section 91(1), other than a bet or wager contemplated in subsection (1)(b); or
 - (c) a totalisator bet in terms of section 91(2).

Pay-out and opportunity to play further game

93. (1) Subject to subsection (2), a pay-out is any money, merchandise, property, a cheque, credit, electronic credit, a debit, a token, a ticket or anything else of value won by a player –
- (a) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and
 - (b) regardless how the pay-out is made.
- (2) Neither of the following is a pay-out:
- (a) an opportunity to play a further game; or

- (b) a prize given to a participant or team of participants in a sporting event in respect of the participant's or team's performance in that event.
- (3) The result of a gambling game -
 - (a) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game –
 - (i) in respect of which the opportunity was won; and
 - (ii) on the machine on which the opportunity was won, but
 - (b) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be –
 - (i) distributed or transferred to the person who has won such an opportunity or to any other person; or
 - (ii) converted into money, property, a cheque, credit or any other thing of value; or
 - (iii) converted in terms of any scheme, arrangement, system plan or device prescribed by regulation in terms of section 6(4) of the National Gambling Act.
- (b) the National Gambling Act; and
- (c) the Financial Intelligence Centre Act.

CHAPTER V **GAMBLING LEVIES**

Levies payable

94. (1) A holder of a licence must pay a levy of 8% on the gross win derived from any gambling or betting conducted under the license.
- (2) A holder of a license must pay a gambling levy referred to in subsection (1) not later than seven days following the last day of the preceding month, and if such gambling levy is not paid in compliance with this Act, the licence concerned must be suspended by the Board until the gambling levy payable in terms of subsection (1) and the penalties payable in terms of section 25 have been paid.
- (3) The gambling levy payable in terms of subsection (1) is payable to the Board and the Board must pay such levy to the Provincial Revenue Fund within 14 days after receipt and verification of the correctness thereof; Provided that the verification of such levy must be commenced with forthwith upon receipt thereof.

Manner of payment of gambling levy

95. (1) A licence holder must –
- (a) submit to the Board, not later than seven days following the last day of the preceding month, or, if such seventh day is a Sunday or public holiday, not later than the next working day, a return in the form containing such information in respect of its gambling operations during the preceding month as may be determined by the Responsible Member; and

- (b) pay to the Board any gambling levy due in respect of the preceding month as per information provided by the License Holder which must be verified by the Board.

Penalties payable

96. (1) The Responsible Member must prescribe penalties for failure to pay a levy or for late payment of a levy payable in terms of this Act and publish it in the *Provincial Gazette* for public notice.
- (2) A Court convicting a person of contravening the Gambling Act may, in addition to any penalty it may impose in terms of this Act order such person to pay the relevant gambling levy due and payable in terms of this Act if such person was the holder of a licence.
- (3) The Responsible Member must review the fees prescribed in terms of sub section (1) after every two years cycle period.

CHAPTER VI **LIQUOR**

(All sections hereunder are applicable to licenses, licensees and procedures relating to the Liquor industry in the Province)

Prohibitions

97. (1) No person may undertake -
- (a) the micro-manufacturing of liquor; or
 - (b) the retail sale of liquor,
- without being duly licensed to do so in terms of this Act.
- (2) No person may manufacture, sell, supply as liquor or beer or have in his or her possession a concoction.
- (3) No person may lease a duly issued liquor license in terms of this Act to another person.
- (4) Subject to the pro-visions of this Act or any other law:
- (a) the holder of an on-consumption liquor license may also sell or supply newspapers, light refreshments and smokers' requisites on the licensed premises, or conduct such other business thereon as the Board, on application, when granting the license concerned or at any time thereafter, approve subject to such conditions as the Board may think fit;
 - (b) the holder of a liquor store license may also sell or supply mineral waters, other drinks (other than liquor as defined in section 1), tobacco, cigars, cigarettes, matches, cooler bags and such other articles as the Board may by a notice in the Provincial Gazette declare to be articles normally used in or in connection -with the serving of liquor, on the licensed premises;
 - (c) the holder of a license for the micro-manufacturing of liquor may also sell any product which has been produced or manufactured on land owned or lawfully occupied by him or her only as an off-consumption site except where a specific on-site license has been issued.
- (5) The Board may at any time by a like notice withdraw or amend any declaration made under subsection (4)(a) and (b).

Exemption

98. (1) The Principal of a tertiary educational institution for the training of persons in the catering services, may apply to the Board to declare that this Act, excluding the provisions as it may determine, does not apply to the sale of liquor in the restaurant of that institution.
- (2) A declaration made by the Board in terms of subsection (1) must be in writing

LICENSING PROCEDURE**Kinds of *Liquor* licenses**

99. (1) A license may be granted for the supply and sale of liquor by:

- (a) a hotel;
- (b) a restaurant;
- (c) a wine-house;
- (d) a theatre;
- (e) a club;
- (f) a sorghum beer chinking house;
- (g) a tavern;
- (h) a guest house;
- (i) a night club;
- (j) a gambling house;
- (k) a sports club, for consumption on the licensed premises or
- (l) events license.

- (2) A license may be granted for the supply and sale of liquor by

- (a) a liquor store;
- (b) a grocer selling wine; or
- (c) a business selling sorghum beer, for consumption off the licensed premises.

- (3) A license may be granted for the micro-manufacturing of liquor.

- (4) An occasional license for the supply and sale of liquor may be granted.

Description of licenses and hours of business

100. (1) (a) The holder of a hotel liquor license must at all times maintain on the licensed premises

- a *bona fide* hotel at which accommodation and meals are regularly supplied to guests and may, subject to subsection (4), sell liquor on the licensed premises.
- (b) The holder of a restaurant liquor license must at all times maintain on the licensed premises a *bona fide* restaurant at which meals are regularly supplied to guests and may, subject to subsection (4), sell liquor on the licensed premises.
 - (c) The holder of a wine-house liquor license must at all times maintain on the licensed premises a *bona fide* restaurant at which meals are regularly supplied to guests and may, subject to subsection (4), sell only wine on the licensed premises.
 - (d) The holder of a theatre liquor license must at all times maintain on the licensed premises a *bona fide* theatre at which dramatic performances, plays, concerts or films are regularly presented or shown to the public and may, subject to subsection (4), sell liquor on the licensed premises immediately preceding performances or shows and during intervals.
 - (e) The holder of a club liquor license must at all times maintain on the licensed premises a *bona fide* club in respect of which only its members are permitted to pay for facilities, liquor or refreshments supplied on the premises of the club and may, subject to subsection (4) sell liquor on the premises.
 - (f) The holder of a sorghum beer drinking house liquor license may only sell sorghum beer procured from the holder of a license, issued under any law, for sorghum beer brewing and may, subject to subsection (4), sell the sorghum beer on the licensed premises.
 - (g) The holder of a tavern liquor license may, subject to subsection (4), sell liquor and may sell food or serve meals on the licensed premises.
 - (h) The holder of a guest house liquor license must at all times maintain on the licensed premises a *bona fide* guest house and may, subject to subsection (4), sell liquor to guests on the licensed premises.
 - (j) The holder of a nightclub liquor license must at all times maintain on the licensed premises a *bona fide* nightclub at which performances are presented to the public and may, subject to subsection (4), sell liquor on the licensed premises.
 - (i) The holder of a gambling house liquor license must, in terms of any law regulating gambling in the province, be permitted to allow gambling activities on the licensed premises and may, subject to subsection (4), sell liquor on the licensed premises.
 - (k) The holder of a sports club liquor license must at all times maintain on the licensed premises a *bonafide* sportsground on which public sports meetings are regularly held and may, subject to subsection (4), sell liquor on the licensed premises.
 - (l) The holder of an occasional liquor license contemplated under section 98 must ensure that liquor sold in terms of such a license is consumed on the licensed premises only.
- (2) (a) The holder of a liquor store license may, subject to subsection (5), sell liquor for off-consumption on the licensed premises.
- (b) The holder of a grocer's wine license for off-consumption may, subject to subsection (5), sell only table wine on the licensed premises.
- (c) The holder of a sorghum beer license for off-consumption may, subject to subsection (5), sell only sorghum beer procured from a holder of a license, issued under any law, to produce such beer on the licensed premises.

- (3) The holder of a liquor license contemplated in subsection (1), must ensure that liquor sold thereunder is consumed on the licensed premises only, and the holder of a liquor license contemplated in subsection (2), must ensure that liquor sold thereunder is not consumed on the licensed premises.
- (4) The holder of a liquor license contemplated in subsection (1), may sell liquor on the licensed premises between 10:00 and 24:00, Monday to Sunday and no liquor may be consumed on the licensed premises for a period of more than 30 minutes after 24:00.
- (5) The holder of a liquor license contemplated in subsection (2), may, except on a closed day, sell liquor on the licensed premises:
 - (a) between 08:00 and 20:00, Monday to Friday; and
 - (b) between 08:00 and 17:00 on a Saturday or public holiday other than a closed day.
- (6) A licensee may carry out licensed activities only in or from licensed premises and in accordance with the provisions of this Act.
- (7) If the responsible Member is convinced that it will be in the public interest, he or she may, for the duration of a specific event, *by* notice in the *Provincial Gazette*, declare different hours of business than those referred to in subsection (4) or (5), but such declaration may not exceed a period of 30 days in any year starting on 1 January.
- (8) The holder of an occasional liquor license contemplated in subsection (1), must ensure that liquor sold thereunder is only sold during the times specified under the conditions of the said license.

Occasional liquor licenses

- 101.** (1) Subject to section 103, any person may, on the prescribed form and in the prescribed manner, apply for an occasional liquor license.
- (2) An application for an occasional liquor license must be considered by a committee of the Board, and the committee must, within 14 days after receipt of the application decide on the application by either -
 - (a) refusing the application; or
 - (b) issuing the license concerned, subject to any condition that the committee may determine.
 - (3) An occasional liquor license is valid only for the duration of the event for which it was issued for, and not for more than 7 days from the date it was issued for.
 - (4) An applicant who was granted an occasional license in terms of this section must not apply again for an occasional license after being granted this license for a period of more than 30 days in twelve months calculating from the first time he or she was granted an occasional license.

Minors

- 102.** (1) No licensee or his or her employee, or any person on his or her behalf, may sell liquor to a person below the age of 18 years.
- (2) The owner, proprietor or employee of a licensed sorghum drinking place, tavern, night club, and liquor store premises must take reasonable steps to satisfy themselves of the age of a person prior to admitting such a person into a licensed premises.

- (3) Once the person(s) mentioned under sub-section (2) above have satisfied themselves that the person seeking admission into their premises is a minor then they must refuse such a minor entry into the premises.

Applications

103. (1) An application for a liquor license must be lodged with the Board by registered post or by hand delivery on the prescribed form to the physical address of the Board, accompanied by -

- (a) a detailed written motivation in support of the license applied for;
 - (b) a detailed sketch plan, indicating the size of the premises, and an approved plan by the relevant municipality or tribal council; and
 - (c) a detailed written description of the premises to which the application relates to.
 - (d) photographs of the external and internal features of the premises where there is an existing building structure.
 - (e) proof of publication of notices of the application in at least 1 newspaper circulating in the area where the occasional event would take place and proof of publication in the *Provincial Gazette*;
 - (f) the full business address and location of the premises to which the application relates;
 - (g) proof of payment of the prescribed fee;
 - (f) documentary proof of any land usage restriction applicable to the premises concerned, or in the absence of such restriction, any proof originating from -
 - (i) a title deed of the land;
 - (ii) the founding conditions of the area or subdivision of land;
 - (iii) a town planning scheme or other spatial planning document;
 - (iv) a law; or
 - (v) any other source.
 - (h) a memorandum detailing the applicant's proposed contribution to combating alcohol abuse.
- (2) Within 14 days after receipt of the application, the Board must refer a copy of the application to a designated police officer who must, within 14 days, compile a report detailing such matters as may be prescribed or which ought, in the opinion of the designated police officer be taken into consideration with regard to the application concerned and such report must be made available to the applicant upon his or her written request.
- (3) The Board must, within 14 days after receipt of the application, forward a copy of the application to the municipality concerned for the attention of the ward councillor and ward committee for purposes of consultation with the community concerned and the comments of the municipality must be forwarded to the Board within 30 days after the application was forwarded to the municipality.
- (4) a report from the municipality concerned detailing the –
- (a) health and safety considerations regarding the intended use of the erf; and
 - (b) any other matter the local municipality may deem necessary to be part of the report to enable the Board to make an informed decision regarding an application for a license must be forwarded to the Board within 30 days after the application was forwarded to the municipality.

Disqualification to apply for licenses

104. No person may apply for a license in terms of this Act, if that person -

- (a) is a minor on the date of submitting the application for a license;
- (b) was convicted to imprisonment, without the option of a fine within 7 years preceding the date of submitting the application for a license for murder, rape, robbery, fraud, trade or possession of drugs, child abuse, an offence involving dishonesty or contravention of this Act, the National Liquor Act or the Liquor Act, 1989 (Act No. 27 of 1989);
- (c) is an rehabilitated insolvent;
- (d) is a mental health care user as defined in the Mental Health Care Act, 2002 (Act No. 17 of 2002) at the time of the application.

Consideration of applications

105. (1) When dealing with an application, the Board must consider;

- (a) the location of the proposed premises in regard to its proximity to an institution of learning, a graveyard or a place of worship, where such trade may result in the interference with the business of such institution of learning, the sanctity of the graveyard or place of worship;
- (b) the applicant's proposed contribution to combating alcohol abuse;
- (c) the extent to which the approval of the application may prejudice the residents of an affected residential area;
- (d) if the granting of the liquor license will not be against or contrary to –
 - (i) the permissible land usage of the premises concerned; or
 - (ii) public or community interest.

Nature of premises

106. Where groceries and other merchandise, as well as liquor other than table wine are sold in premises under one roof, the two activities must be completely separated from each other partitioning in which there is no door, window or other opening and the liquor section must have its own separate entrance, as well as a separate payment point.

Structural alterations

107. (1) A licensee may not affect any structural alteration, extension, addition or construction of, or to the licensed premises without the prior written consent of the Board.

(2) An application for consent contemplated in subsection (1), must be made on the prescribed form and must be accompanied by any further information as the Board may require.

(3) the application must be accompanied by a sketch plan and plans approved by the municipality reflecting the proposed alterations to the premises.

Notices to appear

108. (1) The Board may cause any person, who is or may be affected by, or is concerned in the consideration of a particular matter, to be notified in the prescribed manner to be present at any

meeting, at least 14 days prior to such meeting, stipulating the date, time and place of the meeting and the matter to be considered thereat.

(2) A person who has received a notice in terms of subsection (1) may personally appear before the Board on the date and at the time and place set out in the notice or appoint any other person to so appear on his or her behalf.

Objections

109. (1) Any affected person or institution may lodge an objection to the granting of the license in terms of this Act with the Board within 21 days from the date of publication of the notices contemplated in section 103(1)(e).

(2) An objection must fully state the reasons for such objection and must contain the full names of the person or institution objecting, together with the full address and contact details of such person or institution and must be accompanied by supporting documents, if applicable.

Response to objections

110. (1) Within 14 days after receipt of an objection lodged in terms of section 103(1), a committee of the Board must, by registered post or any acceptable electronic communication, submit a copy of such objection to the applicant.

(2) The applicant must, if he or she wishes to respond, within a period of 14 working days of receipt of the objection, in writing, lodge his or her response to the objection by submitting, by registered post or any acceptable electronic communication, a copy thereof to the committee of the Board and the person who lodged the objection.

(3) The committee of the Board must, within 21 days of receipt of the response contemplated in subsection (2), convene a meeting to consider any objections to the application in question, on such date, time and venue as determined by it.

(4) Interested persons, including the applicant and any person who has lodged an objection to an application, must be afforded a reasonable opportunity to submit their cases and may be represented by any person of their choice.

Complaints

111. (1) A member of the community or any affected person may lodge a complaint, with the Board against an existing licensed premises or institution.

(2) The Board must within 14 days after receipt of such complaint handle the said complaint in a manner prescribed.

License certification

112. (1) When the Board has approved an application, the Board must issue a license certificate stating the date on which the license was issued.

(2) The certificate must detail the particulars of the licensee, business details, kind of license and the conditions of the license.

(3) The license certificate becomes valid upon payment of the prescribed fee.

(4) A valid license certificate or a certified copy of it, is sufficient proof that the licensee is licensed in terms of this Act.

(5) The license will remain valid until-

- (a) it is cancelled in terms of this Act;
- (b) the licensee voluntarily cancels the license; or
- (c) the licensee fails to renew the license in time or it lapses for any other reason.

Transfer of license to other persons

113. (1) A license issued in terms of this Act may not be transferred to another person, unless-

- (a) an application is made to the Board accompanied by payment of the prescribed fee and in the prescribed manner on the prescribed form;
 - (b) the Board has considered and granted the application.
- (2) Before considering an application contemplated in subsection (1)(a), the Board must request a report from the designated police officer for consideration.
- (3) The Board may grant such an application only if the prospective holder concerned is not disqualified to hold a license in terms of this Act.
- (4) Upon granting an application for the transfer of a license, the Board
- (a) issues a certificate of license to the transferee, who then becomes the licensee, with all rights and obligations of a licensee in terms of this Act; and
 - (b) cancels the original license in the format prescribed.

Transfer of license to other premises

114. (1) A licensee may apply to the Board for the transfer of a license from one premises to another premises and for the purpose of such application, the provisions of sections 103, 104, 105, read with the changes required by the context, apply.

- (2) The Board must consider the application for the transfer of a license to another premises and may grant or refuse the application.
- (3) Upon granting an application for the transfer of a license to another premises, a new license may be issued to the licensee by the Board.

Issuing of duplicate licenses

115. The Chief Executive Officer may, upon an application by a licensee on the prescribed form and upon the payment of the prescribed fee and after obtaining a report by the designated police officer, issue a duplicate of a license by issuing another of the same kind in respect of the premises concerned.

Appointment of an Official

- 116.** (1) A juristic person may not conduct business under a license, unless a person who permanently resides in the Republic of South Africa and who is not disqualified in terms of section 96 to apply for a license, is appointed by a person responsible for such a juristic person, in the prescribed manner, to manage and be responsible for its business.
- (2) A natural person who is the holder of a license may, in the prescribed manner, appoint another natural person who permanently resides in the Republic of South Africa and who is not disqualified in terms of section 104 to apply for a license, to manage and be responsible for the business to which the first-mentioned license relates.

Replacement of a License Certificate from on to off consumption

117. (1) The Chairperson of the Board may at any time after the issue of a license certificate to an on-consumption liquor outlet license holder and on application by such license holder replace his or her license from on to off consumption in respect of the same licensed premises in a manner and form prescribed.

(2) A replacement license issued under sub-section 1 shall be subject to such conditions set out in the license as the chairperson may, in his or her discretion impose.

Reasons for decisions of the Board and appeals

118. (1) A person who has made any application, representation or objection in terms of this Act and who feels aggrieved by the decision of the Board in connection with the application, representation or objection, may apply in writing to the Board for reasons to be furnished for that decision.

(2) Within 30 days after receipt of an application contemplated in subsection (1), the Board must furnish such reasons in writing to the applicant.

(3) Within 21 days after receipt of the reasons contemplated in subsection (2), a person referred to in subsection (1) may, in writing, appeal to the responsible Member on the prescribed form and in the prescribed manner.

(4) On receipt of the appeal the responsible Member must, within 14 days, appoint a suitable person to consider and dispose of the appeal in the prescribed manner.

(5) An application for an appeal must be accompanied by the prescribed fee.

Death, insolvency, imprisonment or incapability of a licensee

119. (1) In the event of the death of a licensee, the appointed administrator or executor of the deceased's estate becomes the holder of the license on behalf of the estate until the estate is wound-up, and

(a) continues to enjoy the rights, privileges and duties of a licensee on behalf of the estate;

(b) must, within 90 days after the estate is wound up, appoint any person who is not disqualified in terms of this Act to hold such a license, to conduct business under the license.

(2) If a licensee becomes insolvent, is placed under judicial management or is declared by a court of law to be incapable to manage his or her own affairs, his or her license automatically lapses.

(3) If a licensee is convicted and sentenced to an imprisonment sentence, such a licensee may apply for the transfer of his license to another person, in terms of the provisions of this Act; Provided that such licensee is not convicted of crimes that disqualifies him or her under the provisions of section 104(b), in which case the license would automatically lapse.

Sanctions

120. (1) The Board, if it has reason to believe or has received a complaint that a licensee has not complied with, or has contravened the provisions of this Act, and has investigated the matter, may

(a) summon the licensee to appear before it to answer to the alleged non-compliance or transgressions;

- (b) determine more stringent business hours applicable to the holder of a liquor license in terms of this Act and must endorse the license concerned accordingly or penalize the holder of such liquor license in the manner prescribed, if the complaint investigated relates to –
 - (i) the sale, supply or consumption of liquor on the licensed premises in terms of this Act at a time when sale, supply or consumption of liquor on the licensed premises is not permitted in terms of this Act; or
 - (ii) unlawful, obnoxious or rowdy behaviour of patrons on or in the immediate proximity of the licensed premises.
- (2) suspend the license upon the licensee being found to have transgressed a provision of this Act, until such transgression has been rectified by the licensee;
- (3) cancel the license holder's license upon the licensee being found guilty to have transgressed a provision of this Act;
- (4) notify the licensee and the designated police officer, in writing of the reasons for the suspension or cancellation, as the case may be, and the date of such suspension or cancellation.
- (5) The affected party's rights derived from the license cease to exist upon suspension or cancellation of the license.

LAW ENFORCEMENT

Designation of police officers for certain purposes

121. The provincial commissioner may, from time to time, designate any police officer to perform the functions of a designated police officer in terms this Act.

Report on applications

- 123.** A designated police officer must, in respect of every prescribed application made in terms of this Act-
- (a) report to the Board on such matters as may be prescribed or which ought, in the opinion of that officer, to be taken into consideration in respect of the application concerned; and
 - (c) at the request of the Board, furnish information in connection, with any matter contemplated in this Act.

Reports on certain holders and premises

- 124.** (1) A designated police officer must, as soon as possible after it has come to his or her notice, submit to the Chief Executive Officer as the Secretariat of the Board a report-
- (a) on any failure by the holder of a license to discharge an obligation which is attached to the license concerned;
 - (b) if such a holder becomes disqualified or otherwise incompetent in terms of this Act to hold the license concerned;
 - (c) if he or she is of the opinion that alterations or repairs ought to be effected to any licensed premises to which a license relates;

(d) on any other matter which, in the opinion of the officer, ought to be brought to the notice of the Board.

(2) When the holder of a license or a person who has been appointed in terms of section 116 to manage and be responsible for a business under a license, has been convicted of an offence in terms of either this Act or any other law or the common law and is sentenced to a fine of not less than R1000 or to imprisonment without the option of a fine, a designated police officer must submit to the Chief Executive Officer a report on the conviction and the circumstances of the offence.

Investigation by police officer

125. When investigating an offence in terms of this Act, a police officer is vested with the powers regarding-

- (a) the entry (with or without force) of any premises;
- (b) the search of any premises, vehicle or container;
- (c) the seizure of any article;
- (d) the arrest or search of any person,

and is subject to the limitations in exercising these powers, as provided for in the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

Accessibility of licensed premises

126. A licensee or his or her agent or employee may -

- (a) refuse to admit any person, other than an inspector or designated police' officer in the execution of his or her duties, to the licensed premises or any part thereof;
- (b) refuse to sell or supply liquor to any person;
- (c) request any person who is in any part of the licensed premises, to leave that part;
- (d) request any person who is not a lodger on the licensed premises and who is in any part of the licensed premises reserved for lodgers, to leave that part;
- (e) remove from the licensed premises any person who is drunk, violent or disorderly or whose presence on the licensed premises may subject the licensee to prosecution under this Act or any other law;
- (f) request any police officer to remove or assist in removing from the licensed premises any person contemplated in paragraph (e) or to remove from the licensed premises any person who refuses or fails to comply with a request contemplated in paragraph (c) or (d).

Powers and duties of inspectors

126. (1) An inspector may

- (a) conduct inspections and monitor compliance with this Act;
- (b) investigate complaints submitted to the Board;
- (c) question any person in respect of any matter connected with this Act, which may be relevant to an inspection; or

(d) question any person whom the inspector reasonably believes may have information relevant to an inspection,

(e) if he or she deems fit or is of the opinion that a public disturbance, disorder, riot or public violence is occurring or threatening to occur at or near a licensed premises order the licensee or his/her representative or manager to close down the premises for such a period the inspector may deem necessary to ease of the occurrence or the imminent threat.

and may, for the purpose of an inspection or investigation, enter any licensed premises during the hours that the licensee is permitted to do business in terms of the license.

- (2) An inspector may be accompanied during an inspection by a member of the South African Police Service or any other person reasonably required to assist in conducting the inspection.
- (3) An inspector may, if he or she has reason to believe that any provision of this Act has not been complied with, issue a non-compliance notice, in the prescribed form, to the owner or person in control of the premises concerned and must forward a copy of the notice to the Board.
- (4) A non-compliance notice must set out the alleged non-compliance contemplated in subsection (3) and set out the steps to be taken and provide for a reasonable period within which such steps must be taken in order to comply with the provisions of this Act.
- (5) A compliance certificate may be issued to the owner or person in control of any premises if the Board, or inspector acting on behalf of the Board, is satisfied that the steps to rectify the non-compliance contemplated in subsection (3) and set out in the non-compliance notice has been taken.
- (6) For the purpose of performing a function referred to in subsection (1)(a), (b), (c) or (d), an inspector may apply to the relevant authority for a warrant to enter any land or premises.
- (7) When exercising a warrant contemplated in subsection (6), the inspector must act in accordance with the terms and conditions stipulated in the warrant.

Entry with a warrant

127 (1) An inspector may at any time enter any licensed or unlicensed premises if a magistrate has issued a warrant to enter or inspect such premises.

(2) When executing a warrant contemplated in subsection (1), the inspector must act in accordance with the terms and conditions stipulated in the warrant.

Duty to produce documents, answer questions and assist inspectors

128. (1) No person may unreasonably refuse to provide a document or information that he or she is lawfully required to provide in terms of this Act or furnish false or misleading information to an inspector.

(2) No person may refuse to grant access to premises, obstruct, interfere or hinder an inspector who is performing his or her duty in terms of this Act.

(3) Subject to any person's right to remain silent as provided for in the Constitution of the Republic of South Africa, 1996, a person questioned by an inspector in the execution and administration of this Act, is obliged to answer any question supposed.

OFFENCES AND PENALTIES

Offences in general

129. It is an offence -

- (a) to contravene any provision of this Act *under Chapter VI*;
- (b) for a licensee to contravene any condition of a *liquor* license issued in terms of this Act;
- (c) for an employer to supply liquor to a person in his at her employ as wages or remuneration or as a supplement therefore;
- (d) to sell or supply liquor to a person who is drunk at from appearance seems to be drunk;
- (e) to sell or supply liquor to a minor or employ a minor to sell or serve liquor;
- (f) to fail to comply with a non-compliance notice issued in terms *Chapter VI* of this Act;
- (g) for an owner, supervisor or manager of a licensed business, to allow violent or drunk and disorderly behaviour on the licensed premises;
- (h) to consume any liquor, or to be drunk, in, on or at any public place, including, but not limited to, any road, street, lane, thoroughfare, square, park, market, shop, warehouse or garage to which members of the public has access;
- (i) to fail to keep any record as prescribed by this Act *under Chapter VI*;
- (g) to unreasonably refuse to co-operate with an inspector, police officer or any other person so assigned by the Board in the execution of his or her duties *under Chapter VI* by or in terms of this Act;
- (k) to unreasonably refuse to comply with a request by the Board to appear before it;
- (l) to micro-manufacture liquor in the Province other than under a license issued in terms of this Act or National Liquor Act;
- (m) not to keep the licence issued in terms of this Act at all times on the licensed premises and displayed in a conspicuous place;
- (n) to sell liquor otherwise than under a license issued in terms of this Act; or
- (o) to lease a license issued in terms of this Act to another person or juristic person.

Offences regarding liquor trade**130.** (1) It is an offence by a licensee -

- (a) to keep the licensed premises, open for the sale or consumption of liquor at a time when the sale, supply or consumption of liquor is not permitted in terms of this Act;
- (b) to sell liquor at a place where the sale of liquor is not permitted in terms of this Act;
- (c) to deliver liquor to any person other than the holder of a liquor license issued in terms of this Act.

(2) It is an offence -

- (a) to micro-manufacture liquor in the province other than under a license issued in terms of this Act];
- (b) not to keep the license and/or its renewal issued in terms of this Act at all times on the licensed premises and displayed in a conspicuous place;

(c) to sell liquor otherwise than under a license issued in terms of this Act

Penalties and forfeiture

131. (1) Any person who is found guilty of an offence in terms of this Act shall be liable on conviction to a fine or imprisonment not exceeding 10 years, or to both a fine and such imprisonment.

(2) The license of a licensee convicted of an offence contemplated in **section 129(e)** or who pays an admission of guilt under that provision, shall lapse when so convicted or when such admission of guilt is paid, as the case may be.

Vicarious liability

132. The licensee shall be vicariously liable for the actions of the manager, agent or employee of the licensee, when carrying out the business of the licensee.

Storing of liquor

133. (1) The holder of a license must store his or her liquor on the licensed premises, unless the Board, on application in the prescribed manner, determines another or an additional place in the near vicinity of the licensed premises concerned, in which the liquor may be stored.

(2) The holder of a license for the micro-manufacturing of liquor may, notwithstanding subsection (1), also store his or her liquor in any other place within the Province, determined by the Board.

(3) A determination under subsection (1) or (2) is made subject to the conditions set out in such determination.

(4) The Board may, at any time, amend any determination made under subsection or (2).

Liability

134. Any organ of state, the Board or any other person appointed in terms of this Act, for its administration and implementation, shall be liable for any loss or damages resulting from the execution of this Act, as determined in accordance with the provisions of the State Liability Act, 1957 (Act No. 20 of 1957).

Liquor policy

135. (1) The responsible Member may, after consultation with the Board, adopt a policy to determine norms and standards those involved in the liquor industry In the Province.

(2) A policy contemplated in subsection (1), may not be in conflict with this Act or any other law, and is binding on the Board, any applicant for a license or any licensee and may include

(a) the conditions subject to which all licenses or licenses of a certain category are issued;

(b) any measure to promote the responsible consumption of liquor;

(c) special measures to protect minors and expectant women;

(d) measures to ensure that the peace in a residential area is not disturbed by excessive noise coming from a licensed drinking place; and

(e) any matter related to crime prevention.

(3) A policy contemplated in subsection (1), or any amendment thereto, only becomes binding after publication thereof in the *Provincial Gazette*.

Supply of liquor free of charge solely for the purpose of tasting

- 136.** (1) Permission may, on application made on the prescribed form, be given by the Board when granting a license, or at any time thereafter
- (a) for the off-consumption of liquor; or
 - (b) for the micro-manufacturing of liquor,
 - (c) to the holder of such license to supply his or her liquor free of charge to a prospective client for consumption, solely for the purpose of tasting, in such place on the licensed or any adjoining or neighbouring premises, to be set apart for that purpose, as the Board may determine.
- (2) The Board may give such permission subject to the conditions set out in the permission as the Board may impose.
- (3) If any condition subject to which a permission contemplated in subsection (1) was given is contravened by the licensee, the Board may withdraw such permission.

Controlling interests

- 137.** (1) A licensee may not permit any other person to procure a controlling interest in the business to which the liquor license relates, unless the Board has, upon application by the licensee, granted written permission that such a person may procure such an interest in that business.
- (2) The Board may not grant written permission under subsection (1)
- (a) in the case of a business to which a club liquor license relates;
 - (b) where the person who is the subject of the application, is disqualified in terms of section 104 to hold a liquor license;
 - (c) if, in the opinion of the Board, the possibility exists that the granting of the application may cause a harmful monopolistic situation to arise or be aggravated in the liquor trade or a branch thereof.

CHAPTER VII

GENERAL PROVISIONS AND TRANSITIONAL ARRANGEMENTS

Regulations and Previous Regulations saving clause.

- 138(1)** The responsible Member may make regulations regarding –
- (a) any matter pertaining to the Board;
 - (b) any matter pertaining to an application for a license or certificate;
 - (c) the management and control of licensed premises and license holders;
 - (d) the management and control of gambling, betting and racing;

- (e) the operational standards and minimum internal control requirements for licenses;
 - (f) the stakes for which any game may be played;
 - (g) any fee payable in terms of this Act; and
 - (h) in general, any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objects of this Act, but any regulation with financial implications may only be made with the concurrence of the Member of the Executive Council responsible for finance.
- (2) Before making regulations in terms of subsection (1), the responsible Member must publish the draft regulations for public comment in the *Provincial Gazette*.
 - (3) Any regulation made in terms of subsection (1)(g), may only be made with the concurrence of the Member of the Executive Council responsible for financial matters in the Province.
 - (4) Different regulations may be made under this section in respect of different kinds of licenses, licenses of the same kind having different common characteristics, different categories of persons or different areas.
 - (5) Regulations made in terms of this section must not create any empowering provisions that are in conflict with the Act or not provided for in the Act.

GENERAL PROVISIONS AND TRANSITIONAL ARRANGEMENTS

Regulations

138 The Northern Cape Gambling Act (Act No 3 of 2008) Regulations published in government gazette notice No. 1389 of 26 March 2010, the Northern Cape Levies Act (Act No. 4 of 2009) Regulations published in government gazette notice No. 1389 of 26 March 2010, and the Northern Cape Liquor Act (No 2 of 2008) Regulations published in government gazette notice No. 1389 of 26 March 2010, will serve as regulations and notices published in terms of this Act, as soon as this Act comes into operation and will remain in force and effect until they are amended, replaced or repealed in terms of this Act.

Compliance with certain laws a condition of license

- 139.** It is a condition of every license issued in terms of this Act that the licensee must comply with every applicable provision of –
- (a) this Act;
 - (b) the National Gambling Act;
 - (c) the Financial Intelligence Centre Act and
 - (d) the National Liquor Act

Repeal of laws

- 140.** The laws mentioned in the Schedule, are hereby repealed to the extent set out in the third column of the Schedule.

Transitional provisions

141. (1) For the purposes of this section, “**effective date**” means a date on which this Act or any relevant provision of it came into effect.
- (2) For the purposes of this section, “**previous Act**” means the Northern Cape Gambling Act No 3 of 2008 and Northern Cape Liquor Act No 2 of 2008, Northern Cape Gambling Levies Act and all regulations drafted in terms of these Acts whichever finds application.
- (3) The Board established in terms of the previous Act continues to exist and function as if established under the corresponding provision of this Act, until the responsible Member appoints a new Board in accordance with the provisions of section 3.
- (4) Any license, certificate of registration or approval issued by the Board in terms of the previous Act, remains valid after the commencement of this Act, if provision is made in this Act for such license, or approval until it expires or is revoked in terms of this Act, whereafter application for a new license, certificate of registration or approval must be made in terms of this Act.
- (5) Any other right or entitlement enjoyed by, or obligation imposed on any other person in terms of any provisions of the previous Act that had not been spent or fulfilled immediately before the effective date, must be considered to be a valid right or entitlement enjoyed by, or obligation imposed on that person in terms of any comparable provision of this Act, as from the date that the right, entitlement, or obligation first arose, subject to the provisions of this Act.
- (6) A notice given by the Board or any person to another person in terms of the previous Act must be considered as a notice given in terms of any comparable provision of this Act, as from the date on which the notice was given under the previous Act.
- (7) A document that, before the effective date, had been served in accordance with the previous Act must be regarded as having been satisfactorily served for the purposes of this Act.
- (8) An order given by an inspector in terms of any provision of the previous Act, and in effect immediately before the effective date, continues to be in effect, subject to the provisions of this Act.
- (9) Anything done under the provisions of the previous Act and which may be done under the corresponding provisions of this Act is regarded to have been done under the latter provision.
- (10) The Responsible Member may, for a period not exceeding 12 months after the coming into operation of this Act, in consultation with the responsible Member, second officers on the establishment of his or her department to the Board, in order for the Board to have sufficient time to appoint Management Staff for the Office of the Board.
- (11) The Premier shall stipulate, by notice in the Provincial Gazette, a date upon which the Northern Cape Gambling and Liquor Board shall take transfer of the personnel and assets and further assume the liabilities, rights and obligations of the Northern Cape Gambling Board and the Northern Cape Liquor Board.
- (12) All persons employed by the Northern Cape Gambling Board and the Northern Cape Liquor Board, shall be deemed to be employed by the Northern Cape Gambling and Liquor Board, to perform their duties in terms of the Northern Cape Gambling Act, 2008, as amended and Northern Cape Liquor Act, 2008 as amended.

- (13) Anything done by or in respect of the Northern Cape Gambling Board and the Northern Cape Liquor Board, is deemed to have been done by the Northern Cape Gambling and Liquor Board.
- (14) Decisions made or resolutions taken by the Northern Cape Gambling Board and the Northern Cape Liquor Board, which were in force immediately before the commencement of this Act remain in force until amended, replaced or repealed by the Northern Cape Gambling and Liquor Board.
- (15) An interim Board will be appointed by the Responsible Member during the Transitional Period.

Short title and commencement

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

SCHEDULE

Laws repealed by section 140

Number and year of law	Short title of law	Extent of repeal
Act No. 2 of 2008	Northern Cape Liquor Act	The whole
Act No. 3 of 2008	Northern Cape Gambling ACT	The whole
Act No. 4 of 2009	Northern Cape of 2009	The whole

Closing times for **ORDINARY WEEKLY** **2023** NORTHERN CAPE PROVINCIAL GAZETTE

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

- **23 December**, Friday for the issue of Monday **02 January 2023**
- **30 December**, Friday for the issue of Monday **09 January 2023**
- **09 January**, Monday for the issue of Monday **16 January 2023**
- **16 January**, Monday for the issue of Monday **23 January 2023**
- **23 January**, Monday for the issue of Monday **30 January 2023**
- **30 January**, Monday for the issue of Monday **06 February 2023**
- **06 February**, Monday for the issue of Monday **13 February 2023**
- **13 February**, Monday for the issue of Monday **20 February 2023**
- **20 February**, Monday for the issue of Monday **27 February 2023**
- **27 February**, Monday for the issue of Monday **06 March 2023**
- **06 March**, Monday for the issue of Monday **13 March 2023**
- **13 March**, Monday for the issue of Monday **20 March 2023**
- **17 March**, Friday for the issue of Monday **27 March 2023**
- **27 March**, Monday for the issue of Monday **03 April 2023**
- **31 March**, Friday for the issue of Monday **10 April 2023**
- **06 April**, Thursday for the issue of Monday **17 April 2023**
- **17 April**, Monday for the issue of Monday **24 April 2023**
- **21 April**, Friday for the issue of Monday **01 May 2023**
- **28 April**, Friday for the issue of Monday **08 May 2023**
- **08 May**, Monday for the issue of Monday **15 May 2023**
- **15 May**, Monday for the issue of Monday **22 May 2023**
- **22 May**, Monday for the issue of Monday **29 May 2023**
- **29 May**, Monday for the issue of Monday **05 June 2023**
- **05 June**, Monday for the issue of Monday **12 June 2023**
- **09 June**, Friday for the issue of Monday **19 June 2023**
- **19 June**, Monday for the issue of Monday **26 June 2023**
- **26 June**, Monday for the issue of Monday **03 July 2023**
- **03 July**, Monday for the issue of Monday **10 July 2023**
- **10 July**, Monday for the issue of Monday **17 July 2023**
- **17 July**, Monday for the issue of Monday **24 July 2023**
- **24 July**, Monday for the issue of Monday **31 July 2023**
- **31 July**, Monday for the issue of Monday **07 August 2023**
- **04 August**, Friday for the issue of Monday **14 August 2023**
- **14 August**, Monday for the issue of Monday **21 August 2023**
- **21 August**, Monday for the issue of Monday **28 August 2023**
- **28 August**, Monday for the issue of Monday **04 September 2023**
- **04 September**, Monday for the issue of Monday **11 September 2023**
- **11 September**, Monday for the issue of Monday **18 September 2023**
- **18 September**, Monday for the issue of Monday **25 September 2023**
- **22 September**, Friday for the issue of Monday **02 October 2023**
- **02 October**, Monday for the issue of Monday **09 October 2023**
- **09 October**, Monday for the issue of Monday **16 October 2023**
- **16 October**, Monday for the issue of Monday **23 October 2023**
- **23 October**, Monday for the issue of Monday **30 October 2023**
- **30 October**, Monday for the issue of Monday **06 November 2023**
- **06 November**, Monday for the issue of Monday **13 November 2023**
- **13 November**, Monday for the issue of Monday **20 November 2023**
- **20 November**, Monday for the issue of Monday **27 November 2023**
- **27 November**, Monday for the issue of Monday **04 December 2023**
- **04 December**, Monday for the issue of Monday **11 December 2023**
- **11 December**, Monday for the issue of Monday **18 December 2023**
- **18 December**, Monday for the issue of Monday **25 December 2023**

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