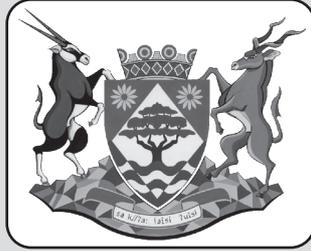


**NORTHERN CAPE PROVINCE**

**PROFENSI YA KAPA-BOKONE**



**NOORD-KAAP PROVINSIE**

**IPHONDO LOMNTLA KOLONI**

**EXTRAORDINARY • BUITENGEWOON**

**Provincial Gazette  
Kasete ya Profensi**

**iGazethi YePhondo  
Provinsiale Koerant**

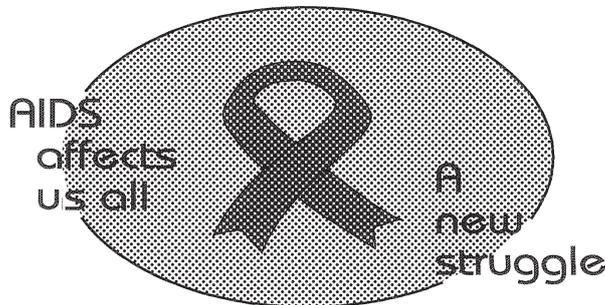
**Vol: 31**

**KIMBERLEY**

4 April 2024  
4 April 2024

**No: 2673**

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**Contents**

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
<b>GENERAL NOTICES • ALGEMENE KENNISGEWINGS</b>			
536	Northern Cape Gambling and Liquor Act (6/2024): Establishment of 1 entity hereinafter referred to as the Northern Cape Gambling and Liquor Board .....	2673	3
537	Northern Cape Economic Development, Trade and Investment Promotion Agency Amendment Act (5/2024): To amend the Northern Cape Development, Trade and Investment Promotion Agency Act, 2008 .....	2673	83
538	Northern Cape Consumer Protection Amendment Act (4/2024): To amend the Northern Cape Consumer Protection Act, 2012 .....	2673	89

**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

**GENERAL NOTICE 536 OF 2024**

The.....text of this  
Act has been assented to by me on:  
  
.....  
**PREMIER: NORTHERN CAPE PROVINCE**

**NORTHERN CAPE PROVINCE**

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**NORTHERN CAPE GAMBLING AND LIQUOR ACT, 2024**  
**(Act No.6 of 2024)**

**Certified correct as passed by the  
Northern Cape Provincial Legislature**  
  
.....  
**Secretary of the Legislature**

## Northern Cape Gambling and Liquor Act, 2024

**ACT**

**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 complement and Board composition; to provide for the functioning and administration of the Board; to regulate the application for licences; to provide for public notification and participation; to regulate applications for the granting of different kinds of licences 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; to provide for transitional arrangements; and to repeal the Northern Cape Gambling Act (No. 3 of 2008), and Northern Cape Liquor Act (No. 2 of 2008); and to provide for matters connected therewith.**

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

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

**AND WHEREAS** a new merged entity will provide a single regulatory body to address the regulation of gambling and liquor trading in the Northern Cape Province;

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

## Northern Cape Gambling and Liquor Act, 2024

**ARRANGEMENT OF ACT****CHAPTER I  
DEFINITIONS**

1. Definitions

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

2. Objects of the Act
3. Application of the Act

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

4. Establishment of Northern Cape Gambling and Liquor Board
5. Composition of the Board
6. Term of office of members of Board
7. Eligibility to serve on the Board
8. Conflicting interests
9. Removal from office
10. Meetings of the Board
11. Committees of Board
12. Staff of Board and remuneration
13. Remuneration of members of the Board
14. Delegation
15. Finances
16. Accountability, audits and reports

**CHAPTER IV*****Part 1  
Powers and functions of the Board***

17. Powers and functions of the Board

**CHAPTER V  
GAMBLING**

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

***Part 1  
Prohibited gambling, restricted activities  
and status of gambling debts***

18. Prohibition of gambling by persons concerned with gambling business
19. Gambling in relation to illegal activities unlawful

## Northern Cape Gambling and Liquor Act, 2024

20. Unlicensed gambling activities unlawful
21. Unlicensed dealing in machines and devices unlawful
22. Unlicensed use of premises unlawful
23. Protection of minors in gambling and betting activities
24. Enforceability of gambling debts and forfeiture of unlawful winnings
25. Cheating and cheating devices
26. Powers and procedures for hearing, investigations and enforcement enquiries
27. Investigation costs in respect of licences
28. Witnesses and evidence

***Part 2***  
***Licensing and approval***

29. Right to conduct gambling
30. Kinds of licences and limitations
31. National licences
32. Disqualifications and restrictions for licences
33. Disqualification after the licence has been issued
34. Decisions of the Board
35. Further applications
36. Licensing procedure
37. Hearing of application for licence
38. Procedure provided for by the National Gambling Act to take precedence
39. Economic and social development issues to be considered
40. Competition issues to be considered
41. State interests
42. Licence requirements
43. External probity reports
44. Licence criteria, categories and conditions of licences
45. Renewal of licences
46. Suspension or revocation of licence
47. Transfer and removal of licence and acquisition of certain interest in licensee
48. Duty to produce and display licences
49. Licence application and annual licence fees
50. Death, insolvency or incapability of a licensee

***Part 3***  
***Specific licences***

51. Casino operator licence
52. Junket agent licence
53. Route operator licence
54. Site operator licence
55. Independent site operator licence
56. Bingo operator licence
57. Horse racing licence

## Northern Cape Gambling and Liquor Act, 2024

- 58. Bookmaker licence
- 59. Totalisator operator licence
- 60. Manufacturer licence
- 61. Distributor licence
- 62. Testing agent licence
- 63. Suitability licence
- 64. Special event gambling licence

**Part 4**  
***Gambling employee licences***

- 65. Disqualification for employment licence
- 66. Key employee licence
- 67. Gambling employee licence
- 68. Notice of termination of service
- 69. Suspension or revocation of licence of employment
- 70. Temporary employment licence
- 71. Restrictions applicable to employees

**Part 5**  
***Operational matters***

- 72. Monitoring systems
- 73. Collateral security
- 74. Restriction of betting through agent and unlawful inducement to bet
- 75. Rules of gambling and betting games
- 76. Availability of rules
- 77. Gambling devices
- 78. Standards for gambling devices
- 79. Books, accounts and records
- 80. Restrictions on advertising and promotion of gambling activities and granting of discount
- 81. Restrictions on granting credit to gamblers
- 82. Contracts for the supply of goods and service to licence holders
- 83. Non-compliance
- 84. Gambling offences and penalties

**Part 6**  
***Gambling activities***

- 85. Gambling activities generally
- 86. Bets and wagers
- 87. Gambling games
- 88. Pay-out and opportunity to play further game
- 89. Levies payable

## Northern Cape Gambling and Liquor Act, 2024

**CHAPTER VI  
LIQUOR**

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

***Part 1******Prohibitions and exemption***

- 90. Prohibitions
- 91. Exemption

***Part 2******Licensing procedure***

- 92. Kinds of liquor licences
- 93. Description of licences and hours of business
- 94. Special event liquor licences
- 95. Minors
- 96. Applications
- 97. Disqualification to apply for licences
- 98. Consideration of applications
- 99. Nature of premises

***Part 3******Structural alterations***

- 100. Structural alterations

***Part 4******Formal procedures***

- 101. Notices to appear
- 102. Objections
- 103. Response to objections
- 104. Complaints
- 105. Licence certification
- 106. Renewal of licences
- 107. Transfer of licence to other persons
- 108. Transfer of licence to other premises
- 109. Issuing of duplicate licences
- 110. Appointment of an official
- 111. Replacement of a licence certificate from on to off consumption
- 112. Decisions of the Board
- 113. Death, insolvency, imprisonment or incapability of a licensee
- 114. Suspension or revocation of licence

## Northern Cape Gambling and Liquor Act, 2024

**Part 5**  
***Designated police officer***

- 115. Designation of police officers for certain purposes
- 116. Report on applications
- 117. Reports on certain holders and premises
- 118. Investigation by police officer
- 119. Accessibility of licensed premises

**Part 6**  
***Offences and penalties***

- 120. Offences in general
- 121. Offences regarding liquor trade
- 122. Penalties and forfeiture
- 123. Vicarious liability
- 124. Storing of liquor
- 125. Liability
- 126. Liquor norms and standards
- 127. Supply of liquor free of charge solely for the purpose of tasting
- 128. Controlling interests

**CHAPTER VII**  
**ENFORCEMENT FOR LIQUOR AND GAMBLING**

- 129. Appointment of inspectors by Board
- 130. Powers and functions of inspectors
- 131. Entry with a warrant
- 132. Duty to produce documents, answer questions and assist inspectors
- 133. Reward for informers
- 134. Control of entry to certain premises

**CHAPTER VIII**  
**REGULATIONS, SAVINGS AND TRANSITIONAL ARRANGEMENTS**

***Part 1***  
***Saving clause***

- 135. Regulations and previous regulations saving clause

***Part 2***  
***Regulations, transitional arrangement and repeal of laws***

- 136. Regulations
- 137. Transitional arrangements (Regulations and provisions)
- 138. Compliance with certain laws as a condition of licence
- 139. Repeal of laws
- 140. Short title and commencement

SCHEDULE

## Northern Cape Gambling and Liquor Act, 2024

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;

“**arm’s-length commercial transaction**” means a payment resulting from a contractual arrangement between a public body and any other person, not directly or indirectly determined by reference to the turnover of, or profit from, the gambling activities of a licensee.

“**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;

“**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 –

## Northern Cape Gambling and Liquor Act, 2024

- (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 –
- (i) 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; or
  - (ii) an electronic or similar device generates and displays a series of numbers, pictures or symbols and then, on behalf of the players, matches each such number, picture or symbols appearing on the electronic card or other similar device after such number, picture or symbol is generated or displayed; and
- (c) in which the player who is first to match all the spaces on the card or similar 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 licence**” means any licence contemplated in section 56 of this Act;

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

“**bookmaker**” means a 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;

“**bookmaker licence**” means any licence contemplated in section 58 of this Act;

“**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 licence**” means any licence contemplated in section 51;

“**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 licences.

“**cheating**” means to alter the selection of criteria which determine the result of a casino game, gambling games, gambling activities in general, the amount or frequency of payment in a casino game, bets and wagers including any scheme, arrangement, system or plan which the Responsible Member may from time to time by notice in the Provincial Gazette so declare to be cheating.

## Northern Cape Gambling and Liquor Act, 2024

“**Chief Executive Officer**” means a person appointed in terms of section 12(1)(a);

“**closed day**” means -

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

“**Companies Act**” means the Companies Act, 2008 (Act No. 71 of 2008) as amended;

“**company**” means a company as defined in the Companies Act of 2008 as amended.

“**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;

“**dangerous weapon**” means a firearm, knife, panga or any weapon that is life threatening;

“**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;

“**designated police officer**” means a police officer designated as such under section 5(2)(b);

“**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 section 14 of the National Gambling Act in order to be prevented from engaging in any gambling activity.

## Northern Cape Gambling and Liquor Act, 2024

“**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;

“**financial year**” means a twelve month period commencing from 1 April to 31 March of each year.

“**gambling activity**” means any activity described as such in section 85 of this Act;

“**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 game**” means an activity described as such in section 87 of this Act;

“**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;

“**informal bet**” means a bet, wager, undertaking, promise or agreement between or among two or more persons, if –

- (a) none of the parties involved is a bookmaker or derives a significant portion of their livelihood from gambling; and
- (b) no person is paid a fee or derives any gain, other than winning the bet itself, from the activity;

“**inspector**” means an inspector appointed in terms of this Act;

## Northern Cape Gambling and Liquor Act, 2024

“**interim Board**” means the interim Board appointed by the Responsible Member in terms of this Act during the transitional period in terms of section 137(3) or in terms of Section 5(9) in the event that the Board’s term expires or is disbanded;

“**licence**” means a licence listed under section 30(1) and section 92(1) of this Act;

“**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 terms of section 26 of 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 traditional African 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 substance or drink declared to be liquor under section 42(2)(a) of the National Liquor Act;

“**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);

“**Northern Cape Levies Act**” means the Northern Cape Levies Act, 2009 (Act No. 4 of 2009) as amended and / or its regulation made under that Act;

“**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 licence**” means any licence as contemplated in Part B of Chapter 3 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

## Northern Cape Gambling and Liquor Act, 2024

(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;

“**peace officer**” means an inspector appointed in terms of this Act;

“**permanent licence**” is a licence issued by the Board, which is renewable annually subject to compliance with sections 45 and 112 of this Act;

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

“**police officer**” means a member of the South African Police Service;

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

“**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;

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

“**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;

“**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)(g) 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;

## Northern Cape Gambling and Liquor Act, 2024

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

“**public body**” means the state, an organ of state, or any organization in which the state has a financial interest arrangement as contemplated in section 41(4);

“**public servant**” means a person employed within an organ of state, or within a court, or a judicial officer and/or any person employed 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;

“**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 licence; and
- (b) any race or contest of a private nature at which no betting takes place;

“**register of excluded persons**” means the register contemplated in section 14 of the National Gambling Act;

“**regulatory authority**” means the Board or the National Gambling Board or the National Liquor Authority, 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 approved by the Board in terms of this Act;

“**secondment**” 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 licence;

“**site operator licence**” means a licence contemplated in section 54 of this Act;

“**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;

## Northern Cape Gambling and Liquor Act, 2024

“**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;

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

“**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.

“**tribal council**” means a traditional council constituted in terms of section 6 of the Northern Cape Traditional Leadership, Governance and Houses of Traditional Leaders Act, 2007.

“**this Act**” means the Northern Cape Gambling and Liquor Act and includes any regulation, schedule, rule and notice made under this Act; 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

## Northern Cape Gambling and Liquor Act, 2024

- (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.
- (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; and
  - (c) generate revenue for the Province.

**Application of the Act**

- 3. Subject to the 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. 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, all matters or activities relating to gambling, racing, wagering and liquor in the Province.

**Composition of the Board**

- 5. (1) The Board consists of no more than nine members appointed by the Responsible Member, with due regard to women and persons with disabilities, of whom –

## Northern Cape Gambling and Liquor Act, 2024

- (a) one member must be admitted to practice as a legal practitioner in the Republic and has, for a cumulative period of at least 5 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 5 years after having so qualified, practiced as an accountant or auditor;
  - (c) four 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 members must be appointed by virtue of their proven business acumen and knowledge of the gambling or liquor industry. No such member should be a holder of a licence contemplated in this Act.
- (2) The -
- (a) Chief Executive Officer;
  - (b) designated police officer, as appointed from time to time by the provincial commissioner to represent the police service;
  - (c) officer designated by the Provincial Department of Economic Development 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 at least 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.

## Northern Cape Gambling and Liquor Act, 2024

- (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 must 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 a probity investigation or enquiry in that regard.
- (9) 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 members;
  - (c) be appointed for a period of 3 months which may be extended for another period of 3 months only, after 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 licences.

**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 consecutive 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).
- (2) A person may not be a member of the Board if that person –
- (a) is a political office-bearer;

## Northern Cape Gambling and Liquor Act, 2024

- (b) is a public servant, except if such an appointment is made in terms of section 5(2);
  - (c) is listed in the register of excluded persons in accordance with section 14 of the National Gambling Act;
  - (d) personally or through a spouse, partner or associate –
    - (i) has or acquires a direct or indirect financial interest in a licence 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;
  - (e) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;
  - (f) was once, or is removed from an office of trust on account of misconduct;
  - (g) is subject to an order of a competent court holding that person to be mentally deranged;
  - (h) within the previous 10 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
  - (i) 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)(d), 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 5(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 7(2)(d).

## Northern Cape Gambling and Liquor Act, 2024

- (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 7(2)(d); 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 subsection (2)(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 subsection (2) (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) recuse him or herself from the meeting to allow the remaining members to discuss the matter and conclude on it in the absence of the member who has recused him or herself.
- (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 5(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 7(2);

## Northern Cape Gambling and Liquor Act, 2024

- (c) if the member is absent from more than two meetings of the Board in 1 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 notice contemplated in subsection (1) must state the reasons for the removal of the member.
- (3) 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 the 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 5(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 one 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 to 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.

## Northern Cape Gambling and Liquor Act, 2024

- (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 16(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) or for the purpose of the establishment of the committee set out under section 94 of this Act.
- (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 –
- (a) must, in consultation with the Board, appoint a suitably qualified and experienced person, as the Chief Executive Officer for a period of 5 years, who -
    - (i) 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

## Northern Cape Gambling and Liquor Act, 2024

- (ii) is accountable to the Board;
  - (b) must determine a staff establishment for the Board; and
  - (c) 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.
- (2) The Responsible Member must, before appointing a Chief Executive Officer, make regulations regarding;
- (a) the procedure to be followed when appointing a Chief Executive Officer;
  - (b) the employment contract and performance agreement to be entered into by the Chief Executive Officer on appointment by the Board; and
  - (c) the removal from office of the Chief Executive Officer.
- (3) Section 7 and 8 of this Act, read with the changes required by the context, also applies to the Chief Executive Officer and each staff member to be appointed in terms of this Act.
- (4) The remuneration, allowances, employment benefits and other terms and conditions of service of employees 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.
- (5) The Board may appoint staff and senior managers as may be necessary to enable the Board to perform its functions.
- (6) The Board may delegate its powers in terms of subsection (5) to the Chief Executive Officer in writing, after such Board resolution has been taken by the Board.

**Remuneration of members of the Board**

13. (1) A member of the Board must be paid such reasonable remuneration and allowances out of the funds of the Board as determined by 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.

## Northern Cape Gambling and Liquor Act, 2024

- (2) The Chief Executive Officer may, with the written approval 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 licence referred to in this Act except for licences referred to under section 30(1)(j), section 30(1)(k), section 30(1)(l), and section 30(1)(p) 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) after consultation and on instruction by the Responsible Member.
- (5) The non delegation prohibition under subsection 4, above, is not applicable to the special event licence committee established in terms of section 94.

**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 (7); 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

## Northern Cape Gambling and Liquor Act, 2024

- (b) every payment on behalf of the Board must be made from that account.
- (5) An application fee and the annual renewal fee as stipulated in the regulations for the different categories of licences in terms of this Act must be paid to the Board.
- (6) 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).
- (7) 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 IV  
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 –

## Northern Cape Gambling and Liquor Act, 2024

- (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 have knowledge and be accountable, when so requested, to advise the Responsible Member on any matter pertaining to this Act, the National Gambling Act and National Liquor Act.

**CHAPTER V  
GAMBLING**

*(All sections under this chapter relates to only licences, licensees and procedures relating to gambling and betting activities in the Province)*

**Part 1*****Prohibited gambling, restricted activities, and status of gambling debts*****Prohibition of gambling by persons concerned with gambling business**

18. 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 licence holder in the Province, save in so far as he or she may be required to do so by the nature of his or her employment in the operation of such game so as to enable other persons to participate in the game or betting.

**Gambling in relation to illegal activities unlawful**

19. 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 sub-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 sub-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 sub-paragraph (a).

**Unlicensed gambling activities unlawful**

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

## Northern Cape Gambling and Liquor Act, 2024

- (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**

21. No person may –

- (a) import, export, 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 this 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**

22. (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 licence 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 licence 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 licence 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 19, 20, or 21.

## Northern Cape Gambling and Liquor Act, 2024

**Protection of minors in gambling and betting activities**

23. (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
  - (c) 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**

24. (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 (e)(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 (e)(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

## Northern Cape Gambling and Liquor Act, 2024

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
    - (ii) 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**

25. (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.

## Northern Cape Gambling and Liquor Act, 2024

**Powers and procedures for hearing, investigations and enforcement enquiries**

26. (1) The Board may conduct or cause to be conducted –
- (a) hearings, investigations or enquiries in respect of –
    - (i) an application for a licence under this Act; and
    - (ii) the possible revocation or suspension of a licence 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 licence;
    - (ii) any person having a financial interest in a licence issued under this Act or in any gambling, racing or related activity or business; or
    - (iii) any licence holder,
- if it is necessary for the achievement of the objectives of this Act.
- (2) 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 28, be determined by the person presiding at such a hearing, investigation or enquiry.
- (3) 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.
- (4) At any hearing in respect of an application for a licence under this Act, the person applying for such a licence and any person objecting to the granting of such a licence, 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 called to testify against their application or objection
- (5) 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 licence;
  - (b) in order to determine if any provision of this Act applies to any person; or
  - (c) into the affairs or conduct of any licence holder.

## Northern Cape Gambling and Liquor Act, 2024

**Investigation costs in respect of licences**

27. In respect of a licence -

- (1) all reasonable costs incurred by the Board in investigating and probing an application for a licence 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;
- (2) 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 licence 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;
- (3) 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 subsection (2);
- (4) 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;
- (5) 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
- (6) the Board may not take final action on any application unless all investigative costs have been paid in full.

**Witnesses and evidence**

28. (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 licence 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

## Northern Cape Gambling and Liquor Act, 2024

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.

***Part 2***  
***Licensing and approval***

**Right to conduct gambling**

29. The rights and duties pertaining to any licence are, subject to the National Gambling Act, as well as this Act.

**Kinds of licences and limitations**

30. (1) The Board may, in writing, under this Act grant –
- (a) a casino operator licence;
  - (b) a route operator licence;
  - (c) a site operator licence;
  - (d) a bingo operator licence;
  - (e) a junket agent licence;
  - (f) a horse racing licence;

## Northern Cape Gambling and Liquor Act, 2024

- (g) a totalisator operator licence;
  - (h) a bookmaker licence;
  - (i) an independent site operator licence;
  - (j) key employee licence;
  - (k) gambling employee licence;
  - (l) suitability licence;
  - (m) distribution licence;
  - (n) manufacturing licence;
  - (o) testing agent licence; and
  - (p) special event licence.
- (2) A licence 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 licence referred to in sub-paragraph (a), (b), (c), (d), (f), (g), (h) or (i) of subsection (1), may only be submitted to the Board in response to a notice, inviting applications for the licence concerned, published by the Board in the *Provincial Gazette*.

**National licences**

31. The Board must deal with national licences in accordance with the provisions of the National Gambling Act.

**Disqualifications and restrictions for licences**

32. (1) A person may not hold a licence issued in terms of this Act or any of the total financial interest in the licensee of such a licence, 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 the Board;
  - (e) is an unrehabilitated insolvent;
  - (f) is not a fit and proper person to be involved in the business concerned;

## Northern Cape Gambling and Liquor Act, 2024

- (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 10 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 licence is required.
- (2) The Board must refuse to issue a licence 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, or any person who holds any of the total financial interest in the applicant, is –
- (a) a family member of a person who is a member of the Board; or
  - (b) disqualified from holding an interest in a licence, licensee, or the business to which a licence relates, in terms of subsection (1).

**Disqualification after the licence has been issued**

- 33.** If a person who holds a licence, or an interest in a licensee, becomes disqualified in terms of section 32(1), or the National Gambling Act, after the licence was issued –
- (1) that person must advise the licensee and the Board in the manner and form prescribed under the National Gambling Act; and
  - (2) if that person –
    - (a) holds an interest in the licensee, that person must dispose of that interest within a period of not more than 3 years, or as may be determined by the Board after considering the circumstances and the nature of the disqualification; or
    - (b) is a manager of the business concerned, the Board may impose reasonable conditions on the continuation of the licence with the object of ensuring continuing compliance with the principles of this Act and the National Gambling Act.

## Northern Cape Gambling and Liquor Act, 2024

**Decisions of the Board**

- 34.** (1) After considering an application for a licence, the transfer or removal of a licence or employment licence, an application to transfer ownership or possession of a gambling machine or gambling device, or a request to transfer an interest in a licence, licensee, licensed premises, or the business to which a licence relates, the Board must either –
- (a) grant the licence or employment licence, 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.
- (3) A decision of the Board in terms of subsection (1), is reviewable by the High Court Division of South Africa with the competent jurisdiction.

**Further applications**

- 35.** (1) Any person not disqualified in terms of this Act and the National Gambling Act, may apply for a licence.
- (2) Any person –
- (a) whose application has been refused because of the applicant being disqualified; or
  - (b) whose licence has been revoked under this Act or any other gambling legislation,
- may not apply for a licence within 12 months from the date of such refusal or revocation; and
- (3) Any person –
- (a) whose application has been refused more than once because of the applicant being disqualified; or
  - (b) whose licence has been revoked more than once under this Act or any other gambling legislation,
- may not reapply for a licence within 3 years from the date of the latest refusal or revocation.

**Licensing procedure**

- 36.** (1) When a valid application for a licence, contemplated in section 30, is received by the Board, the Board must forthwith –
- (a) advertise the application in –

## Northern Cape Gambling and Liquor Act, 2024

- (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, which such comment must 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
    - (ii) in the case of a national licence, the form provided for by the National Gambling Act; and
  - (b) accompanied by –
    - (i) the prescribed application fee; or

## Northern Cape Gambling and Liquor Act, 2024

- (ii) in the case of a national licence, the fee provided for by the National Gambling Act; and
- (iii) such further information as the Board may require.

**Hearing of application for licence**

37. (1) If an objection against or representation in support of an application for a licence is received by the Board, the Board may conduct a public hearing to decide the application except where the granting of certain licences 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 public hearing to obtain inputs from the public before deciding the application.
- (3) The hearing of an application may be 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 public hearing –
- (a) in the *Provincial Gazette* or 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 the National Gambling Act to take precedence**

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

**Economic and social development issues to be considered**

39. (1) When considering an application for a licence or when considering an application for the transfer of a licence, 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 licence; and

## Northern Cape Gambling and Liquor Act, 2024

- (c) may impose reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in paragraphs (a) and (b).
- (2) At least once every 12 months after the issuance of a licence, 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 licence to the extent necessary to address the matters referred to in subsection (1)(a) and (b).
- (3) The provisions of section 39 (1) shall not be applicable to licences mentioned under section 30(1)(j), (k), (l) and (p).

**Competition issues to be considered**

40. (1) When considering an application for a licence, or when considering an application for the transfer of a licence, 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 licence; or
  - (b) within the Republic, in the case of a national licence.
- (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, whereas
- public interest reasons** include the reasons set out in section 12A(3) of the Competition Act; and **a related person** constitute 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**

41. (1) In this section –

## Northern Cape Gambling and Liquor Act, 2024

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

- (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 licence, gambling activity or premises used for a gambling activity; or
  - (b) person who directly or indirectly, holds a gambling licence, 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
    - (ii) 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 subsection (3)(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.

**Licence requirements**

42. The Board -

- (a) must refuse to award a licence if the Board considers that -

## Northern Cape Gambling and Liquor Act, 2024

- (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 licence 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**

43. (1) When considering an application for a licence, or a request to transfer a licence, 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 licence, licensee, licensed premises, or the business to which a licence relates, in terms of this Act or the National Gambling Act.

**Licence criteria, categories and conditions of licences**

44. (1) A licence must specify –
- (a) the identity of the licensee;
  - (b) the activities that the licence 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.

## Northern Cape Gambling and Liquor Act, 2024

- (2) When issuing a licence, the Board may issue it only as -
- (a) a permanent licence;
  - (b) a temporary licence, subject to the fulfillment of certain conditions within a specified period, with the intention that upon fulfillment of those conditions, a permanent licence will be issued in substitution of the temporary licence: Provided that once those conditions are fulfilled the permanent licence would be granted within a period of ninety days.
- (3) When issuing a licence, the Board -
- (a) may issue it with or without conditions; and
  - (b) must set out in the licence certificate –
    - (i) the duration of the licence;
    - (ii) the specific activities permitted in terms of the licence 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 licenced activity may take place.
- (4) The provisions of subsections (1), (2), and (3), with the exception of subsections (1)(c) and (3)(b)(iii), apply, with the changes required by the context, to employment licences.

**Renewal of licences**

45. (1) A licence referred to in section 44(2)(a) or (b) must, subject to section 39 (2), be renewed by the licensee no later than the last day of March every year –
- (a) on application and in the form determined by the Board;
  - (b) on production of the licence 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 licence in terms of subsection (1) must be submitted to the Board no later than 90 days prior to the date on which the licence must be renewed.
- (3) Subsection (1) and (2), read with the necessary changes, shall be applicable to renewals of employee licences.

## Northern Cape Gambling and Liquor Act, 2024

**Suspension or revocation of licence**

46. (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 licence issued in terms of this Act, if –
- (a) the licence was obtained by a materially false or misleading representation;
  - (b) the licensee has become disqualified to hold a licence in terms of section 33;
  - (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 licence; 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 licence, the Board must serve a written notice on the licensee stating –
- (a) that the Board proposes to suspend or revoke the licence;
  - (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 licence and acquisition of certain interest in licensee**

47. (1) A licence granted under this Act may, subject to this section, not –

## Northern Cape Gambling and Liquor Act, 2024

- (a) be transferred to another person; or
  - (b) be removed from the licensed premises to other premises.
- (2) If the holder of a licence -
- (a) desires to transfer such licence to another person, such licence holder and such other person must make joint applications to the Board for such transfer; or
  - (b) desires to remove such licence from the licensed premises to any other premises, whether permanently or temporarily, such licence holder must make an application to the Board for the removal of such licence.
- (3) For the purpose of an application contemplated in subsection (2), the provisions of sections 27, 36 and 37, 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 licence may not -
- (a) be transferred to a person who is disqualified in terms of this Act or the National Gambling Act to hold the licence 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 licence.
- (6) Upon granting an application for the transfer of a licence to another person, the Board –
- (a) issues a certificate of licence 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 licence.
- (7) Upon granting an application for the removal of a licence to other premises, the Board must –
- (a) issue a new licence to the licensee, referring to the new premises as the licensed premises; and
  - (b) cancel the original licence.
- (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.

## Northern Cape Gambling and Liquor Act, 2024

**Duty to produce and display licences**

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

**Licence application and annual licence fees**

49. (1) (a) An applicant for a new licence must pay to the Board the prescribed fee upon submission of such application.
- (b) The licence holder must, upon issue of the licence and thereafter annually before the renewal thereof, pay to the Board the prescribed licence fee.
- (c) The Board must pay the application fee referred to in subsection (1) (a) and the annual licence fee referred to in subsection (1)(b) into the Provincial Revenue Fund.
- (d) No fee contemplated by this section is refundable.
- (2) The annual licence fee becomes due on the last day of March in each consecutive year.
- (3) If the annual licence fee is not paid within 90 days from the date on which the annual licence fee for that licence became due in accordance with subsection (2), the licence lapses.
- (4) All fees due in terms of this Act exclude value-added tax.

**Death, insolvency or incapability of a licensee**

50. (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 licence 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 of the estate, apply to the Board on behalf of any person who is not disqualified in terms of this Act to hold such a licence, to conduct business under the licence on behalf of any heir if such an heir is a minor or on behalf of an heir if such an heir is a major person.
- (2) A person appointed in terms of subsection (1)(b) to conduct business under the licence on behalf of any heir must transfer the licence to the heir upon attaining the age of 18 years.

**Northern Cape Gambling and Liquor Act, 2024**

- (3) If the Board refuses to issue a licence applied for in accordance with subsection (1)(b), the original licence lapses.
- (4) For the purpose of an application contemplated in subsection (1)(b), the provisions of section 49, read with the changes required by the context, apply.
- (5) 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 licence held by the licensee automatically lapses.

***Part 3***  
***Specific licences***

**Casino operator licence**

51. A casino operator licence 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 licence**

52. A junket agent licence 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 licence 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 licence**

53. Subject to section 26 of the National Gambling Act, a route operator licence is required by a person who owns and provides limited pay-out machines to one or more holders of site operator licences, 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 licence.

**Site operator licence**

54. Subject to section 26 of the National Gambling Act, a site operator licence 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.

## Northern Cape Gambling and Liquor Act, 2024

**Independent site operator licence**

55. Subject to section 26 of the National Gambling Act, an independent site operator licence 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 licence**

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

**Horse racing licence**

57. A horse racing licence is required by any person conducting a horse race in the Province.

**Bookmaker licence**

58. A bookmaker licence 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 licence**

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

**Manufacturer licence**

60. (1) A manufacturer licence 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 licence must only be issued to a company that fulfills the definition of the term “company” as defined in the Companies Act, 2008, as amended.
- (3) The provisions of subsection (1) shall not apply to the holder of a casino licence or the holder of a route operator licence 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 by such licence holders in accordance with this Act.
- (4) A manufacturer licence shall attach to the premises specified in the licence unless an application, in terms of this Act, to remove such a licence from its original premises to another has been approved by the Board.

## Northern Cape Gambling and Liquor Act, 2024

- (5) A manufacturer licence shall only authorize the importation, acquisition, manufacturing, assembling, maintenance, repairs, alterations, distribution, leasing, or selling of gambling devices set out in such a licence.

**Distributor licence**

- 61.** (1) A distributor licence 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 anywhere in the country.
- (2) A distributor licence 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 licence shall only authorize the importation, acquisition, distribution, marketing, leasing, or selling of gambling devices set out in such a licence.
- (4) A distributor licence shall attach to the premises specified in the licence unless an application, in terms of this Act, to remove such a licence 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 licence.

**Testing agent licence**

- 62.** A testing agent licence 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 licence**

- 63.** (1) A suitability licence is required by any supplier of goods or services who contracts with a holder of a gambling or betting licence granted in terms of this Act, to supply such a licence holder with goods or services in respect to the licensed activity.
- (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 licence holder or betting licence holder if such supplier has not applied and obtained a suitability licence from the Board.
- (3) The provisions of this section shall not apply to the holders of a manufacturer licence, distributor licence, and testing licences.

**Special event gambling licence**

- 64.** (1) A special event licence would be required by a person who wants to be licenced to conduct gambling or betting activities on specified dates only, at a particular location and on conditions set out by the Board, which conditions must be specified in the said licence.

## Northern Cape Gambling and Liquor Act, 2024

- (2) A special event licence may be granted for any gambling or betting activity other than a gambling activity that involves a gambling machine.

*Part 4*  
*Gambling employee licences*

**Disqualification for employment licence**

65. (1) A person may not hold an employment licence 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 licence to a person if the applicant falls within any of the enumerated disqualifications set out in subsection (1).
- (3) An employment licence issued in terms of this Act is deemed to have been cancelled if the holder of the licence becomes disqualified in terms of subsection (1) at any time after the licence was granted.

**Key employee licence**

66. (1) A key employee licence is required by a person employed by the holder of a licence 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 licence holder, who may –
- (a) exercise direct control over gambling operations or activities authorized by the licence of the licence holder; or
  - (b) exercise control over any licensed premises where gambling is conducted in accordance with the licence of the licence holder.
- (2) For the purposes of subsection (1) above, **direct control over gambling operations** or **activities authorized by the licence of the licence holder** constitute conduct in the form of an express, implied or reasonably incidental authority to oversee, monitor,

## Northern Cape Gambling and Liquor Act, 2024

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 licence 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 licence holder is a key employee in terms of subsection (3)(e) above, it shall serve written notice to that effect upon the licence holder by whom such employee is employed to require them to licence such employee as key employee.
- (5) The licence holder shall within 30 days of receipt of such notice submit to the 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 30 days period to the Board.
- (6) When acting in terms of subsection (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.
- (7) An employee affected by the decision of the Board in terms of subsection (3)(e) may apply to the Board, within the 30 days period provided to the employer to submit an application, and state reasons why he or she should not be considered a key employee.
- (8) If the Board is satisfied by the reasons provided by the employee in his or her application in terms of subsection (7) the Board shall withdraw its decision in terms of subsection (3)(e).

**Gambling employee licence**

67. (1) A gambling employee licence is required by a person, other than the holder of a key employee licence, employed by the holder of a licence issued in terms of this Act or the National Gambling Act, who is directly involved in the activities performed under the licence.
- (2) Persons employed in any of the following or substantially the similar positions

## Northern Cape Gambling and Liquor Act, 2024

shall be regarded as gambling employees for the purpose of this section:

- (a) Cashiers and ticket sellers;
  - (b) counting room personnel;
  - (c) dealers;
  - (d) machine attendants;
  - (e) machine technicians; and
  - (f) bookmaker clerks.
- (3) If the Board considers that an employee of any licence holder is a gambling employee, it shall serve written notice to that effect upon the licence holder by whom such employee is employed to require them to licence such employee as gambling employee.
- (4) No person required to hold a gambling employee licence shall be employed by or assist any licence holder until he or she has obtained a valid gambling employee licence.
- (5) Key employee licence holders shall not be required to obtain gambling employee licences.

**Notice of termination of service**

68. The employer of either a key employee contemplated in section 66, or a gambling employee contemplated in section 67, 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 licence of employment**

69. For the purpose of the suspension or revocation of an employment licence issued in terms of this Act, the provisions of section 46 apply with the changes required by the context.

**Temporary employment licence**

70. (1) The Board may issue a temporary employment licence provided –
- (a) It is satisfied that –
    - (i) the operations of the holder of a licence will be seriously prejudiced or disadvantaged by a delay in the employment of an applicant for an employment licence; and
    - (i) the commencement of the employment of the person concerned will not prejudice the integrity and proper operation of the licensee concerned.
  - (2) Where the Board refuses an application of a permanent employee licence to a person who holds a temporary licence, the employer concerned must summarily terminate the employment of that person in any position in respect of which the temporary licence was granted.

## Northern Cape Gambling and Liquor Act, 2024

- (3) The provisions of subsection (2) shall be a condition of employment of such a temporary licence holder.

**Restrictions applicable to employees**

71. No person who is required to hold a licence in terms of section 66 or 67 may participate in or play any game in the gambling operations of a licensee, with which he or she is associated with, as the case may be, except where such a person may participate in such gambling if it is necessary for the performance of his or her functions as an employee.

**Part 5**  
**Operational matters**

**Monitoring systems**

72. (1) The holder of a licence referred to in section 30 (1)(a) or (d) must install, maintain and operate a surveillance system approved by the Board.
- (2) The holder of a licence referred to in section 30(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**

73. (1) The Board may require any applicant before commencing, or, in the case of a holder of a licence, before continuing to carry on the business authorized under that licence, 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 licence 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 licence holder fails to pay any tax fee, or honour any statutory obligation due, 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 licence 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.

## Northern Cape Gambling and Liquor Act, 2024

**Restriction of betting through agent and unlawful inducement to bet**

74. (1) No person may –
- (a) act as an agent for the holder of a bookmaker's licence 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 licence 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 won by such other person, to induce that person to bet.

**Rules of gambling and betting games**

75. (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 licence must, in respect of any game authorized by such licence 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.
- (3) Rules approved by the Board in terms of subsection (1) and (2), only become effective after publication in the newspaper or to the premises of the licence holder permitted to conduct gambling and betting.

**Availability of rules**

76. The holder of a licence 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 licence.

**Gambling devices**

77. (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 licence as manufacturer, supplier or maintenance provider provided for in section 38(2)(a) of the National Gambling Act.
- (2) The holder of a licence 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 licence may not sell, lease or donate a gambling device to any person in the Province unless such a person is licensed to own or possess such a gambling device.

**Standards for gambling devices**

78. All gambling machines or gambling devices exposed for play and any electronic monitoring system used to monitor such devices must –

## Northern Cape Gambling and Liquor Act, 2024

- (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 tested by a licensed testing agent as contemplated in section 25 of the National Gambling Act, as meeting the applicable standards.
- (c) be certified by the South African Bureau of Standards as contemplated in section 25 of the National Gambling Act.

**Books, accounts and records**

79. The holder of a licence 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**

80. (1) No person may advertise or promote –
- (a) any gambling activity –
    - (i) in a false or misleading manner; or
    - (ii) 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**

81. A person licensed to make any gambling activity available to the public must not extend credit contrary to the National Gambling Act and the National Credit Act, in the name of the licensee or a third party, to any person for the purposes of gambling.

## Northern Cape Gambling and Liquor Act, 2024

**Contracts for the supply of goods and service to licence holders**

82. No licence holder may enter into any contract with another person for the furnishing of any service, goods or property, in relation to their gambling or betting activities, where such other person contracted with will receive payment, commission or any other consideration based directly or indirectly on earnings or profits from any gambling or betting activities, unless such person contracted with is the holder of a suitability licence.

**Non-compliance**

83. (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 licence was issued has not been complied with by the holder of a licence, issue a non-compliance notice, in the form determined by the Board, to the holder of the licence 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 licence 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.

**Gambling offences and penalties**

84. (1) Any person who –
- (a) contravenes a provision of this Act;
  - (b) 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;
  - (c) hinders or obstructs any police official whilst taking steps for the prevention or investigation of an offence under this Act;
  - (d) makes any false statement in any application or return under this Act;
  - (e) 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;
  - (f) having been summoned under this Act –

## Northern Cape Gambling and Liquor Act, 2024

- (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
- (g) 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 licence 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 gambling, betting, horseracing and wagering is taking place or in return for gambling or betting;
- (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.

***Part 6***  
***Gambling activities***

**Gambling activities generally**

85. An activity is a gambling activity if it involves –

- (a) placing or accepting a bet or wager in terms of section 86(1);

## Northern Cape Gambling and Liquor Act, 2024

- (b) placing or accepting a totalisator bet in terms of section 86(2); or
- (c) making available for play, or playing bingo or another gambling game in terms of section 86.

**Bets and wagers**

- 86.** (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;
    - (iii) 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 subsection 1 (a) or (b).
- (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**

- 87.** (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

## Northern Cape Gambling and Liquor Act, 2024

- (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 86(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 86(1), other than a bet or wager contemplated in subsection (1)(b); or
  - (b) a totalisator bet in terms of section 86(2).

**Pay-out and opportunity to play further game**

88. (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 of 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

## Northern Cape Gambling and Liquor Act, 2024

- (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.

**Levies payable**

89. A holder of a licence must pay a levy in terms of the Northern Cape Gambling Levies Act No 4 of 2009.

**CHAPTER VI  
LIQUOR**

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

**Part 1  
Prohibitions and exemption****Prohibitions**

90. (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 licence 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 licence may also sell or supply newspapers, light refreshments and smokers' requisites on the licensed premises, or conduct such other business thereon as approved by the Board on application, when granting the licence concerned or at any time thereafter, approve subject to such conditions as the Board may think fit;
  - (b) the holder of a liquor store licence 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 licence 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 licence has been issued.

## Northern Cape Gambling and Liquor Act, 2024

- (5) The Board may at any time by notice withdraw or amend any declaration made under subsection (4)(a) and (b).

**Exemption**

91. (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.

*Part 2*  
*Licensing procedure*

**Kinds of liquor licences**

92. (1) A licence 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 or traditional African beer drinking 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) a special events licence.
- (2) A licence 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 licence may be granted for the micro-manufacturing of liquor.

## Northern Cape Gambling and Liquor Act, 2024

**Description of licences and hours of business**

93. (1) (a) The holder of a hotel liquor licence 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 licence 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 licence 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 licence 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 sub-section (4), sell liquor on the licensed premises immediately preceding performances or shows and during intervals.
- (e) The holder of a club liquor licence 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 or traditional African beer drinking house liquor licence may only sell sorghum or traditional African beer procured from the holder of a licence, issued under any law, for sorghum or traditional African beer brewing and may, subject to subsection (4), sell the sorghum or traditional African beer on the licensed premises.
- (g) The holder of a tavern liquor licence 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 licence 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.
- (i) The holder of a nightclub liquor licence 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 (6), sell liquor on the licensed premises.
- (j) The holder of a gambling house liquor licence 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 licence 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.

## Northern Cape Gambling and Liquor Act, 2024

- (1) The holder of an occasional liquor licence contemplated under section 98 must ensure that liquor sold in terms of such a licence is consumed on the licensed premises only.
- (2) (a) The holder of a liquor store licence may, subject to subsection (5), sell liquor for off-consumption on the licensed premises.  
(b) The holder of a grocer's wine licence for off-consumption may, subject to subsection (5), sell only table wine on the licensed premises. in subsection (2), must ensure that liquor sold thereunder is not consumed.  
(c) The holder of a sorghum or traditional African beer licence for off-consumption may, subject to subsection (5), sell only sorghum or traditional African beer procured from a holder of a licence, on the licensed premises for a period of more than 30 minutes after 02:00 issued under any law, to produce such beer on the licensed premises.
- (3) The holder of a liquor licence contemplated in subsection (1), must ensure that liquor sold on the licensed premises.
- (4) The holder of a liquor licence contemplated in subsection (1), may sell liquor on the licensed premises between 10:00 and 02:00, Monday to Sunday and no liquor may be consumed on the licences premises for a period of more than 30 minutes after 02:00.
- (5) The holder of a liquor licence contemplated in subsection (2), may, except on a closed day, sell liquor on the licensed premises:
  - (a) between 09:00 and 20:00, Monday to Friday; and
  - (b) between 09:00 and 17:00 on a Saturday, Sunday or public holiday other than a closed day.
- (6) The holder of a liquor licence contemplated in subsection (1)(i) may sell liquor on the licensed premises:
  - (a) between 18:00 and 06:00, Monday to Saturday; and
  - (b) between 18:00 and 00:00 on a Sunday or public holiday other than a closed day.
- (7) The holder of a licence as contemplated in subsections (4), (5) and (6) must at all times conspicuously display their trading hours at the entrance to the premises.
- (8) A licensee may carry out licensed activities only in or from licensed premises and in accordance with the provisions of this Act.
- (9) 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.
- (10) The holder of an occasional liquor licence contemplated in subsection (1), must ensure that

## Northern Cape Gambling and Liquor Act, 2024

liquor sold thereunder is only sold during the times specified under the conditions of the said licence.

**Special event liquor licences**

94. (1) Subject to section 97, any person may, on the prescribed form and in the prescribed manner, apply for the special event liquor licence.
- (2) An application for special event liquor licence must be considered by a Special Events Committee of the Board which must, within 14 days after receipt of the application decide on the application by either -
- (a) refusing the application; or
  - (b) issuing the licence concerned, subject to any condition that the committee may determine.
- (3) The Special Events Committee referred to under subsection (2) consists of:
- (a) CEO as Chairperson of the Committee;
  - (b) Designated Police Officer;
  - (c) Legal Manager of the Entity; and
  - (d) Licence Manager.
- (4) Special event liquor licence 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.

**Minors**

95. (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 or traditional African beer 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 subsection (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**

96. (1) An application for a liquor licence 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 licence 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

## Northern Cape Gambling and Liquor Act, 2024

- (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 or 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 tax compliance;
  - (h) proof of payment of the prescribed fee;
  - (i) 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.
  - (j) 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 licence must be forwarded to the Board within 30 days after the application was forwarded to the municipality.
- (5) The provisions of this section shall be applicable to special event liquor licences under section 94 read with the necessary changes in context.

## Northern Cape Gambling and Liquor Act, 2024

**Disqualification to apply for licences**

97. No person may apply for a licence in terms of this Act, if that person -
- (a) is a minor on the date of submitting the application for a licence;
  - (b) was convicted to imprisonment, without the option of a fine within 7 years preceding the date of submitting the application for a licence for murder, rape, robbery, fraud, trade or possession of drugs, child abuse, an offence involving dishonesty or contravention of this Act or the National Liquor Act;
  - (c) is an unrehabilitated 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**

98. (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 combatting 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.
  - (e) Whether the applicant was a previous licence holder or the premises applied for have been licenced before.
  - (f) BEE and BBBEE factors.
- (2) When issuing a liquor license, the Board may issue it only as -
- (a) a permanent license; or
  - (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 90 working days.

## Northern Cape Gambling and Liquor Act, 2024

**Nature of premises**

99. 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.

***Part 3***  
***Structural alterations***

**Structural alterations**

100. (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.

***Part 4***  
***Formal procedures***

**Notices to appear**

101. (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**

102. (1) Any affected person or institution may lodge an objection to the granting of the licence in terms of this Act with the Board within 30 days from the date of publication of the notices contemplated in section 96(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**

103. (1) Within 14 days after receipt of an objection lodged in terms of section 102(1), a committee of the Board must, by registered post or any acceptable electronic communication, submit a copy of such objection to the applicant.

## Northern Cape Gambling and Liquor Act, 2024

- (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**

104. (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.

**Licence certification**

105. (1) When the Board has approved an application, the Board must issue a licence certificate stating the date on which the licence was issued.
- (2) The certificate must detail the particulars of the licensee, business details, kind of license and the conditions of the licence.
- (3) The licence certificate becomes valid upon payment of the prescribed fee.
- (4) A valid licence certificate or a certified copy of it, is sufficient proof that the licensee is licensed in terms of this Act.
- (5) The licence will remain valid until-
  - (a) it is cancelled in terms of this Act;
  - (b) the licensee voluntarily cancels the licence; or
  - (c) the licensee fails to renew the licence in time or it lapses for any other reason.

**Renewal of licences**

106. (1) A licence referred to in section 92(1) must, subject to section 97, 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 licence for the preceding year; and

## Northern Cape Gambling and Liquor Act, 2024

- (c) on payment of the investigating cost determined by the Board and the prescribed renewal fee.
- (2) An application for the renewal of a licence in terms of subsection (1) must be submitted to the Board no later than 90 days prior to the date on which the licence must be renewed.

**Transfer of licence to other persons**

107. (1) A licence 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 licence in terms of this Act.
- (4) Upon granting an application for the transfer of a licence, the Board -
- (a) issues a certificate of licence 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 licence in the format prescribed.

**Transfer of licence to other premises**

108. (1) A licensee may apply to the Board for the transfer of a licence from one premises to another premises and for the purpose of such application, the provisions of sections 96, 97, 98, read with the changes required by the context, apply.
- (2) The Board must consider the application for the transfer of a licence to another premises and may grant or refuse the application.
- (3) Upon granting an application for the transfer of a licence to another premises, a new licence may be issued to the licensee by the Board.

**Issuing of duplicate licences**

109. The Chief Executive Officer may, upon an application by a licensee on the prescribed form and upon the payment of the prescribed fee, issue a duplicate of a licence by issuing another of the same kind in respect of the premises concerned.

**Appointment of an official**

110. (1) A **juristic** person may not conduct business under a licence, unless a person who permanently resides in the Republic of South Africa and who is not disqualified in terms

## Northern Cape Gambling and Liquor Act, 2024

of section 97 to apply for a licence, 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 licence 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 97 to apply for a licence, to manage and be responsible for the business to which the first-mentioned licence relates.

**Replacement of a licence certificate from on to off consumption**

111. (1) The Board may at any time after the issue of a licence certificate to an on-consumption liquor outlet licence holder and on application by such licence holder replace his or her licence from on to off consumption in respect of the same licensed premises in a manner and form prescribed.
- (2) A replacement licence issued under sub-section (1) shall be subject to such conditions set out in the licence as the Board may, in its discretion impose.

**Decisions of the Board**

112. (1) After considering an application for a liquor licence, the transfer or removal of a liquor licence or a certificate of employment, an application to transfer ownership or possession of a liquor licence, or a request to transfer an interest in a liquor licence, licensee, licensed premises, or the business to which a liquor licence relates, the Board must either –
- (a) grant the liquor licence or certificate of employment in writing or 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.
- (3) A decision of the Board in terms of subsection (1), is reviewable by the High Court Division of South Africa with the competent jurisdiction.

**Death, insolvency, imprisonment or incapability of a licensee**

113. (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 licence 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 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 licence, to conduct business under the licence on behalf of any heir entitled to the benefits accruing from the licence.

## Northern Cape Gambling and Liquor Act, 2024

- (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 licence automatically lapses.
- (3) If a licensee is convicted and sentenced to an imprisonment sentence, such a licensee may apply for the transfer of his licence 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 97(b), in which case the licence would automatically lapse.

**Suspension or revocation of licence**

- 114.** (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 licence issued in terms of this Act, if –
- (a) the licence was obtained by a materially false or misleading representation;
  - (b) the licensee has become disqualified to hold a licence in terms of section 97;
  - (c) the licensee has violated this Act or the National Liquor 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 liquor 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 licence; 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 licence, the Board must serve a written notice on the licensee stating –
- (a) that the Board proposes to suspend or revoke the licence;
  - (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).

## Northern Cape Gambling and Liquor Act, 2024

- (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.

**Part 5**  
**Designated police officer**

**Designation of police officers for certain purposes**

115. 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**

116. 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
  - (b) at the request of the Board, furnish information in connection, with any matter contemplated in this Act.

**Reports on certain holders and premises**

117. (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 licence to discharge an obligation which is attached to the licence concerned;
  - (b) if such a holder becomes disqualified or otherwise incompetent in terms of this Act to hold the licence 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 licence 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 licence or a person who has been appointed in terms of section 116 to manage and be responsible for a business under a licence, 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.

## Northern Cape Gambling and Liquor Act, 2024

**Investigation by police officer**

118. 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**

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

- (a) refuse to admit any person, other than an inspector or a 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 sub-paragraph (e) or to remove from the licensed premises any person who refuses or fails to comply with a request contemplated in sub-paragraph (c) or (d).

**Part 6**  
**Offences and penalties**

**Offences in general**

120. It is an offence -

- (a) to contravene any provision of this Act;
- (b) for a licensee to contravene any condition of a liquor licence 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;

## Northern Cape Gambling and Liquor Act, 2024

- (d) to sell or supply liquor to a person who is drunk or 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 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 required in terms this Act;
- (j) 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 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 licence 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 licence issued in terms of this Act; or
- (o) to lease a licence issued in terms of this Act to another person or juristic person.
- (p) to buy liquor for a minor.
- (q) to enter a liquor premises with a dangerous weapon.

**Offences regarding liquor trade**

**121.** (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 licence issued in terms of this Act.

(2) It is an offence -

- (a) to micro-manufacture liquor in the province other than under a licence issued in terms of this Act;

## Northern Cape Gambling and Liquor Act, 2024

- (b) not to keep the licence 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 licence issued in terms of this Act.

**Penalties and forfeiture**

122. (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 licence of a licensee convicted of an offence contemplated in section 120(e) or who pays an admission of guilt fine under that provision, shall lapse when so convicted or when such admission of guilt fine is paid, as the case may be.

**Vicarious liability**

123. 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**

124. (1) The holder of a licence 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 licence 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 (2).

**Liability**

125. 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 Norms and Standards**

126. (1) The Responsible Member may, after consultation with the Board develop and adopt norms and standards to be published that may be applicable in the liquor industry in the Province.
- (2) Norms and standards 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 licence or any licensee and may include:

## Northern Cape Gambling and Liquor Act, 2024

- (a) The conditions subject to which all licences or licences 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 norms and standards 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**

127. (1) Permission may, on application made on the prescribed form, be given by the Board when granting a licence, 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 licence 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**

128. (1) A licensee may not permit any other person to procure a controlling interest in the business to which the liquor licence 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 licence relates;
  - (b) where the person who is the subject of the application, is disqualified in terms of section 97 to hold a liquor licence;
  - (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.

## Northern Cape Gambling and Liquor Act, 2024

**CHAPTER VII  
ENFORCEMENT FOR LIQUOR AND GAMBLING****Appointment of inspectors by Board**

- 129.** (1) The Board may, subject to section 12(2), 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 Board must issue each inspector appointed in terms of subsection (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.

**Powers and functions of inspectors**

- 130.** (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 licence.
  - (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.
- (2) An inspector may be accompanied during an inspection or investigation by a member

## Northern Cape Gambling and Liquor Act, 2024

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.
- (7) 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.
- (8) A non-compliance notice must set out the alleged non-compliance 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.
- (9) 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.

**Entry with a warrant**

- 131.** (1) An inspector may at any time enter any unlicensed premises if a magistrate has issued a warrant to enter for investigation purposes at any 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**

- 132.** (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.

## Northern Cape Gambling and Liquor Act, 2024

- (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 posed.

**Reward for informers**

133. 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**

134. The holder of any licence or any employee of such a licence holder may –
- (a) refuse to admit a person, other than an inspector appointed in terms of this Act 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

request any police official to remove or assist in removing from the licensed premises any person contemplated in sub-paragraph (b).

**CHAPTER VIII  
REGULATIONS, SAVINGS AND TRANSITIONAL ARRANGEMENTS**

*Part 1  
Saving clause*

**Regulations and previous regulations saving clause.**

- 135.(1) The Responsible Member may make regulations regarding –
- (a) any matter pertaining to the Board;
  - (b) any matter pertaining to an application for a licence or certificate;
  - (c) the management and control of licensed premises and licence holders;
  - (d) the management and control of gambling, betting and racing;
  - (e) the operational standards and minimum internal control requirements for licences;
  - (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

## Northern Cape Gambling and Liquor Act, 2024

financial implications may only be made with the concurrence of the Member of the Executive Council responsible for finance.

- (2) The Responsible Member must review the fees prescribed in terms of subsection (1)(g) after every five years cycle period.
- (3) Before making regulations in terms of subsection (1), the Responsible Member must publish the draft regulations for public comment in the *Provincial Gazette*.
- (4) 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.
- (5) Different regulations may be made under this section in respect of different kinds of licences, licences of the same kind having different common characteristics, different categories of persons or different areas.
- (6) 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.

**Part 2*****Regulations, transitional arrangement and repeal of laws*****Regulations**

- 136.** The Northern Cape Gambling Act (Act No 3 of 2008) 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.

**Transitional arrangements (Regulations and provisions)**

- 137.** (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 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 or interim Board in accordance with the provisions of section 5.
- (4) Any licence, 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 licence, or approval until it expires or is revoked in terms of this Act, whereafter application for a new licence, certificate of registration or approval must be made in terms of this Act.

## Northern Cape Gambling and Liquor Act, 2024

- (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) In line with subsection (1) 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.
- (11) 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.
- (12) 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.
- (13) 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.

**Compliance with certain laws as a condition of licence**

138. It is a condition of every licence issued in terms of this Act that the licensee must comply with every applicable provision of –
- (a) this Act;
  - (b) the National Gambling Act;

## Northern Cape Gambling and Liquor Act, 2024

- (c) the Financial Intelligence Centre Act;
- (d) the National Liquor Act;
- (e) Northern Cape Gambling Levies Act, or
- (f) National Credit Act;
- (g) any other applicable law.

**Repeal of laws**

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

**Short title and commencement**

- 140.** This Act is called the Northern Cape Gambling and Liquor Act, 2024 and comes into operation on 1 April 2024.

**SCHEDULE****Laws repealed by section 137**

<b>Number and year of law</b>	<b>Short title of law</b>	<b>Extent of repeal</b>
Act No. 2 of 2008	Northern Cape Liquor Act	The whole
Act No. 3 of 2008	Northern Cape Gambling Act	The whole

**GENERAL NOTICE 537 OF 2024**

The..... text of this  
Act has been assented to by me on:  
  
.....  
**PREMIER: NORTHERN CAPE PROVINCE**

**NORTHERN CAPE PROVINCE**

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**NORTHERN CAPE ECONOMIC DEVELOPMENT, TRADE AND  
INVESTMENT PROMOTION AGENCY AMENDMENT ACT, 2024**

**(Act No.5 of 2024)**

**Certified correct as passed by the  
Northern Cape Provincial Legislature**  
  
.....  
**Secretary of the Legislature**

Northern Cape Economic Development, Trade and Investment Promotion Agency  
Amendment Act, 2024

**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.

## ACT

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

**BE IT 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, 2008 is hereby amended-
  - (a) by the insertion of the word “and” at the end of subparagraph (b) and by the addition of the following subparagraph (c):

**“Establishment of 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;
- (b) a trade and investment promotion; and
- (c) tourism promotions functions.”

### **Amendment of section 3 of Act No. 4 of 2008**

2. Section 3 of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act, 2008 is hereby amended-
  - (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

**“Objects of Agency**

3. (1) The objects of the Agency, regarding the functions 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-

Northern Cape Economic Development, Trade and Investment Promotion Agency  
Amendment Act, 2024

- (a) planning and assisting 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.”; and
- (b) by the insertion after subsection (2) of the following subsection:
- “(3) The objects of the Agency, regarding the functions referred to in Section 3(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 managing, planning and directing of the marketing activities of all sectors of the province’s tourism industry.”.

**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 –
- (a) by the substitution for subsection (1) of the following subsection:

**“Composition of the Board**

6.(1) The Board consists of 11 members eligible to vote at meetings of the Board, appointed by the responsible Member, 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 which must include-

- (b) the insertion of subparagraph (a) – (f)
- “(a) **[at least 5 members, but not 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 one member by virtue of their proven acumen, with knowledge or experience of tourism or with related professional skills in the tourism industry;
- (b) three senior officials designated by the Northern Cape Provincial Government;
  - (c) one member must be admitted to practice as a legal practitioner in the Northern Cape Province with at least 5 years of experience;
  - (d) one member qualified either as an accountant or auditor and registered to practice as such by their respective professional bodies with at least five years of experience;
  - (e) two members with at least five years of experience in business; and
  - (f) three additional members.”;

Northern Cape Economic Development, Trade and Investment Promotion Agency  
Amendment Act, 2024

(c) by the substitution for subsection (2) of the following subsection:

“(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 without voting rights **[, but are not members of the Board and may not vote at such meetings]**”.

**Amendment of Section 12 of Act No. 4 of 2008**

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

**“Staff of Agency and remuneration**

12. (1) The [Board] responsible member must -

- (a) in consultation with the Board, [must, subject to sections 13, 14 and 15,] appoint a suitably qualified and experienced person; as chief executive officer for a period of five years, who-  
(i) subject to the direction and control of the Board, is responsible for all financial and administrative responsibilities pertaining to the functions of the **[Agency] Board**; and  
(ii) is accountable to the **[Agency] Board**;  
(b) **[must subject to section 2(1),] determine a staff establishment for the [Agency] Board; and**  
(c) **[may, on the establishment contemplated in paragraph (b), appoint any other staff as may be necessary to enable the Agency to perform its functions]. 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.”.**

(b) the insertion after subsection (2) of the following subsection:

“(2A) The Responsible Member must, before appointing a chief Executive officer, make regulations regarding-

- (a) the procedure to be followed when appointing a chief executive officer;  
(b) the employment contract and performance agreement to be entered into by the chief executive officer on appointment by the Board; and  
(c) the removal from office of the chief executive officer.

Northern Cape Economic Development, Trade and Investment Promotion Agency  
Amendment Act, 2024

**Amendment of Section 27 of Act No. 4 of 2008**

5. Section 27 (1)(a) of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act is hereby amended by the substitution for the following subsections of the transitional Northern Cape Economic Development, Trade and Investment Promotion Agency arrangements:

**“27. Transitional arrangements**

- (1) For the purposes of this section, “effective date” means the 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 Tourism Entity Act, 2008.
- (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 6 of the Northern Cape Economic Development, Trade and Investment Promotion Agency Act, 2008.
- (4) Anything done under the provisions of the previous Act or in respect of the activities of the Northern Cape Tourism Entity is deemed to have been done by the Northern Cape Economic Development, Trade and Investment Promotion Agency.
- (5) In line with sub-section (1) 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.
- (6) 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 as amended.
- (7) 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.
- (8) 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.
- (9) An interim Board will be appointed by the Responsible Member during the Transitional Period.”

Northern Cape Economic Development, Trade and Investment Promotion Agency  
Amendment Act, 2024

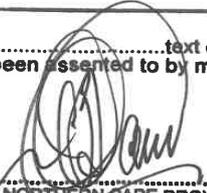
**6. Repeal of laws and savings**

- (1) This Act hereby repeals the Northern Cape Tourism Entity Act of 5 of 2008.
- (2) Anything done under a law repealed by this Act remains valid –
  - (a) to the extent that it is not inconsistent with this Act; and
  - (b) until anything done under this Act overrides it.
- (3) Any regulation made under a law repealed by this Act remains in force and is considered to have been made under this Act –
  - (a) to the extent that it is not consistent with this Act; and
  - (b) until it is repealed by the responsible member under this Act.

**7. Short title and commencement**

This Act is called the Northern Cape Economic Development, Trade and Investment Promotion Agency Amendment Act, 2024 and comes into operation on 1 April 2024.

**GENERAL NOTICE 538 OF 2024**

The.....text of this  
Act has been assented to by me on:  
  
.....  
**PREMIER: NORTHERN CAPE PROVINCE**

**NORTHERN CAPE PROVINCE**

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**NORTHERN CAPE CONSUMER PROTECTION AMENDMENT  
ACT, 2024**

**(Act No.4 of 2024)**

**Certified correct as passed by the  
Northern Cape Provincial Legislature**  
  
.....  
**Secretary of the Legislature**

## Northern Cape Consumer Protection Amendment Act, 2024

**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.

**ACT**

**To amend the Northern Cape Consumer Protection Act, 2012, so as to change certain definitions, delete certain sections and renumber remaining sections; to amend the functions and role of the Consumer Protector and Registrar, to provide alignment with other Provincial Consumer Protection Regulators so to substitute the provisions relating to an establishment of a Consumer Protection Entity with a Provincial Consumer Protection Authority as a Unit within the Department of Economic Development and Tourism for the Northern Cape Province, to amend matters relating to the staff complement thereby rendering staff appointments, excluding Consumer Court Members, as permanent appointments and subject to the Public Service Act, and to provide for matters incidental thereto.**

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

**Amendment of Section 1 of Act No.1 of 2012**

1. Section 1 of the Northern Cape Consumer Protection Act, 2012 (Act No. 1 of 2012), hereinafter referred to as the principal Act, is hereby amended -
  - (a) by the deletion of the definition of “accounting authority;”
  - (b) by the substitution for the definition of “Consumer Protection Act” of the following definition:
 

“Consumer Protection Act” means the Consumer Protection Act, 2008 (Act No. 68 of 2008), which refers to the National enabling legislation;
  - (c) the substitution for the definition of “consumer protection entity” of the following definition:
 

“consumer protection [entity] unit” means the Authority [**or the Consumer Court**];
  - (d) the substitution of the definition of “functionary of a consumer protection entity” of the following definition:
 

“functionary of a consumer protection [entity] court” means a member of the Consumer Court, [**the Registrar, the Consumer Protector or the Deputy Consumer Protector**];

**Amendment of Section 2 of Act No. 1 of 2012**

2. Section 2(1) of the principal Act is hereby amended-

## Northern Cape Consumer Protection Amendment Act, 2024

- (a) by the insertion of the word “and” at the end of subparagraph (c) and by the addition of the subparagraph (d) of the following subsection:

**“Objects of the Act**

2. (1) The objects of this Act are to promote and advance the social and economic welfare of consumers in the Province in accordance with provisions and principles set out in the Consumer Protection Act by providing for institutions to-

(a) investigate;

(b) mediate; or

(c) adjudicate; and

(d) conduct compliance inspections for;

any alleged infringement of consumers’ rights as set out in Chapter 2 of the Consumer Protection Act.”.

**Amendment of Section 4 of Act No. 1 of 2012**

3. Section 4 of the principal Act is hereby amended-

- (a) by the substitution for subsection (1) of following subsection:

**“Establishment of Provincial Consumer Protection Authority**

4.(1)A Provincial Consumer Protection Authority for the Province is hereby established as a unit within the Department.”

- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) is a public service unit [a juristic person ].”.

**Amendment of Section 5 of Act No 1 of 2012**

4. Section 5 of the principal Act is hereby amended-

- (a) by the substitution for subsection (1) of the following subsection:

**“Appointment of Consumer Protector and Deputy Consumer Protector**

5.(1) The responsible Member must appoint a person with suitable experience and at least an university degree in **[economics,] law [commerce, industry or public affairs]** as Provincial Consumer Protector in the Office of the Authority, who”;

- (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) will be the administrator of the Office of the Authority. [hold an office for an agreed term not exceeding five years]”

- (c) by the deletion of subsection (2);

- (d) by substitution for subsection (3) of the following subsection:

“(3)The responsible Member must appoint a person suitable experience and at least an university degree in **[economics,] law [commerce, industry or public affairs]** as Deputy Consumer Protector who –

(a) must assist the Consumer Protector in carrying out the functions of the Authority; and

(b) must perform the functions of the Authority whenever –

## Northern Cape Consumer Protection Amendment Act, 2024

- (i) the Consumer Protector is unable for any reason to perform the functions of the Authority; or
  - (ii) the office of the Consumer Protector is vacant. **[and (c) holds office for an agreed term not exceeding 5 years.]**”.
- (c) by the deletion of subsection (4).

**Amendment of Section 11 of Act No. 1 of 2012**

5. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

**“Referral to Consumer Court by complainant**

11. (1) If the Authority issues a notice of non-referral, in response to a complaint, other than on the grounds contemplated in section 116 of the Consumer Protection Act, the complainant concerned may refer the matter directly to the Consumer Court, in accordance with Section 75(1)(a) of the Consumer Protection Act, with leave of the Consumer Court.”.

**Amendment of Section 18 of Act No. 1 of 2012**

6. Section 18 of the principal Act is hereby amended by the substitution for subsection (3) for the words preceding paragraph (b) of the following paragraph:

“(3) The responsible Member must, subject to section 20 -

- (a) appoint the Chairperson and other members of the Consumer Court **[no later than the date on which this Act comes into operation] from time to time;** and”.

**Amendment of Section 20 of Act No. 1 of 2012**

7. Section 20 of the principal Act is hereby amended by the substitution for subsection (2) for paragraph (b) of the following paragraph-

“(b) have suitable experience and at least a university degree in **[economics,] law [, commerce, industry or consumer affairs];** and”.

**Amendment of Section 27 of Act No. 4 of 2008**

8. The following section is substituted for Section 27 of the principal Act:

“The responsible Member must, in consultation with the Consumer Protector, appoint a person with suitable experience and at least an university degree in law as Registrar who –

- (a) is responsible for all matters pertaining to the administrative functions of the Consumer Court; and
- (b) reports to the Department.”.

**Amendment of Section 28 of Act No. 1 of 2012**

9. Section 28 of the principal Act is hereby amended-
- (a) by the substitution for the heading to section 28 of the following heading:

## Northern Cape Consumer Protection Amendment Act, 2024

**“Eligibility to serve as functionary of a consumer protection authority[entity]”**

- (b) by the substitution for subsection (1) for the words preceding subparagraph (a) of the following paragraph:  
 “28.(1) To be eligible to serve as a functionary of a [**consumer protection entity**] consumer court and to continue to hold that office, a person must”;
- (c) the substitution for subsection (2) for the words preceding subparagraph(a) of the following subsection:  
 “(2) A person may not be a functionary of a [**consumer protection entity**] consumer court if that person”;
- (d) the substitution for subsection (3) for the words preceding subparagraph (a) of the following subsection:  
 “(3) Before being appointed a functionary of a [**consumer protection entity**] consumer court, the candidate must submit to the responsible Member an affidavit in which such candidate declares that he or she”;
- (e) the substitution for subsection (4) of the following subsection:  
 “(4) The responsible Member is at any time entitled to call for proof to his or her satisfaction of the continued eligibility of any functionary of a [**consumer protection entity**] consumer court or to undertake or cause to be undertaken any investigation or enquiry in that regard.”.

**Amendment of Section 29 of Act No. 1 of 2012****10. Section 29 of the principal Act is hereby amended-**

- (a) by the substitution for subsection (1) of the following subsection:  
**“Conflicting interests**  
 29. (1) A functionary of a [**consumer protection entity**] consumer court must not-
- (a) engage in any activity that may undermine the integrity of the [**entity**] consumer court;
- (b) attend, participate in or influence the proceedings of the [**entity**] consumer court if, in relation to the matter before the [**entity**] consumer court, that functionary has any financial or other interest that precludes the functionary from performing the duties of a functionary of the [**entity**] consumer court in a fair, unbiased and proper manner;
- (c) vote at any of the proceedings of the [**entity**] consumer court 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 duties as a functionary of the [**entity**] consumer court; 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 [**entity**] consumer court.”.
- (b) the substitution for subsection (3) for the following subsection:  
 “(3) If, at any time, it appears to a functionary of a [**consumer protection entity**] consumer court that a matter before the [**entity**]

## Northern Cape Consumer Protection Amendment Act, 2024

consumer court concerns an interest of that functionary referred to in subsection (1)(b), the functionary must –

- (a) immediately and fully disclose the nature of that interest to the **[entity] consumer court**; and
- (b) withdraw from the proceedings to allow the remaining functionaries to discuss the matter and determine whether the functionary should be prohibited from participating in any further proceedings concerning that matter.”

**Amendment of Section 30 of Act No. 1 of 2012**

11. Section 30 of the principal Act is hereby amended by-

- (a) the substitution for subsection (1) for the words preceding subsection (2) for the following subsection

**“Removal from office**

30. (1) The responsible Member must, by written notice, remove any functionary of a **[consumer protection entity] consumer court** from office if the functionary becomes subject to a disqualification contemplated in section 28(2).”;

- (b) the substitution for subsection (2) for the words preceding subparagraph(a) of the following subsection for the following subsection:

“(2) The responsible Member may, after considering the findings of an investigating tribunal appointed by him or her, by written notice, remove from office any functionary of a **[consumer protection entity] consumer court** if the functionary”;

- (c) the substitution of subsection (2) for the words preceding subparagraph(c) of the following paragraph:

“(b) is, without sound reason, absent from his or her office or from two or more scheduled activities of the **[entity] consumer court** concerned in one year, or, in the case of absence due to medical reasons, fails to present a valid medical certificate;”;

- (d) the substitution for subsection (3) of the following subsection:

“(3) A tribunal investigating allegations against a functionary of a **[consumer protection entity] consumer court** in accordance with subsection (2), may make a finding only after considering representations made by the functionary regarding the allegations made against him or her.”.

**Amendment of Section 31 of Act No. 1 of 2012**

12. Section 31 of the principal Act is hereby amended by-

- (a) by the substitution for the heading to section 28 of the following heading:

**“Remuneration and benefits of functionaries of [consumer protection entities] consumer court”**

- (b) by the substitution of section 31 of the following subsection:

“31. A functionary of a **[consumer protection entity] consumer court** must be paid such reasonable remuneration and allowances out

## Northern Cape Consumer Protection Amendment Act, 2024

of the funds of the entity 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 by notice in the *Provincial Gazette*.”.

**Repeal of Section 32 of Act No. 1 of 2012**

13. Section 32 of the principal Act is hereby repealed.

**Repeal of Section 33 of Act No. 1 of 2012**

14. Section 33 of the principal Act is hereby repealed.

**Repeal of Section 34 of Act No. 1 of 2012**

15. Section 34 of the principal Act is hereby repealed.

**Repeal of Section 32 of Act No. 1 of 2012**

16. Section 35 of the principal Act is hereby repealed.

**Short title and commencement**

17. This Act is called the Northern Cape Consumer Protection Amendment Act, 2024 and comes into operation on 1 April 2024.

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