



NORTH WEST NOORDWES

EXTRAORDINARY • BUITENGEWOON

**PROVINCIAL GAZETTE
PROVINSIALE KOERANT**

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DEPARTMENT OF HEALTH

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 570 OF 2023

NOTICE

Department of Economic Development, Environment, Conservation and Tourism

NORTH WEST GAMBLING AMENDMENT BILL, 2022**INVITATION FOR PUBLIC COMMENTS: DRAFT NORTH WEST GAMBLING AMENDMENT BILL, 2022**

I, G.T.V Tlhapi, Member of the Executive Council responsible for the Department of Economic Development, Environment, Conservation and Tourism, hereby give notice that the draft North West Gambling Amendment Bill, 2022 is made available for public comments. The Draft Bill shall be posted on the Government Gazette.

The draft Bill seeks to provide textual amendments, insert new definitions and provisions for the proper regulation of Gambling in the North West Province.

All interested persons and organizations are invited to submit written comments of the Draft Bill and Socio-Economic concerns no later than 30 days from the publication of this notice by –

- (i) Email to: imosiapo@nwpg.gov.za; bqalinge@nwgb.co.za
- (ii) Posting comments to:

Department of Economic Development Environment Conservation & Tourism
Private Bag x 15
MMABATHO
2735
- (iii) Hand delivery at Department of Economic Development Environment Conservation & Tourism, Corner University Drive and Provident Street, Mmabatho 2735.

Kindly provide the name, postal and email address, and telephone numbers of the person or organization submitting the comments.

All enquiries in regard to access to a copy of the Draft Bill may be made to Adv Itumeleng Mosiapo at telephone no: (018) 388 5974/5839 or by email to : imosiapo@nwpg.gov.za or bqalinge@nwgb.co.za



HONOURABLE G.T.V TLHAPI

MEC: DEPARTMENT OF ECONOMIC DEVELOPMENT ENVIRONMENT
CONSERVATION AND TOURISM

16/05/2023

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NORTH WEST GAMBLING AMENDMENT BILL, 2022

(As introduced in the Provincial Legislature)
(The English text is the official text of the Bill)

CERTIFIED: 06 MAY 2022



Adv BW Tlhale
PRINCIPAL STATE LAW ADVISOR

CERTIFIED: 06 MAY 2022

Principal State Law Advisor

(MEMBER OF THE EXECUTIVE COUNCIL FOR ECONOMIC DEVELOPMENT ENVIRONMENT
CONSERVATION AND TOURISM)

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

BILL

To amend the North West Gambling Act, 2001 (Act No. 2 of 2001), so as to effect textual amendments; to insert new definitions and new provisions; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of North West, as follows:-

Amendment of section 1 Act 2 of 2001

1. Section 1 of the principal Act is hereby amended –

(a) by the substitution for the definition of "arrangement" of the following definition:

"amusement machine licence" means a licence issued in terms of section 51_{1,4};

(b) by the substitution for the definition of **"bet" or "betting"** of the following definition: **"bet" or "betting"** means [to stake any money or thing of value or to stake on behalf of any person, or expressly or impliedly, to undertake, promise or agree to stake on behalf of any person, any money or thing of value on any event or contingency other than the contingency involved in a gambling game;] An action of gambling money on the outcome of a lawful sporting event and or any other lawful contingency other than a contingency involved in a gambling game;;

(c) by the substitution for the definition of **"bingo"** of the following definition:

"bingo" means [the gambling game known as bingo and any similar gambling game which is played with cards (including electronic screens) on which appear a set of numbers or symbols and in the course of which each player attempts to match for money, property, cheques or anything of value, all or a specified set of numbers or symbols on his or her cards to calls made by the operator and includes any similar gambling game operated in whole or in part by electronic means] a game in which players manually or electronically or electro-mechanically mark off numbers and or

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symbols an or pictures on cards as the numbers an or symbols and or pictures are drawn randomly by a caller or an electronic or electro-mechanical device, the winner being the first person to mark off all their numbers and or symbols and or pictures on the cards;

(d) by the insertion of the definition “**back betting**”:

““**back betting**” betting on an outcome to happen;”;

(e) by the substitution for the definition of “**bookmaker**” of the following definition:

““bookmaker” means [any person, who earns or endeavours to earn his or her livelihood wholly or partly by directly or indirectly laying or taking fixed odds or open bets on sporting events with members of the public or other bookmakers;] Any person licensed to take fixed odds or open bets and payout winnings on the outcome of lawful sporting events or any other lawful contingency with members of the public or another bookmaker or holder of a totalizator license;”;

(f) by the insertion of the definition “**device**” after the definition of “**department**”:

“**device**” means a thing made or adapted for a particular purpose in either mechanical or electronic form or both;”;

(g) by the substitution for the definition of “**event**” of the following definition:

““event” or “contingency” [means any occurrence of which the outcome is uncertain or unknown to any person;] occurrence on which bets may be laid or backed of which the outcome is uncertain and unknown to any person;”;

(h) by the substitution for the definition of “**fixed odd bet**” of the following definition:

““fixed odd bet” means [a bet laid by a bookmaker on one or more events or contingencies where fixed odds bets are agreed upon when such bet is laid;] A pre-determined odd or payout in which there are no fluctuation on the odds or payout agreed upon between the player and the bookmaker prior to the event or contingency upon which a bet is placed and accepted;”;

(i) by the substitution for the definition of “**gambling device**” of the following definition:

““gambling device” means [any equipment or thing used remotely or directly in connection with gambling or and including an electro-mechanical or electronic device, component or machine or gambling machine;] any equipment or thing used directly or indirectly

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or remotely in connection with the provision or making available of gambling and or gambling activity.”;

- (j) by the substitution for the definition of “**horse race**” of the following definition:

“**[horse] 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 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 race course licence, and any race or contest of a private nature at which no betting takes place;]** a competition between runners, competing with another or others to see who is the fastest at covering a set course or achieving and objective.”;

- (k) by the the insertion of the definition “**laid bet**”;

“**laid bet**” betting on an outcome not to happen.”;

- (l) by the substitution for the definition of “**licence**” of the following definition: “**“licence”** means-

- (a) a casino licence;
- (b) bingo licence;
- (c) **[an amusement machine licence;]**
- (d) a route operator licence;
- (e) a site operator licence;
- (f) independent site operator licence;
- (g) a totalizator licence;
- (h) a bookmaker licence;
- (i) a race course licence;
- (j) a race meeting licence;
- (k) a temporary licence;
- (l) a social gambling or betting license
- (m) a online betting license
- (n) a junket agent license;”;

- (m) by the substitution for the definition of “**limited payout machine**” of the following definition:

“**“limited payout machine”** means **[a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as shall be prescribed in terms of the regulations;]** a gambling machine or device with

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restricted stakes and prizes described in section 26 of the National Gambling Act, 2004;

- (n) by the insertion of the definitions of **“Odds”** and **“Online betting”** after the definitions of **“manufacturer”, “supplier” or “maintenance provider”**:

“Odds” means a measure of likelihood of a particular outcome, calculated as the ratio of the number of events or contingency that produce that outcome to the number that do not;

“Online betting” means betting in which players or patrons lay or backs a bet by means of or through internet connection, telephone or any other kind of electronic communication or other technology for facilitating communication, in a licensed premises or any other platform as approved by the Board;

- (o) by the substitution for the definition of **“open bet”** of the following definition:

“open bet” means [a bet laid by a licensed bookmaker on one or more events or contingencies where no fixed odds bets are agreed upon when such bet is laid;] a bet in respect of which the payout is determined after the outcome of the event or contingency on which such a bet is struck became known, with reference to dividends generated by a totalizer;

- (p) by the deletion of the definition **“ordinance”**;

- (q) by the insertion of the definition of **“person”**:

“person” means any juristic person including partnerships, associations and trusts established by or in terms of any law;

- (r) by the insertion of the definition of **“public interest”**:

“public interest” means anything in which the public has an interest that justifies governmental regulation, recognition and or protection;

- (s) by the substitution for the definition of **“premises”** of the following definition: **“premises”** means [any site, place or location, regardless of whether it is or forms part of any temporary or permanent structure, building, vessel, vehicle or aircraft;] Any licensed or unlicensed operations in which gambling and or betting activities is or is reasonably suspected to be offered or made available to the members of the public;

- (t) by the insertion after the definition of **“prohibited conduct”** of the following definition:

“prohibited conduct” means an act or omission in contravention of the Consumer Protection Act, 2008 (Act No. 68 of 2008) or National Credit Act, 2005 (Act No. 34 of 2005), as amended;

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(u) by the insertion of the definition of “**public interest**”;

“**public interest**” means anything in which the public has an interest that justifies governmental regulation, recognition and or protection.;”; (v) by the insertion of the definition of “**remote gambling**”;

“**remote gambling**” gambling in which players or patrons participate in gambling in a licensed premises through the means of internet connection, the gambling of which takes place on a gambling equipment situated or located in a licensed premises;”;

(w) by the insertion of the definition of “**social betting**”;

“**social betting**” means the playing of any betting activity on a lawful sporting event or contingency on a peer-to-peer basis.;”;

(x) by the insertion after the definition of “**unfair business practice**” of the following definition:

“**unfair business practice**” means any business practice which, directly or indirectly, has or is likely to have the effect of –

(a) harming the relations between businesses and consumers;

(b) unreasonably prejudicing a consumer; or (c) deceiving a consumer.”.

(y) by the insertion after the definition of “**totalizator bet**” of the following definition:

“**totalizator bet**” means a bet placed with a licensed totalizator in a system of betting in which the aggregate amount staked on such event or combination of events, after deduction from such aggregate amount of any amounts which may in terms of legislation be deducted there from, is divided amongst those persons who have made winning bets on any event or combination of events in proportion to the amounts staked by such persons in respect of such winning.”. and

(z) by the insertion after the definition of “**totalizator license holder**” of the following definition:

“**totalizator license holder**” means any person licensed to take bets on the outcome of lawful sporting events or any other lawful contingency with members of the public or licensed bookmakers in which amount staked on such events or combination of events, after deduction from such aggregate amounts any amounts which may in terms of legislation be deducted there from, is divided amongst those persons who have made winning bets on any event or

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combination of events in proportion to the amounts staked by such persons in respect of such winning."

Amendment of section 2 Act 2 of 2001

2. Section 2 of the principal Act is hereby amended by the substitution for subsection (1) and (2) of the following subsection:

"(1) Save for the provisions of the **[National Gambling Act, 1996 (Act 33 of 1996),]** National Gambling Act, 2004 (Act 7 of 2004), including subsequent amendments thereto, or as may otherwise be provided in this Act, nothing contained in any law relating to gambling or betting shall apply in respect of any gambling or betting conducted in the Province.

[(2) No provision of this Act shall be construed as limiting the application of the Abolition of Dog Race Meetings and the Prohibition of Betting on Dog Race Ordinance, 1949 (TVL Ordinance 4 of 1949) and Prohibition of Dog Races Ordinance, 1986 (Cape Ordinance 11 of 1986).]."

Amendment of section 4 of Act No. 2 of 2001

3. Section 4 of the principal Act is hereby amended by the insertion of subparagraph (xxxiv) after subparagraph (3)(c)(xxxv) of the following subparagraph:

"(xxxiv) defend legal proceedings instituted against the Board and institute legal proceedings connected with its functions, including such proceedings in an appropriate court of law or prohibit the commission by any person of a particular kind of gambling or betting offence, and assist and or collaborate with any law enforcement agency in connection with such proceedings against or by it."

Substitution of section 5 of Act No. 2 of 2001

4. Section 5 of the principal Act is hereby amended by the substitution for the following section:

"(1)[The Board shall consist of nine members appointed by the Responsible member, of whom-

(a) one member shall be qualified to be admitted to practice as a legal practitioner and after having so qualified, practised as a legal practitioner or performed services related to the application or administration of the law;

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- (b)** one member shall be an accountant or auditor registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991), with experience in public practice as defined in section 1 of that Act;
- (c)** one member shall be appointed by virtue of his or her knowledge and experience in the field of welfare or socio-economic development;
- (d)** one member shall be appointed by virtue of his or her knowledge and active involvement in the tourism industry;
- (e)** one member shall be designated by the Member of the Executive Council **responsible for Economic Development and**

one member shall be designated by the Member of the Executive

- (f)** **responsible for Safety and**

- (g)** **one member shall be designated by the Member of the Executive Council**

responsible for Finance and Provincial Treasury;

- (h)** two members shall be appointed on the basis of having either proven business acumen, a knowledge of the gambling industry, or who are otherwise suitable for appointment as members of the Board.

(1) In addition the Chief Executive Officer of the Board shall *ex officio* be a member of the Board but shall not be entitled to vote.

(2) A member of the Board other than a member referred to in paragraphs (e), (f) or (g) of subsection (1) shall not be appointed until the Responsible Member has invited interested parties by notice in the *Provincial Gazette* and an advertisement in the media to nominate within 21 days of the publication of such notice candidates for consideration.

The names of the nominees shall be published in the said *Provincial Gazette* and media.]

The Board shall consist of seven (7) members appointed by the Executive Council in accordance with the prescribed procedure, which shall provide for public participation in the nomination of candidates for appointment; Provided that the Standing Committee of the Provincial Legislature responsible for the administration of this Act shall evaluate all candidates as to their suitability for appointment.

- (3) The members of the Board shall be eligible persons who have appropriate knowledge and experience; provided that appointment to the Board shall be made with gender sensitivity.

- (4) The Responsible Member shall designate one of the members as the chairperson and another as vice-chairperson of the Board.

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- (5) The vice-chairperson shall act as the chairperson of the Board when the chairperson is absent or unable to act as chairperson, and when both the chairperson and vicechairperson are absent or unable to act as chairperson, the members present shall elect one of the members to preside at such meeting.
- (6) Before being appointed a member of the Board, the candidate shall 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 from such appointment.
- (7) The Executive Council or the Responsible Member shall at any time be entitled to call for proof to his or her satisfaction of the continued eligibility of any member, or to undertake or cause to be undertaken any investigation or enquiry in that regard."

Insertion of section 8A of Act No. 2 of 2001

5. Section 6 of the principal Act is hereby amended by the insertion for section 8A

"8A Termination of term of office of board and taking over administration of board

"(1) The responsible Member may, at any time –

- (a) if he or she considers it to be in the public interest;
 - (b) if he or she considers it to be in the interest of the proper administration of this Act; (c) the board has failed to perform its functions, exercise its powers or comply with its strategic objectives;
 - (d) there is mismanagement of its finances; or
 - (e) there is for any other reason, good cause to do so simultaneously terminate the terms of office of all members of the board and may, after consultation with the Executive Council of the Province, by notice in the *Provincial Gazette*, appoint an interim Board consisting of three members and the members appointed in terms of section 5 (e) – (g) to perform the functions and exercise the powers of the board on its behalf until such time as a new board is appointed in terms of section 5.
- (2) The responsible Member may appoint the members of the interim Board at his or her discretion after consultation with the Executive Council of the Province.
- (3) The interim Board appointed by the responsible Member in terms of subsection (1) remains in office until such time as the responsible Member appoints new members to the board in terms of section 5: Provided that the term of office of the interim Board may not exceed a period of six calendar months from the date of appointment.

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(4) The responsible Member may –

- (a) withdraw or amend any provision of the notice contemplated in subsection (1) on such conditions as he or she considers appropriate; and
- (b) withdraw the appointment of a member of the interim Board and appoint another person in his or her place.

(5) The responsible Member may recover from the funds of the Board the costs of appointing the interim Board to take over the administration of the Board.”.

Amendment of section 9(1) of Act No. 2 of 2001

6. Section 9(1) of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) There shall be a vacancy in the Board if a member-

- (a) dies;
- (b) becomes subject to a disqualification referred to in section 14;
- (c) has tendered a resignation as contemplated in section 7(3); or
- (d) has been removed from office in terms of section 8 or
- (e) on expiry of the term of office of the Board or
- (f) Dissolution of the Board by the Responsible Member.”.

Amendment of section 21 of Act No. 2 of 2001

7. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(2) Annual Board administrative fees and investigation fees charged in respect of applications for licences and registration and fines for offences issued in terms of this Act and the Regulations promulgated thereunder.”.

Amendment of section 24 of Act No. 2 of 2001

8. Section 24 of the principal Act is hereby amended –

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

“(1) The licences under this Act shall be-

- (a) Casino licences;

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- (b) Bingo licences;
- (c) Amusement machine licences;
- (d) Route operator licences;
- (e) Site operator licences;
- (f) Independent site operator licences;
- (g) Totalizator licences;
- (h) Bookmaker licences;
- (i) Race Course licences; (j) Race meeting licences; (k) Temporary licences.



(l) [Social gambling or betting license]

(m) [Online betting license]

(n) [Junket agent license];”;

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

“(2) Except for an application for a bookmaker, totalizator, site operator, social gambling or betting or junket agent license, no person shall make an application for a licence, and no such application shall be entertained, unless the application is lodged pursuant to and in accordance with a notice inviting applications which has been published by the Board in the *Provincial Gazette*, and which notice may state:

(a) the type and number of licences to be issued and any conditions that may apply;

(b) the area to which the licence will relate;

(c) any requirements that may be necessary or desirable; and

(d) the evaluation criteria to be applied.”; and (c) by the insertion of paragraph (g) subsection (2):

“(g) Any person submitting an application for a bookmaker, totalizator, site operator, social gambling or betting or junket agent license, shall submit all the information as required in terms of the Regulations.”;

Amendment of section 27A of Act No. 2 of 2001

9. Section 27A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person who, directly or indirectly procures or acquires by operation of the law a controlling interest or a financial interest of five percent or more, or any lesser percentage

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as may be prescribed, in the business to which a license or a registration in terms of section 60 relates shall, within the prescribed period and in the manner prescribed or determined by the Board, apply for the consent of the Board to hold such interest.”.

Amendment of section 32 of Act No. 2 of 2001

10. Section 32 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) **The Board may determine that-**

[(a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees or to the business plans of an applicant, shall not be open to public inspection, provided such information can be separated from the remainder of the application and is marked confidential,] The following information provided is marked confidential and separated from the remainder of the application by the applicant, shall not be open for public inspection:

- (i) financial capacity of a person;**
- (ii) financial projections of the business;**
- (iii) any information detailing the financing arrangements of the applicant;**
- (iv) names of the prospective employees;**
- (v) business plans of an applicant.**

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

Amendment of section 33 of Act No. 2 of 2001

11. Section 33 of the principal Act is hereby amended:

- (a) by the deletion of paragraph (b) of subsection (1);.
- (b) by the substitution for subsection (2) of the following subsection:

“(2) [The local authority or other competent authority shall, on receipt of a notice of the application, forthwith cause the premises to be inspected with regard to the matters contemplated in subsection (1)(b).] Any person lodging an application for a license shall submit all documentation as prescribed in the Regulations.;”; and

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(c) by the deletion of subsections (3) and (4).

Amendment of section 34 of Act No. 2 of 2001

12. Section 34 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(Investigations [and police report]

(1) In order to determine whether or not a licence should be granted, be renewed or reviewed for [to] an applicant, the Board may, subject to any other law, gather such information as it deems necessary from any source or person regarding the suitability of the applicant to hold such a licence under this Act.

[(2) The Board shall, as soon as possible after receipt of an application for a licence, request the South African Police Service for a report from a police officer of or above the rank of inspector covering-

(a) particulars of any convictions recorded against any director in a case of a company, any member in the case of a close corporation or any other person in the case of a site operator licence or any person who will be involved in the business and in respect of whom the Board deems it necessary to obtain a police report, and

(b) such matters as may be prescribed.

(3) For the purposes of a report contemplated in subsection (2) the specified member of the South African Police Services may require the applicant or person concerned to furnish such information and particulars including any finger-print or palm-print as that member may consider necessary.

(4) A report contemplated in this section shall be furnished to the Board within 2 (two) months of the date of the request therefor.].”.

Amendment of section 35 of Act No. 2 of 2001

13. Section 35 of the principal Act is hereby amended:

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

“(1) The Board shall, within a prescribed period only hold a hearing in respect of [every] applications for a licence [received by the Board], where objections and or representaions were received by the Board on such a date and at such time and place as shall be determined by the Board,.;”; and

(b) by the substitution for subsection (3) of the following subsection:

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(3). At such hearing-

- (a) the applicant shall be afforded an opportunity to be heard;
- (b) any person or local authority permitted to make oral representations as contemplated in section 31(2) shall be afforded an opportunity to be heard,
- (c) the applicant shall be afforded an opportunity to respond to representations made.
- (d) the applicant and each such person and authority may be assisted or represented by any person of their choice.”.

Amendment of section 36 of Act No. 2 of 2001

14. Section 35 of the principal Act is hereby amended: by the deletion of paragraph (b) of subsection

(2).

Amendment of section 38 of Act No. 2 of 2001

15. Section 38 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Board shall, subject to the provisions of section 26, and after having duly considered the application for a ~~licence~~, renewal of a license or reviewal of the license, any representations made in relation to the application, the applicant's written response thereto, if any, further information furnished in terms of section 31(1), and the inspection conducted **[and police reports contemplated in sections 33 and 34 respectively, and [any other evidence tendered to the Board in terms of section 37 and after consultation with the Responsible Member]-**

- (a) grant the application;
- (b) refuse the application; or
- (c) postpone consideration of the application, subject to any terms and conditions it may deem fit.”.

Amendment of section 40 of Act No. 2 of 2001

16. Section 40 of the principal Act is hereby amended by the substitution for subsections (1), (2) and (2A) of the following subsections:

“40. New licence application, annual licence review and investigation fees

(1) The new licence application fees as prescribed by the Board shall be paid by every applicant for a licence on submission of a new licence application.

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(1A) The annual license review fees shall as prescribed be paid by every license holder for the review of its operations for the determination of continued suitability.

(2) The annual licence review and investigation fees as prescribed by the Board shall be paid by a licence holder annually before **[renewal thereof]** anniversary of the license under review.

(2A) if the license holder fails to meet any compliance requirement including compliance with the conditions of license, the Board may consider taking any administrative disciplinary action it deems necessary which may include an imposition of a fine, suspension or revocation of the license."

Amendment of section 41 of Act No. 2 of 2001

17. Section 41 of the principal Act is hereby amended by the substitution for subsections (1), and (2) of the following subsections:

"41. Duration and [renewal] review of licences

(1) A licence other than a temporary licence shall, subject to the provisions of this Act and the conditions under which it was granted, be issued **[for a period of twelve months]** 5 years and shall, subject to compliance with the provisions of this Act, be **[renewed]**

reviewed annually by the Board **[on production of the licence for the preceding year and]** on payment of the annual licence review fees determined by the Board. **I[f a licence holder fails to renew [pay the annual license review fee]** his or her

(2) licence by the due date, **[the licence shall subject to section 88,]** the license shall lapse and the licence holder-

(a) shall cease the activities authorised by the licence, and

(b) may apply to the Board for a new licence in accordance with section 28..".

Amendment of section 42 of Act No. 2 of 2001

18. Section 42 of the principal Act is hereby amended –

(a) by the deletion of paragraph (i) of subsection (1).

(b) by the substitution for subsection (5) of the following subsection:

"(5) Any condition imposed under subsection (1), or suspended, withdrawn or amended under subsection (2) **[in respect of a casino licence, site operator licence,**

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independent site operator or route operator licence may] shall not be effected retrospectively.”; and (c) by the insertion subsection (8):

“(8) the conditions of license attached to any licence shall be reviewed annually during the license review proces.”,

Amendment of section 43 of Act No. 2 of 2001

19. Section 43 of the principal Act is hereby amended –

(a) by the deletion of subsection (2), and

(b) by the substitution for subsection (6) of the following subsection:

“(6) If the licence is not issued before the expiration of the period determined under subsection (1), or extended under subsection (3)(a), or further extended under subsection (3)(b), as the case may be, the temporary licence shall lapse, the application for the licence shall be deemed not to have been granted **[and the guarantee referred to in subsection (2) shall be forfeited]** .”.

Amendment of section 44 of Act No. 2 of 2001

20. Section 44 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 45 of Act No. 2 of 2001

21. Section 45 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 46 of Act No. 2 of 2001

22. Section 46 of the principal Act is hereby amended –

(a) by the deletion of subsection (1), and

(b) by the insertion of paragraph (g) of subsection (2).

“(g) failed to meet general compliance requirements including the imposed license conditions .”.

Deletion of section 47 of Act No. 2 of 2001

23. Section 47 of the principal Act is hereby deleted.

Amendment of headnote to Chapter VI of Act No. 2 of 2001

24. The headnote to Chapter VI of the principal Act is hereby amended by the substitution of the following Headnote:

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“(CHAPTER VI
[CASINO AND AMUSEMENT MACHINE LICENCES] GAMBLING AND BETTING LICENSE
(secs 49-51).”.

Amendment of section 49 of Act No. 2 of 2001

25. Section 49 of the principal Act is hereby amended by the substitution for the following section:

“49. Additional consideration in disposing of application and review for [casino] gambling and betting licences

The Board shall, in addition to the considerations mentioned in chapter III, IV and V, when considering an application for or [,] transfer of [and review] casino [of any] licence, and when considering any conditions and requirements to which any such licence should advisably be made subject, take into consideration-

- (a) whether the casino [license enhances or] will enhance the neighbourhood and environment [through social investment programmes];
- (b) the extent to which the casino [license enhances or] will promote tourism at the place where the premises [is or] will be situated;
- (c) the extent to which the casino [license enhances or] will promote sustainable employment at such place;
- (d) the extent to which the applicant [provides or] will provide training and skills to its employees;
- (e) the extent to which the applicant [procures or] will procure labour, goods and services from such place and the Province in general for the construction and conducting of the casino [business relating to the license];
- (f) the extent to which the applicant [provides or] intends to provide for participation in the ownership or profits of the casino [license] by persons, previously disadvantaged by unfair discrimination;
- (g) any facility, advantage or contribution which the applicant [provides or] intends to provide or furnish for the benefit of, or for the utilisation or enjoyment by, any needy community at or near the place where the premises will be located, or any persons or groups or categories of persons contemplated in paragraph (f);
- (h) the extent to which the granting of the licence will promote attainment of objects of reconstruction and development projects and programmes referred to in section 3(a) of the Reconstruction and Development Programme Fund Act, 1994;
- (i) [general compliance to the requirements of this Act, the Regulations and Rules promulgated thereunder] and

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(j) any other factors which may affect the question whether it is desirable to grant such application or attach any such condition or requirement **[or allow the business to continue trading under the license.]**”.

Amendment of section 50 of Act No. 2 of 2001

26. Section 50 of the principal Act is hereby amended by the substitution of the following bsection:

“50. Casino licence [and the use of word "casino"]

- (1) No one shall conduct a casino without a casino licence.
- (2) **[Any company that holds a casino licence shall include the word "casino" in all references to the company and its casino business and shall prominently display the word "casino" on the exterior of the licensed premises.**
- (3) **No corporate body shall trade or carry on a business as contemplated in this Act under a name or title in which the word "casino" forms part whilst such a corporate body is not a holder of a casino licence granted in terms of this Act.]**
- (4) The granting of a casino licence shall, subject to any condition imposed under section 42, authorise the conducting and carrying on of such gambling games as may be set out in such licence, on the licensed premises concerned.”.

Amendment of section 51 of Act No. 2 of 2001

27. Section 51 of the principal Act is hereby amended by the substitution for the following section:

“51 Amusement [machine licence] registration

- (1) No one shall conduct amusement games without **[an amusement machine licence] being registered with the Board.**
- (2) The Board shall grant authority for the installation of amusement games in the premises, which the Board deems suitable.”.

Amendment of section 52 of Act No. 2 of 2001

28. Section 52 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) No person shall, by any electronic or similar method of linking, link licensed premises to any other premises which is not licensed in terms of this Act so as to provide for the game

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of bingo to be played at such other premises without a bingo licence in respect of such premises.”.

Amendment of section 53 of Act No. 2 of 2001

29. Section 53 of the principal Act is hereby amended –

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

“(2) The route operator shall-

(a) be responsible to provide and place the limited payout machines at the site operator premises

(b) be responsible for maintaining limited payout machines, and

(c) be responsible for effecting the collection of monies and paying the provincial levies in respect of limited payout machines under its licence.”; (b) by the deletion of subsection (4).

Amendment of section 56 of Act No. 2 of 2001

30. Section 56 of the principal Act is hereby amended by the deletion of subsection (4).

Amendment of section 57 of Act No. 2 of 2001

31. Section 57 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) A bookmaker licence shall authorise, subject to any conditions which the Board may impose, the conducting of the business of a bookmaker [business] in or on the premises by laying or backing fixed odds **[and open bets, but not totalizator type bets.]**; with members of the public.”.

Amendment of section 58 of Act No. 2 of 2001

32. Section 58 of the principal Act is hereby amended by the substitution for the following section:

“A race course licence-

(a) is required for the conducting of **[horse]** any racing on any authorised premises in the Province,

(b) shall attach to the premises specified in the licence, and

(c) shall authorise, the holding of race meetings on the premises specified in the licence, subject to any conditions which the Board may impose..”.

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Amendment of section 59 of Act No. 2 of 2001**33. Section 59 of the principal Act is hereby amended –**

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

“(1) A **[horse]** race meeting licence is required-(a) to hold, organise, arrange, attend or in any manner take part in or assist at a **[horse]** race, or(b) to print, publish, possess, sell or offer for sale or in any manner circulate or distribute a race card, unless the relevant **[horse]** race takes place in the manner approved by the Board **[after consultation with the Responsible Member];;**”;

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

“(2) The Board may, **[after consultation with the Responsible Member]**, issue to a racing club, a licence to hold so many race meetings per annum as specified in the licence on specified land which is in the lawful possession or occupation of the racing club.”.

(c) by the insertion of the following sections:

“59A Remote gambling

- (1) No person shall operate any type or form of remote gambling unless so authorised by the Board.
- (2) Only casino operations shall upon application be considered to provide remote gambling.
- (3) Any person who contravenes this section shall be guilty of an offence.

59B Social gambling or bettingNo person shall operate any form of social gambling or betting without a social gambling or betting license.”.**Amendment of section 60 of Act No. 2 of 2001 34.**

Section 60 of the principal Act is hereby amended –

(a) by the deletion of subsection (4).

(b) by the deletion of paragraph (a) of subsection (10).

(c) by the deletion of subsection (11).

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Amendment of section 61 of Act No. 2 of 2001

35. Section 61 of the principal Act is hereby amended by the deletion of subsection (4).

Amendment of section 62 of Act No. 2 of 2001

36. Section 62 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The holder of a licence or registration certificate shall within the specified period of receipt of such written notice present to the Board an application in the prescribed form for the licensing [registration] of such an employee;”.

Amendment of section 62A of Act No. 2 of 2001

37. Section 62A of the principal Act is hereby amended –

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

“(1) A person shall not make or place a bet at any place other than on appropriately licensed premises: Provided that [gambling] betting by means of the place of a voice or data telephone bet on a lawful sporting event where the holder of a license accepts and records the bet at the licensed premises shall be deemed to have occurred at the licensed premises.

(1A) A person shall not gamble at any place other than on appropriately licensed premises: Provided that gambling by means of remote communication on licensed gambling game where the holder of a license accepts and records the wager at the licensed premises shall be deemed to have occurred at the licensed premises.”.

(b) by the deletion of paragraphs (d) and (e) of subsection (2); and

(c) by the substitution for subsection (3) of the following subsection:

“(3) A license holder contemplated in this section shall not knowingly accept a bet [or a wager] from-

- (a) a person under the age of 18 years;
- (b) any person whose name is included in the list of excluded persons as contemplated by the Regulations, which has been delivered to such license holder in the manner prescribed; or
- (c) any person by way of voice or data telephone transmission if the placing of such bet by such person will constitute a crime by such person in the jurisdiction from which the bet is so placed.

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- (d) [any person who by way of remote gambling communication, if the placing of such a wager by such person will constitute a crime by such person in the jurisdiction from which the wager is so placed];” and (d) by the deletion of subsections (d) and (e).

Amendment of section 63 of Act No. 2 of 2001

38. Section 63 of the principal Act is hereby amended by the substitution for the following section:

“63. [Licensing] Registration of junket agents

- (1) Every person who is directly or indirectly involved in the planning, organisation or operation of a junket for or on behalf of the holder of a casino licence, is required to be **[registered]** licensed in terms of this section.
- (2) The **[certificate of registration]** license for a junket agent shall authorise, subject to any conditions, which the Board may impose, the holder thereof-
- (a) to enter into agreements with the holder of a casino licence to provide services to the casino, in **[or outside]** the Province, consisting of arranging complimentary transport, food, lodging or similar benefits for persons or group of persons visiting the casino, and,
- (b) to receive commission on, or share in, gambling profits or any other consideration raised by a junket in the Province as consideration for such services...”.

Amendment of section 64 of Act No. 2 of 2001

39. Section 64 of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 65 of Act No. 2 of 2001

40. Section 65 of the principal Act is hereby amended by the substitution of subsection (1) for the following section:

“65. Powers and functions of inspectors**[(1) An inspector shall for the purpose of this Act-**

- (a) enter upon any licensed or unlicensed premises which are occupied or

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being used for the purposes of any gambling activities or any other premises on which it is suspected-

- (i) **that a casino or any other gambling activity is being conducted without the authority of a licence;**
 - (ii) **that persons are being allowed to play or participate in any gambling game or other gambling activities or to play any gambling machine, or**
 - (iii) **that any gambling machine or any equipment, device, object, book, record, note, recording or other document used or capable of being used in connection with the conducting of gambling games or any other gambling activity may be found, and may, after having informed the person who is deemed or appears to be in charge of the premises of the purpose of his or her visit, make such investigation or enquiry as he or she may think necessary;**
- (b) with regard to any premises referred to in paragraph (a)-**
- (i) require the production of any licence or written permission or authorisation to conduct gambling activities from the person who is in control of such premises; question any person who is on or in such premises, and inspect any activities in connection with the conduct of any gambling activity;**
 - (iii) **examine or inspect any gambling machine, equipment, device, object,**
book record, note or other document referred to in paragraph (a) found on those premises and make a copy thereof or an extract therefrom;
 - (iv) **inspect and examine all premises referred to in paragraph (a) or any premises where gambling devices or equipment are manufactured, sold, distributed, or serviced, wherein any records of such activities are prepared or maintained;**
 - (v) **inspect all equipment and supplies, in, about, upon or around such premises;**
 - (vi) **seize summarily and remove from such premises and impound**

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any such

- (vii) equipment or supplies for the purposes of examination and inspection; examine, inspect and audit all books, records and documents pertaining to licensed gambling operations;
- (viii) seize, impound or assume physical control of any book, record, ledger, game device, cash box and its contents, conducting room or its equipment, or gambling operations, and
- (ix) inspect the person, and personal effects present in any gambling facility licensed under this Act, of any holder of a licence or registration issued pursuant to this Act while that person is present in the licensed gambling facility;
- (c) require any person who is deemed or appears to be in charge of any premises referred to in paragraph (a)-
 - (i) to point out any equipment, device or object referred to in that paragraph which is in his or her possession or custody or under his or her control;
 - (ii) to produce for the purpose of examination or of making copies or extracts, all books, records, note or other documents referred to in paragraph (a) which are in his or her possession or custody or under his or her control;
 - (iii) to provide any information in connection with anything which has been pointed out or produced in terms of subparagraph (i) or (ii), and
- (d) seize and remove any gambling machine, equipment, device, object, book, record, note or other document referred to in paragraph (a) which in his or her opinion may furnish proof of a contravention of any provision of this Act or mark it for the purposes of identification.

When performing any function in terms of subsection (1), an inspector may be accompanied by and avail himself or herself of the services of an assistant, interpreter or any police official.] (1) Any inspector appointed by the Board in terms of section 64 of the Act, and authorised through an administrative inspection warrant referred to sub-section 65(7) of the Act, may without giving prior notice, enter at all reasonable times any premises except a private residence, which is without a license or authority of the Board, concerned in or is on reasonable grounds suspected -

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(a) that a casino or any other gambling or betting activity is being conducted;

(b) that persons or members of the public are being allowed to play or participate in any gambling game or other gambling or betting activities or to play any gambling machine, or

(c) that gambling machines or any equipment, device used or capable of being used in connection with the conducting of gambling games or any other gambling or betting activity may be found, and may, after having informed the person who is deemed or appears to be in charge of the premises of the purpose of his or her visit, make such enquiry as he or she may think necessary;

(2) with regard to the premises referred to in subsection (1)-

(a) require the production of any licence or written permission or authorisation to conduct gambling or betting activities from the person who is in control of such premises;

(b) may obtain a statement from any person who is on or in such premises with regard to suspected gambling or betting activities;

(c) inspect any equipment in the premises including any documentation which is connected with the conduct of suspected gambling or betting activities

(d) examine and or make extracts from or make copies of any such documentation, including taking pictures of the equipment used in the suspected gambling or betting activities;

(e) An inspector may take with him on to such premises which are under inspection, an assistant or a member of the police service.

(f) on confirmation of the suspected gambling or betting activity, issue the person in charge of the premises with an administrative offence notice in respect of such gambling or betting activities being involved in or made available.

(g) The administrative offence notice referred to in sub-section 2(d) shall indicate the following information:

(i) the nature of the offence.

(ii) the possible available remedies for the offence.

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- (iii) The implications of the administrative offence notice, if the notice is not complied within the stipulated period.
- (h) The inspector shall not, while acting under the authority of an administrative inspection warrant issued in terms of this section, conduct such an inspection further than the area where on reasonable grounds that members of the public are suspected to be allowed to partake in gambling or betting activities or gambling or betting equipment and or gambling or betting devices are stored or made available for the public and shall not remove any equipment, devices or any other material without the authority of a search and seizure warrant issued in terms of section 21 of the Criminal Procedure Act, 1977 (Act No.51 of 1977), as amended save for the taking of pictures of equipment found in the premises.
- (i) Any person who obstructs the inspector or any person so authorised by the Board in carrying out his/her duties shall be guilty of an offence.]
- (3) An inspector shall in respect of any provision of this Act or any regulations promulgated thereunder be **[deemed to have been]** appointed a peace officer in accordance with section 334 of the Criminal Procedure Act 1977 (Act 51 of 1977), as amended for the purposes of section 40, 41, 44, 46, [47,] 48, [and] 49 [and 50,] of the said Act and any such powers as may on application to the Minister be declared and assigned by the Minister by notice in a Gazette in terms of the said Act and section 82 and 82B of this Act.
- (4) The inspectorate is authorised to with or without notice make administrative inspections to check for compliance with the provisions of this Act or the National Gambling Act, 2004 as amended by any **[applicant, licensee, registrant, subsidiary company or holding company with the provisions and regulations of this Act]** licensed person.
- (5) The inspector shall for purposes of licensed gambling operations-
- (a) conduct continuing reviews and inspections of gambling and or betting operations through on-site observations and other reasonable means to ensure compliance with the regulations and provisions of this Act;

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- (b) conduct audits of licensed gambling and or betting operations **[or any premises referred to in sections 65(1)(a) and 65(1)(b)(iv)]** at such times, under such circumstances, and to such extent as the Board shall determine, including reviews of accounting, administrative and financial records, management control systems, procedures and all records;
 - (c) notwithstanding any provision to the contrary contained in any other law, be entitled to request and receive information, materials and any other data from any **[licensee or registrant, or applicant for a licence or registration certificate under this Act;]** licensed person
 - (d) investigate violations of regulations and provisions of this Act;
 - (e) receive and take appropriate action on any referral from the Board relating to any evidence of a violation of the regulations and provisions of this Act, and
 - (f) exchange fingerprint data with and receive criminal record from any legitimate law enforcement agency for use in the execution of his or her duties.
- (6) To effectuate further the purpose of this Act, the inspector may, in accordance with constitutional requirements, obtain administrative inspection warrants for the inspection **[and seizure of any property possessed, controlled, pledged or otherwise held by any applicant, licensee, registrant, subsidiary company or holding company]** of any premises suspected to be engaging, conducting or making available gambling activities without the necessary license or authorization of the Board as required by this Act or the National Gambling Act, 2004 as amended.
- (7) Issuance and execution of warrant for administrative inspection shall be in accordance with the Criminal Procedure Act, 1977, (51 of 1977) as amended and without derogating from the generality of the foregoing, a warrant shall be issued in accordance with the following procedure-
- (a) by a magistrate or judge having jurisdiction in the area where the inspection **[or seizure]** is to be conducted, and
 - (b) upon an affidavit of a person duly designated and having knowledge of the facts alleged, sworn to before the magistrate, judge or any commissioner of oaths and establishing the grounds for issuing the administrative inspection warrant.

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(8) If the magistrate or judge is satisfied that grounds for the application exist, or that there are reasonable grounds for believing that they exist, such magistrate or judge shall issue an administrative inspection warrant.

(9) The administrative inspection warrant shall-

- (a) identify the **[area]**, premises, **[building, container or vehicle]** to be inspected;
- (b) specify the purpose of such an administrative inspection;
- (c) where appropriate, the type of property to be inspected, if any;
- (d) **[identify the item or types of property to be seized, if any;]**
- (e) state the grounds for the issuance and the name of the person or persons whose affidavit has been taken in support thereof;
- (f) be directed to the person authorised to execute it;
- (g) command the person to whom it is directed to inspect the **[area]**, premises, **[building, container or vehicle]** identified for the purpose specified, **[and where appropriate, shall direct the seizure of the property specified;]**
- (h) be executed by day, unless the person issuing the warrant in writing authorises the execution thereof by night, and
- (i) be issued on any day and shall be of force until it is executed or is cancelled by the person who issued it, or if that person is not available by the person with like authority.

(10) The person executing an administrative inspection warrant under this section shall, after such execution, upon demand of any person whose rights in respect of any search or property seized under the warrant have been affected, hand to such person a copy of the warrant.

(11) The return of the warrant shall be prompt and shall be accompanied by a written inventory of any property **[seized.]** observed or identified.

(12) The inventory shall be made in the presence of the person executing the warrant and of the person **[from whose possession or premises the property is**

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being seized,]in charge of the premises being inspected or in the presence of at least one credible person other than the person executing the warrant."

Amendment of section 66C of Act No. 2 of 2001

41. Section 66C of the principal Act is hereby amended by the substitution of subsection (1) for the following subsection:

- "(1) A holder of a licence [or certificate of suitability, as the case maybe] shall not-
- (a) possess more gambling machines, tables gambling devices or amusement machines than the Board has, on application approved to be in the possession of such person;
 - (b) supply or lease gambling machines, gambling devices or amusement machines to or repair or modify a gambling machine for any person within the Province who does not hold an appropriate licence or is not registered in terms of section 60, provided that the provisions of this subsection shall not apply to gambling machines, gambling devices or amusement machines being exported to a place outside the Province or which shall be removed from the Province immediately after such repairs or modification;
 - (c) supply a gambling device other than a gambling machine or playing cards or dice to or repair or modify such gambling device for any person other than a licence holder, a person registered in terms of section 61(1) or a person authorised by the Board to conduct social gambling;
 - (d) allow or permit any person to use any gambling machine, gambling device or amusement machine in his or her possession while such gambling device or amusement machine is not on appropriately licensed premises.;"

Amendment of section 67 of Act No. 2 of 2001

42. Section 67 of the principal Act is hereby amended by the substitution of subsection (1) for the following subsection:

- "(1) No person shall-
- (a) knowingly allow anyone to conduct or carry on cheating or to operate any cheating device or provide any person with information or with a device to cheat in any gambling game or betting;

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- (b) knowingly conduct, allow or expose for play any gambling game played with cards which have, or with any gambling or betting device which has, been marked, tampered with, placed in a condition or operated in a manner that tends to deceive the licensee, the players or public, or to alter the normal random chance of the gambling game or betting, or to determine or alter the result of the gambling game or betting, and
- (c) knowingly make use of any counterfeit chip or token or contravene the rules of any gambling game or interfere in any way with any gambling device or any gambling device used for gambling with the intention of obtaining any direct or indirect pecuniary advantage, whether for himself or any other person.”.

Amendment of section 68 of Act No. 2 of 2001

43. Section 68 of the principal Act is hereby amended by the substitution of subsection (1) for the following subsection:

“(1) The Board shall approve and register any electronic, computer or communications system or device which is designed so that it may be used or adapted to send or receive data to or from gambling machines or betting devices in relation to security, accounting or the functioning of gambling machines or betting devices, as a monitoring system for the purposes of this section..”.

Amendment of section 70 of Act No. 2 of 2001

44. Section 70 of the principal Act is hereby amended by the substitution of subsection (1) for the following subsection:

“70. Place of gambling [or betting] and gambling [or betting] debts settlement

- (1) No person shall gamble or make a bet at any place other than on licensed premises.
- (2) A gambling or betting debt may only be settled at.”.

Amendment of section 72 of Act No. 2 of 2001

45. Section 72 of the principal Act is hereby amended by the substitution for the following section:

“72 Restrictions on gambling through agent and unlawful inducement to [gamble] bet

- (1) No person shall-

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- (a) act as agent for the holder of a licence for the purpose of gambling [betting] on a sporting event, whether or not for gain, or
 - (b) whether or not for gain, act as an intermediary between any holder of a licence and any other person for the purpose of **[gambling]** betting on a sporting event.
- (2) No person shall, directly, give or undertake to give to any other person money or any other valuable consideration, other than the amount of a wager won by such other person, to induce that person to gamble on a gambling game or bet on a sporting event.
- (3) The provisions of subsection (1) shall not apply to a junket agent **[registered]** licensed in terms of section 63 in respect of a particular casino.”.

Amendment of section 73 of Act No. 2 of 2001

46. Section 73 of the principal Act is hereby amended by the substitution of subsection (1) for the following subsection:

- “(1) Subject to the provisions contained in any Act of Parliament and the provisions of this Act or any law, a person may only gamble or bet on the result of-
- (a) a gambling game;
 - (b) a bingo game;
 - (c) the operation of a gambling machine;
 - (d) a [~~delete~~] horse race, or
 - (e) lawful sporting events..”.

Amendment of section 75 of Act No. 2 of 2001

47. Section 75 of the principal Act is hereby amended by the substitution for the following section: “Any gambling or betting debt lawfully incurred by a person in the course of gambling or betting activity which is not in conflict with the relevant law shall, notwithstanding the provisions of Common law or any other law, be enforceable in law.”.

Amendment of section 77 of Act No. 2 of 2001 48.

Section 77 of the principal Act is hereby amended –

- (a) by the insertion of subsection (1A).

“(1A) No person who is in any way concerned with the management, supervision, control or administration of a betting business or any betting activity or contingency played at the any betting business shall directly or indirectly participate in such betting

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activity or in betting at that betting business or at any other betting activity 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 betting activity so as to enable other persons to participate in the betting activity.

(b) by the substitution for subsection (3) of the following subsection: and

“(3) No licence holder or employee of a licence holder shall permit any person who is-

- (a) under the age of 18 years, or
- (b) subject to an order in terms of subsection (4) and which has been served on such licence holder in terms of subsection (5), or
- (c) is on a self-exclusion programme and had not undergone a rehabilitation programme.

to enter or remain in any area where gambling or betting takes place or take part in any gambling or betting or to handle or operate a gambling machine or betting activity.

(c) by the deletion of subsection (5).

Amendment of section 78 of Act No. 2 of 2001

49. Section 78 of the principal Act is hereby amended by the substitution for the following section:

“78 Suitability of third parties

(1) No license holder shall contract **[The Board may prohibit a licensee from contracting]** with any supplier for the purchase of goods or services in terms of this Act, **[including the rental of premises, or with any lender,]** until such supplier **[or lender]** has obtained a certificate of suitability from the Board and paid the prescribed fee **[expenses of]** to the Board relative thereto, unless as determined and or directed by the Board.

(2) The Board may at any time, after affording a supplier **[or lender]** an opportunity of being heard, revoke the certificate of suitability granted in terms of subsection (1), if in the opinion of the Board, supplier **[or lender]** is deemed to be no longer suitable.

(3) **[The provisions of sections 29 to 38 shall, where applicable, *mutatis mutandis* apply to an application contemplated in subsection (1) or a revocation in terms of subsection (2)].”.**

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Amendment of section 79 of Act No. 2 of 2001

50. Section 79 of the principal Act is hereby amended by the substitution of subsection (1) for the following subsection:

“(1) Whenever any person is convicted **[of] for** an offence under this Act, the court convicting him or her shall, in addition to any punishment which the court may impose in respect of the offence, declare-

(a) all monies, documents, books and records, gambling machines, devices or apparatus-

(i) **[by means of which the offence was committed;**

(ii) **which was used in the commission of an offence, or**

(iii) **which was found in the possession of the convicted person;]**

(b) any vehicle, vessel, aircraft, container or other object which was used- (i) for the purpose of or in connection with the commission of the offence;

(ii) for the storage, conveyance, removal, concealment of any money, documents, books and records, gambling machines, devices or apparatus by means of which the offence was committed or which was used in the commission of the offence,

[and which was seized under section 65(2)(d) or is in the possession or custody or under the control of the convicted person,] to be forfeited to the Board.

Amendment of section 82 of Act No. 2 of 2001

51. Section 82 of the principal Act is hereby amended –

(a) by the deletion of paragraphs (ix) and (x) of subsection (1).

(b) by the substitution for paragraphs (xii) subsection (1) of the following paragraphs: “(xii) is in possession of-

(a) a reel tape designed for use is a gambling machine;

(b) any device which would be a gambling machine but for the removal of any of its parts or the reprogramming thereof;

(c) any device which is capable of electronically representing the reels used in a gambling machine;

(d) any device which was manufactured as a gambling machine and which has been converted at any time so that it is unable to pay out cash or tokens, whether such device enables a player to win a prize or not;

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- (e) any computer software which enables a player to download any credits won on a gambling game to another computer or to an external data storage device; or (f) any computer hardware which is primarily designed or constructed for use to play a gambling game on a computer, without an appropriate license or without being registered in terms of section 60(1);
- (g) any computer software or hardware which is primarily designed or constructed for use in a betting transaction, without an appropriate license or without being registered in terms of section 60(1);; and
- (c) by the substitution for paragraphs (xxi) subsection (1) of the following paragraphs: “(xxi) expose for play by members of the public or any section thereof an amusement machine which is not **[licensed]** registered;
- (d) by the substitution for paragraphs (xxiii) subsection (1) of the following paragraphs:
 - “(xxiii) without an appropriate license, utilises one or more gambling machines to distribute prizes **[(other than an opportunity to play a single further game),]** to persons who have paid a subscription to play such machines;
- (e) by the substitution for paragraphs (xxiv) subsection (1) of the following paragraphs:
 - “(xxiv) possesses or exposes for play by members of the public or any section thereof, **[an amusement machine]** a gambling or betting device capable of playing games such as roulette, bingo, twenty-one, blackjack, chermin de fer, baccarat, poker, Chinese roulette, keno and other games of similar type usually played on gambling machines or betting activity or derived from such games; and
 - (f) by the substitution for paragraphs (xxviii) and (xxiv) of subsection (1):
 - “(xxviii) exposes betting hardware or software for play by members of the public without being the holder of an appropriate license;
 - (xxiv) Exposes betting activities to the members of the public by way of internet or intranet transmission or any other method, contrary to the provisions of this Act.”
- (g) by the insertion of section (82B).

“82B Administrative Offence Notices and Payment of Fines thereto

(1) If a person is alleged to have committed an offence for unlicensed gambling and or betting in terms of this Act, the inspector of the Board or any authorised officer of the Board or any person so authorised by the Board, shall, serve or cause to be served on

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that person an administrative offence notice, contemplated in section 65(2)(d) of the Act which must—

- (a) specify the name, residential and postal address of the offender, if known, at the time when the offence was committed;
- (b) state the prescribed particulars of the offence;
- (c) specify the action required from the offender which shall be —
 - (I) to cease operations within seven days of the offence notice service and or
 - (II) pay a prescribed fine in respect of the offence within 30 days after the date of service.
- (d) State the place where the fine may be paid;
- (e) inform the offender that the failure to comply with the offence notice fine shall lead to criminal proceedings being instituted against the offender. (f) inform the offender that, not later than 30 days after the date of service of the offence notice, the offender may—
 - (i) make representations to the Board in respect of the fine and the offence/s alleged;
 - (ii) elect to be tried in court on a charge of having committed the alleged offence;

(2) If a person alleged to have contravened the provisions of section 82(1)(xi) to (xxvii) of the North West Gambling Act, 2001 (Act No.2 of 2001) and served with the administrative offence notice and fails to comply with the notice within the prescribed payment period, and or opts to be tried in court on a charge alleged, the matter shall be referred to the South African Police Service for criminal investigation and be dealt with in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(3) Any owner or landlord of the premises who has been served with an administrative offence notice in respect of gambling being made available or offered on such premises and continue to permit any person to conduct or offer any gambling activity in any such premises, shall be guilty of an offence and liable to a fine as prescribed.

(4) The provisions of section 82A(1)(f) shall apply *mutatis mutandis* in respect of the owner referred to in sub-section 82A (3)."

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(g) by the insertion of section (82C).

"82C Representations

(1) An offender who has been served with an administrative offence notice alleging that he or she has committed or is committing an offence, may make representations with respect to that notice to the Board.

(2) Representations under subsection (1) shall be made by submitting a sworn statement or affirmation to the Board, indicating grounds and or reasons why the offender is of the view he/she should not be held liable for the fine payable in terms of the offence notice.

(3) The representations shall be made within seven days from the date of service of the notice or within such any other longer period as the Board on good grounds provided and or shown, may allow or condone.

(4) Any representations made shall be considered a reasonable cause for the authorized officer of the Board or any other person so authorised by the Board or any officer of the law to conduct any further inspections to verify the facts;

(5) The authorised officer of the Board or any other person so authorised by the Board shall on completion of the inspection —

(a) allow the representations if there are reasonable grounds indicating that the offender should not be held liable for the fine payable in terms of the offence notice; or

(a) reject the representations if there are no such reasonable grounds.

(6) If the representations are allowed, the authorised official of the Board or any other person so authorised by the Board shall:

(a) forthwith cancel the offence notice, and inform the offender of the decision.

(b) Cause any other appropriate action to be taken.

(7) If the representations are rejected, the authorised official of the Board or any other person so authorised by the Board shall advise the offender to —

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- (a) Cease operations as stipulated in the offence notice and or
- (b) Pay the fine as stipulated in the offence notice or
- (c) elect to be tried in court on a charge of having committed the alleged offence.

(8) The authorised official of the Board or any other person so authorised by the Board shall provide the offender with reasons for the rejection.

(9) If the offender does not comply with the offence notice and or elects to be tried in court, the authorised official of the Board or any person so authorised by the Board shall cause —

- (a) a criminal case to be lodged with the South African Police Service and provide an affidavit to the South African Police Service in that respect. (b) In conjunction with the investigating officer, cause section 54 notice of the Criminal Procedure Act, 1977 (Act No.51 of 1977) to be issued to the offender.
- (c) A warrant of arrest of the offender to be issued where the offender does not appear in court to answer to the charges in terms of the section 54 notice. The warrant shall be issued in accordance with section 43 of the Criminal Procedure Act, 1977 (Act No.51 of 1977) .”

(g) by the insertion of section (82D).

“82D Warrant

If an offender to whom an administrative offence notice referred to in this Act and a section 54 notice in terms of the Criminal Procedure Act, 51 of 1977, has been issued and the offender did not comply, the prosecutor or a commissioned officer of police, shall cause a warrant of arrest of the offender to be issued in accordance with section 43 of the Criminal Procedure Act, 1977 (Act No.51 of 1977) .”

(g) by the insertion of section (82E).

“82E Regulations in respect of fines payable

The Responsible Member, in consultation with the Board, may for the purpose of this Act through regulations prescribe administrative fines payable for the offence

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of provisions of section 82(1)(xi) to (xxvii) of the North West Gambling Act, 2001 (Act No.2 of 2001). ”.

(g) by the insertion of section 82F

“82F Service of documents

Any document required to be served on an offender in terms of this Act must be served personally or by registered mail, and it shall be regarded to have been served on the date the offender has signed for the receipt of the document.”. (g) by the insertion of section 82G

“82G Fines

(1) Any administrative fines prescribed in terms of the regulations for each offence shall, despite any other law, be imposed administratively in terms of this Act.

(2) The laws on prescription are not applicable to any administrative fines contemplated herein, and the fine may be collected at any time.”.

(g) by the insertion of section 82H

“82H Apportionment of fines paid

Any fine paid in terms of this Act shall be paid for the benefit of the Board.”.

(g) by the insertion of section 82I

“82I Further action

(1) Despite any other law, an offender who complies with the administrative offence notice including payment of the administrative fine in terms of this Act may not be subject to further prosecution on the same facts provided that operations are seized and or the equipment used in the commission of the offence is forfeited to the Board upon payment of the administrative fine.”.

(2) Despite any other law, an offender who complies with the offence notice by effecting payment of the fine in terms of this Act but continue to commit the offence upon which a fine was paid, shall be subject to prosecution on the same facts.”.

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Amendment of section 88 of Act No. 2 of 2001

52. Section 88 of the principal Act is hereby amended by the substitution of subsection (3) for the following subsection:

“(3) If the unpaid amount of gambling levy or fee remains outstanding [unpaid] for a period of **[forty-five]** seven days after the date when such gambling levy or fee became due or payable, the Board shall give the licence holder **[fourteen]** seven days written notice to effect payment of the said gambling levy or fee [including penalties referred to sub-section (1)(a)], and if such gambling levy or fee is not paid prior to the expiration of the said **[fourteen]** seven days, the Board may suspend or revoke the licence of the said licence holder.”.

Deletion of section 90 of Act No. 2 of 2001

53. Section 90 of the principal Act is hereby deleted.

Short title

54. This Act is called the North West Gambling Amendment Act, 2022.

**MEMORANDUM ON THE OBJECTS OF THE NORTH WEST GAMBLING
AMENDMENT BILL, 2022**

1. BACKGROUND

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The Bill seeks to amend the North West Gambling Act, 2001 (Act No. 2 of 2001). The challenges identified with the implementation of the the North West Gambling Act, 2001 (Act No. 2 of 2001), have necessitated the amendment of such Act to deal with such challenges.

The effect of the amendment to the North West Gambling Act, 2001 (Act No. 2 of 2001), will not affect the intent of such Act as provided in both the preamble and longtitle but will assist the North West Gambling Board to overcome the challenges identified in the implementation of such Act.

2. CLAUSE BY CLAUSE EXPLANATION

In summary, the Bill provides as follows –

Clause 1:

Clause 1 provides for amendments to existing definitions and the insertion of new and deletion of existing definitions.

Clause 2:

Clause 2 amends section 2 of the principal Act by amending subsection (1) and deleting subsection (2) of such section.

Clause 3:

Clause 3 amends section 4 of the principal Act by the insertion of subparagraph (xxxiv) after subparagraph (3)(c)(xxxv).

Clause 4:

Clause 4 amends section 5 of the principal Act by the amendment of subsections (1) to (4) thereof to amongst others, reduce the number of Board members.

Clause 5:

Clause 5 amends section 6 of the principal Act by the insertion of clause"8A to regulate termination of term of office of board and the taking over administration of the board.

Clause 6:

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Clause 6 amends section 9(1) of the principal Act by the insertion of paragraphs (e) and (f) of subsection (1) to regulate the expiry of the term of office of the Board and the dissolution of the Board by the Responsible Member.

Clause 7:

Clause 7 amends section 21 of the principal Act by the amendment of subsection (2) thereof to regulate the Annual Board administrative fees and investigation fees charged in respect of applications for licences and fines for offences issued in terms of the Act and regulations promulgated thereunder.

Clause 8:

Clause 8 amends section 24 of the principal Act by the amendment of the requirement in subsection (1), the amendment to subsection (2) thereof to regulate for an application for a bookmaker, totalizator, site operator, social gambling or betting or junket agent license, and by the insertion of paragraph (g) to subsection (2) to regulate submission of an application for a bookmaker, totalizator, site operator, social gambling or betting or junket agent license.

Clause 9:

Clause 9 amends section 27A of the principal Act by the insertion of subparagraph (xxxiv) after subparagraph (3)(c)(xxxv).

Clause 10:

Clause 10 amends section 32 of the principal Act by the amendment of subsection (3) to provide for the confidentiality of certain information of the applicant from public inspection.

Clause 11:

Clause 11 amends section 33 of the principal Act by the deletion of paragraph (b) of subsection (1) thereof, the amendment of subsection (2) to compel any person lodging an application for a license to submit all documentation as prescribed in the regulations, and by the deletion of subsections (3) and (4) thereof.

Clause 12:

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Clause 12 amends section 34 of the principal Act by the deletion of subsections (2) to (4) thereof.

Clause 13:

Clause 13 amends section 35 of the principal Act by the amendment of subsections (1) to (3) thereof.

Clause 14:

Clause 14 amends section 36 of the principal Act by the deletion of paragraph (b) of subsection (2) thereof.

Clause 15:

Clause 15 amends section 38 of the principal Act by the amendment of subsection (1) thereof to include the regulation of renewal of a license or reviewal of the license .

Clause 16:

Clause 16 amends section 40 of the principal Act by the insertion of subsection 1A to regulate the annual license review fees, by the amendment of subsection (2) thereof of to regulate the anniversary of the license under review and by the insertion of subsection 2A to regulate the instance where the license holder fails to meet any compliance requirement in the section.

Clause 17:

Clause 17 amends section 41 of the principal Act by the amendment of subsection (1) thereof to include the regulation of renewal of a license or reviewal of the license .

Clause 18:

Clause 18 amends section 42 of the principal Act by the deletion of paragraph (i) of subsection (1) thereof, by the amendment of subsection (5) thereof, and by the insertion of subsection (8) to include a proviso that any licence shall be reviewed annually during the license review process.

Clause 19:

Clause 19 amends section 43 of the principal Act by the deletion of subsection (2) thereof and by the amendment of subsection (6) thereof.

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Clause 20:

Clause 20 amends section 44 of the principal Act by the deletion of subsection (3) thereof.

Clause 21:

Clause 21 amends section 45 of the principal Act by the deletion of subsection (3) thereof.

Clause 22:

Clause 22 amends section 46 of the principal Act by the deletion of subsection (1) thereof, and by the insertion of paragraph (g) of subsection (2) to regulate the instance where the licensee failed to meet general compliance requirements including the imposed license conditions.

Clause 23:

Clause 23 provides for the deletion of section 47 of the principal Act.

Clause 24:

Clause 24 provides for the amendment of headnote to Chapter VI of the principal Act.

Clause 25:

Clause 25 provides for the amendment of section 49 of the principal Act.

Clause 26:

Clause 26 amends section 50 of the principal Act by the deletion of subsection (2) thereof.

Clause 27:

Clause 27 amends section 51 of the principal Act.

Clause 28:

Clause 28 amends section 52 of the principal Act by the amendment of subsection (2) thereof.

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Clause 29:

Clause 29 amends section 53 of the principal Act by the amendment of subsection (2) thereof and the deletion of subsection (4) thereof..

Clause 30:

Clause 30 amends section 56 of the principal Act by the amendment of subsection (4) thereof.

Clause 31:

Clause 31 amends section 57 of the principal Act by the amendment of subsection (3) thereof.

Clause 32:

Clause 32 amends section 58 of the principal Act.

Clause 33:

Clause 33 amends section 59 of the principal Act by the amendment of subsections (1) and (2) thereof, by the insertion of section 59A to regulate remote gambling, and the insertion of section to regulate 59B social gambling or betting.

Clause 34:

Clause 34 amends section 60 of the principal Act by the deletion of subsection (4), by the deletion of paragraph (a) of subsection (10), and by the deletion of subsection (11) thereof.

Clause 35:

Clause 35 amends section 61 of the principal Act by the deletion of subsection (4) thereof.

Clause 36:

Clause 36 amends section 62 of the principal Act by the amendment of subsection (4) thereof.

Clause 37:

Clause 37 amends section 62A of the principal Act by the amendment of subsection (1) thereof, the insertion of subsection (1A) to prohibit any person from gambling at any place other than on appropriately licensed premises, by the deletion of paragraphs (d) and (e)

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of subsection (2) thereof, by the amendment of subsection (3), and by the deletion of subsections (d) and (e) thereof.

Clause 38:

Clause 38 amends section 63 of the principal Act by the amendment of subsections (1) and (2) thereof.

Clause 39:

Clause 39 amends section 64 of the principal Act by the deletion of subsection (2) thereof.

Clause 40:

Clause 40 amends section 65 of the principal Act.

Clause 41:

Clause 41 amends section 66C of the principal Act by the amendment of subsection (1) thereof.

Clause 42:

Clause 42 amends section 67 of the principal Act by the amendment of subsection (1) thereof.

Clause 43:

Clause 43 amends section 68 of the principal Act by the amendment of subsection (1) thereof.

Clause 44:

Clause 44 amends section 70 of the principal Act by the amendment of subsection (1) thereof.

Clause 45:

Clause 45 amends section 72 of the principal Act by the amendment of subsections (1) and (2) thereof.

Clause 46:

Clause 46 amends section 73 of the principal Act by the amendment of subsection (1) thereof.

Clause 47:

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Clause 46 amends section 76 of the principal Act.

Clause 48:

Clause 48 amends section 77 of the principal Act by the insertion of subsection (1A), by the amendment of subsection (3), and by the deletion of subsection (5) thereof.

Clause 49:

Clause 49 amends section 78 of the principal Act by the amendment of subsections (1) and (2) thereof and the deletion of subsection (3).

Clause 50:

Clause 50 amends section 79 of the principal Act by the amendment of subsection (1) thereof.

Clause 51:

Clause 51 amends section 82 of the principal Act by the deletion of paragraphs (ix), (x), (xxiv), (xxi) (xxviii) and (xxiv) of subsection (1), by the insertion of section (82B) to regulate administrative Offence Notices and Payment of Fines, by the insertion of section (82C) to regulate Representations, by the insertion of section (82D) to deal with Warrants, by the insertion of section (82E) to include Regulations in respect of fines payable, by the insertion of section 82F to regulate Service of documents, by the insertion of section 82G to regulate fines, by the insertion of section 82H to regulate apportionment of fines paid and by the insertion of section 82I to regulate further action.

Clause 52:

Clause 52 amends section 88 of the principal Act by the amendment of subsection (3) thereof.

Clause 53:

Clause 53 deletes section 90 of the principal Act.

Clause 54:

Clause 54 provides for the Short title

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

Since this is an amendment to the North West Gambling Act, 2001 (Act No. 2 of 2001) to deal with the challenges identified with the implementation of the the North West Gambling Act, 2001 (Act No. 2 of 2001), no organisational and personnel implications are foreseen.

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4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

Since this is an amendment to the North West Gambling Act, 2001 (Act No. 2 of 2001) to deal with the challenges identified with the implementation of the the North West Gambling Act, 2001 (Act No. 2 of 2001), no financial implications are foreseen.

5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED

The Bill has been drafted in consultation with –

- 5.1 Key staff members in the Department;
- 5.2 the North West Gambling Board;
- 5.3 the North West Gambling Industry;
- 5.4 the Office of the Chief State Law Advisor.

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