



**FREE STATE PROVINCE**

# **PROVINCIAL GAZETTE**

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## **PROVINSIALE KOERANT**

**PROVINSIE VRYSTAAT**

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**OFFICE OF THE PREMIER**

**KANTOOR VAN DIE PREMIER**

**No. 7**

**31 May 1996**

**No. 7**

**31 Mei 1996**

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-

No. 6 of 1996: Free State Gambling and Racing Act, 1996

Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-

No. 6 van 1996: Vrystaatse Wet op Dobbelen en Wedrenne, 1996.

*Regulasies : Prov. Koerant No*

# ACT

To provide for control over gambling and racing; and for matters connected therewith.

**B**E IT ENACTED by the Provincial Legislature of the Free State Province, as follows :-

*(English text signed by the Premier.)*  
*(Assented to 27 May 1996)*

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**CHAPTER 1****Definitions****Definitions**

1.	In this Act, unless the context otherwise indicates -	45
	"Auditor-General" means the person appointed as Auditor-General in terms of section 191(2) of the Constitution;	50
	"bingo hall" means the licensed premises upon which the game of bingo is played under a bingo operator licence;	55
	"board" means the Free State Gambling and Racing Board established in terms of section 2;	60
	"casino" means the licensed premises upon which gaming is conducted under a casino licence;	

*amusement game machine*

*bingo*

- △ "casino game" means any game played with playing cards, dice, gaming machines, gaming devices or any other device used to bring about the result of a wager by determining win or loss for money, property, cheques, credit or anything of value (other than an opportunity to play a further game), including, without derogating from the generality of the foregoing, roulette, bingo, twenty-one, black-jack, chemin de fer and baccarat, but excluding any lottery; 5
- "chairperson" means the person appointed as chairperson in terms of section 4; 10
- "chief executive officer" means the chief executive officer appointed in terms of section 10(1)(a); 15
- "competent authority" means the responsible Member or the board, as the case may be, by whom any power or function in terms of this Act is to be exercised or performed; 20
- "Constitution" means the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993); 25
- "Executive Council" means the Executive Council of the Province; 30
- "gambling" means wagering a stake on any activity of which the outcome is uncertain for the sake of a return and is the generic term encompassing all forms of gaming and wagering; 35
- "gaming" means the playing of any casino game; 40
- △ "gaming device" means any equipment or mechanical, electro-mechanical or electronic device, component or machine or gaming machine, used directly or remotely in connection with a casino game; 45
- "gaming machine" means any electronic, electro-mechanical or mechanical device, contrivance or machine which, upon insertion of a coin, bank note, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine, or any other person, to receive cash or anything of value (other than an opportunity to play a further game); 50
- "inspector" means an inspector appointed in terms of section 68; 55
- "licence" means a licence referred to in section 23; 60
- "licensed premises" means that part or parts of any premises which have been licensed for the conducting of gambling authorised in terms of this Act; 65
- "local authority" means any "local government body" as defined in section 1 of the Local Government Transition Act, 1993 (Act No 209 of 1993), and any transitional council established under that Act which exercises local government functions to the exclusion of any such local government body; 60

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"lottery" means a lottery as defined in a national act relating to lotteries;

"opportunity to play a further game" means an opportunity which cannot be distributed or transferred to the person who has won such opportunity or to any other person, for any purpose other than to use such opportunity without any interruption to continue playing the type of game in respect of which the opportunity was won, and excludes an opportunity which can in any manner, whether directly or indirectly, be converted into money, property, cheques, credit or anything of value, or be so converted in terms of any scheme, arrangement, system, plan or device which the responsible Member may from time to time by notice in the *Provincial Gazette* declare not to be an opportunity to play a further game;

"political office-bearer" means a person as defined in section 190A of the Constitution and members of the Provincial Houses of Traditional Leaders, the Council of Traditional Leaders, the Volkstaat Council and local authorities, and an office-bearer of any political party;

"prescribed" means prescribed by regulation and "prescribe" has a corresponding meaning;

"prize" means any movable or immovable property whether corporeal or incorporeal;

"Province" means the Province of the Free State as referred to in section 124 of the Constitution;

"Provincial Legislature" means the Provincial Legislature of the Province as referred to in section 125 of the Constitution;

"race-meeting" means any gathering of persons attending an animal race, whether or not such race is run, if the date and place of such race have been made known by public advertisement or private invitation;

"regulation" means a regulation made under section 92;

"Republic" means the Republic of South Africa as referred to in section 1 of the Constitution;

"responsible Member" means the member of the Executive Council responsible for Economic Affairs and Tourism;

"rule" means a rule made under section 91;

"sporting event" means any legal event or contingency unless as otherwise prescribed;

"State" means the Republic;

"this Act" includes any rule or regulation;

"totalizator" means a system of betting on a sporting event in which the aggregate amount staked on such event or combination of events, after deduction from such aggregate amount of any amounts which may lawfully be deducted therefrom, whether under this Act or by agreement, is divided amongst those persons who have made winning bets on that event or combination of events in proportion to the amounts staked by such persons in respect of such winning bets, and includes any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles.

## CHAPTER 2

**The Free State Gambling and Racing Board****Establishment of the Free State Gambling and Racing Board**

2. There is hereby established a board to be known as the Free State Gambling and Racing Board which shall be a juristic person.

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**Powers and functions of the board**

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3. The board shall -

- (a) exercise such powers and perform such functions assigned to it in terms of this Act or any other law;

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- (b) advise the responsible Member or furnish a report or recommendations to the responsible Member on any matter referred to the board by the responsible Member for consideration and arising from the application of this Act or relating to the control over gambling and racing in the Province.

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**Composition of the board**

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4. (1) The members of the board shall be appointed by the responsible Member in consultation with the Executive Council, and shall, subject to subsection (3), consist of -

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- (a) 1 member who is qualified to 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, practised as a legal practitioner or performed service related to the application or administration of the law;

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- (b) 1 member who is qualified as a chartered accountant in the Republic and has, for a cumulative period of at least 5 years after having so qualified, practised as a chartered accountant;

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- (c) 1 member who has knowledge of, and experience in, the tourism industry;

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- (d) a person representing the Department of Economic Affairs and Tourism of the Province, designated by the responsible Member;

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- (e) a person representing the Department of Finance of the Province, designated by the Member of the Executive Council responsible for Finance;

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- (f) not more than 4 members who shall have proven business acumen or knowledge of the gambling industry or who are suitable for appointment to the board.

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- (2) The responsible Member shall appoint a member of the board as the chairperson, and another member as the deputy chairperson, of the board.



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(3) The chief executive officer of the board shall *ex officio* be a member of the board.

(4) If the chairperson is absent or is for any reason unable to act as chairperson, the deputy chairperson shall perform the functions of the chairperson.

**Eligibility to be appointed as member of the board**

5.	(1)	A person shall not be appointed or remain a member of the board -	5
	(a)	unless he or she -	
	(i)	is a natural person;	10
	(ii)	is a citizen of the Republic and ordinarily resident therein; and	15
	(iii)	is a fit and proper person;	
	(b)	if he or she -	20
	(i)	has any direct or indirect financial interest in -	
	(aa)	any gambling activity; or	25
	(bb)	any other business or enterprise,	
		that may conflict with the proper performance of his or her functions as a member of the board;	30
	(ii)	is a political office-bearer;	35
	(iii)	is a partner or associate of, or related within the second degree by affinity or consanguinity to, a person referred to in paragraph (b)(i) or (ii);	40
	(iv)	is an unrehabilitated insolvent;	
	(v)	has at any time been removed from an office of trust on account of misconduct;	45
	(vi)	has at any time been convicted, whether in the Republic or elsewhere -	50
	(aa)	of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No 94 of 1992), or any offence involving dishonesty; or	55
	(bb)	of an offence under this Act or any other similar law; or	60
	(vii)	is a public servant : Provided that this disqualification shall not apply to a member of the board referred to in section 4(1)(d) or (e).	

- (2) (a) If any member of the board during his or her term of office becomes disqualified in terms of subsection (1), or acquires, or whose partner, associate or family member, as referred to in subsection (1)(b)(iii), acquires, an interest which is likely to be an interest as referred to in subsection (1)(b)(i) or (ii), he or she shall as soon as practicable after he or she has been disqualified or after the acquisition of such interest, or after he or she has become aware of such information, in writing declare such information to the responsible Member. 5
- (b) If the responsible Member, after receiving the information from a member of the board as referred to in paragraph (a), is of the opinion that such member is disqualified in terms of subsection (1) to remain a member of the board, he or she shall, subject to section 8(2), terminate the term of office of such member in terms of section 8(1)(b). 10

#### Procedure for appointment of board 20

6. (1) The members of the board referred to in section 4(1)(a), (b), (c) and (f) shall not be appointed unless the responsible Member in respect of such members has invited interested parties through the media and by notice in the *Provincial Gazette* to nominate candidates, within 21 days of the invitation in the media and the publication of such notice, for consideration by the responsible Member : Provided that the invitation through the media shall include an invitation in at least 1 newspaper circulating in the Province. 25
- (2) A person shall, prior to his or her appointment as a member of the board, submit to the responsible Member a written sworn or confirmed statement in which he or she declares his or her financial interest and whether or not he or she has any interest as referred to in section 5(1)(b)(i) or (iii). 30
- (3) (a) The members of the board shall not be appointed unless the responsible Member has, at least 30 days prior to the appointment of the members of the board and in the manner envisaged in subsection (1), published the names of all the persons nominated for appointment to the board and the names of the persons he or she intends to appoint as members of the board and the date on which such appointments are intended to be made. 40
- (b) Any person who wishes to object to the appointment of any person to the board, may, not later than 14 days before the date on which the appointment of the members of the board is intended to be made, lodge with the responsible Member in writing an objection stating the ground or grounds which, according to such a person, disqualifies the person to be appointed, from being appointed as a member to the board. 45

**Tenure of office**

7. A member of the board shall, subject to section 8, hold office for such period, not exceeding 3 years, as the responsible Member may determine at the time of his or her appointment and shall be eligible for reappointment at the termination of his or her term of office. 5

**Termination of office and filling of vacancies**

8. (1) The responsible Member may, after he or she has afforded a member of the board the opportunity to state his or her case, at any time terminate the term of office of such member if - 10
- (a) there are good reasons for doing so and it is in the best interest of the board and the proper control and regulation of gambling; 15
  - (b) he or she is disqualified to remain a member of the board in terms of section 5(1); or 20
  - (c) he or she has been absent from more than 2 consecutive meetings of the board without the prior leave of the chairperson. 25
- (2) If the responsible Member terminates the term of office of a member of the board in terms of subsection (1), he or she shall disclose such termination by way of notice in the *Provincial Gazette* within 14 days after the date of such termination. 30
- (3) The responsible Member shall, subject to sections 5, 6 and 7, fill a casual vacancy on the board for such period, not exceeding 3 years, as the responsible Member may determine at the time of such appointment. 35

**Remuneration and allowances of members of the board**

9. (1) Members of the board or persons consulted and co-opted in terms of sections 18 and 19 respectively, who are not in the full-time service of the State or the Province may, in respect of their services, be paid such remuneration and allowances from the funds of the board as may be determined by the responsible Member after consultation with the Member of the Executive Council responsible for Finance. 40
- (2) The remuneration and allowances of the members of the board may differ according to the different offices held by them or the different functions performed by them. 45
- 50

**Staff of board**

10. (1) The board shall, in the exercise of its powers and the performance of its functions under this Act, be assisted by - 55

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- (a) subject to sections 5(1)(a)(i), (iii) and 5(1)(b), a suitably qualified and experienced person as chief executive officer, appointed by the responsible Member after consultation with the board, or seconded in terms of subsection (3), for the purpose of assisting the board in the performance of all financial, administrative and clerical responsibilities pertaining to the functions of the board, and shall in respect thereof be accountable to the board; and 5
- (b) such staff, appointed by the board or seconded in terms of subsection (3), as may be necessary to enable the board to exercise and perform its powers and functions under this Act effectively : Provided that a person shall not be appointed by the board in terms of this paragraph or remain a member of the staff of the board if he or she is subject to any disqualification as referred to in sections 5(1)(a)(i),(iii) and 5(1)(b). 10 15 20
- (2) The persons appointed by the board in terms of subsection (1) shall from the funds of the board be paid such remuneration and allowances and shall receive such other employment benefits and be appointed on such terms and conditions and for such periods, as the board may determine. 25
- (3) The board may, in the exercise of its powers and the performance of its functions, at its request and after consultation with the Provincial Administration of the Province, be assisted by officers of the said Provincial Administration seconded to the services of the board in terms of any law regulating such secondment. 30
- (4) (a) Any power or function which the board may exercise or perform in terms of this Act, with the exception of the powers and functions referred to in sections 29, 30, 31, 32, 33, 34, 35, 36, 39 and 40, may be delegated (whether generally or specifically) to the chief executive officer, a committee of the board or any other member of the staff of the board. 35 40
- (b) Any delegated power or function so exercised or performed shall be deemed to have been exercised or performed by the board. 45
- Transparency and confidentiality**
11. (1) The board shall, subject to subsection (2), function in a transparent and open manner. 50
- (2) No member of the board or staff of the board, no person referred to in sections 18 and 19 and no inspector shall, except on the order of a court of law, disclose - 55
- (a) any document or information, or the identity of any person, which the board has in terms of section 27(2) determined not to be open to public inspection or to be divulged; 60
- (b) any document or information which has been furnished to the board by any regulatory or law enforcement authority on condition of confidentiality.

**Position of public trust**

12. (1) In order to ensure the independence and integrity of the board -
- (a) a member of the board or of the staff of the board shall not -
    - (i) apart from any remuneration received by virtue of the office he or she holds, directly or indirectly receive anything of value from any person that may conflict or interfere with the proper performance of his or her functions or benefit in any manner from the office that he or she holds; 5
    - (ii) participate in any gambling in the Province : Provided that such a person may participate in such gambling if it is necessary for the performance of his or her functions under this Act; 10
  - (b) a member or former member of the board shall not solicit or accept employment from a licensee or an applicant for a licence in terms of this Act within 1 year after the termination of the term of office of such a member of the board without the prior approval of the board; 15
  - (c) a member of the board or of the staff of the board shall, before commencing to exercise or perform the powers or functions of his or her office, take the oath or make the affirmation as determined by the responsible Member. 20
- (2) The provisions of subsection 1(a) and (b) shall *mutatis mutandis* apply in respect of the responsible Member. 25
- (3) (a) A member of the board shall not vote, attend or in any other manner participate in the proceedings at any meeting or hearing of the board if, in relation to any matter before the board - 30
- (i) he or she or his or her family member referred to in section 5(1)(b)(iii), partner or business associate is a direct member or partner of, or has a controlling interest or any financial or other interest in, the business of the applicant or any person who made representations in relation to the application for a licence; or 40
  - (ii) he or she has any interest which precludes him or her from performing his or her functions as a member of the board in a fair, unbiased and proper manner. 45
- (b) If at any stage during the course of any proceedings before the board it appears that a member of the board has or may have any interest as referred to in paragraph (a) - 50

- (i) that member shall forthwith and fully disclose the nature of his or her interest and leave the meeting or hearing so as to enable the remaining members of the board to discuss the matter and determine whether that member should be precluded from participating in the further proceedings at such meeting or hearing by reason of a conflict of interests; and 5
- (ii) such disclosure and the decision taken by the remaining members of the board in this regard, shall be recorded in the minutes of the proceedings in question. 10
- (c) If any member of the board fails to disclose any interest as referred to in paragraph (a) or if, having such an interest, he or she attends or in any manner whatsoever participates in the proceedings at the meeting or hearing concerned, the relevant proceedings shall be null and void : Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, suspension, revocation or withdrawal of a licence or registration, or the transfer of a licensed business to new premises, shall thereby be invalidated. 15  
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**Funds of the board**

- 13. (1) The funds of the board shall consist of - 30
  - (a) money appropriated by the Provincial Legislature for that purpose; and
  - (b) other money lawfully paid to the board. 35
- (2) The board shall in each financial year, at a time determined by the responsible Member, submit a statement of the estimated income and expenditure of the board for the following financial year for his or her approval. 40
- (3) The board may in any financial year submit supplementary statements of the estimated expenditure of the board for that financial year to the responsible Member for his or her approval : Provided that such approval shall only be granted in consultation with the Member of the Executive Council responsible for Finance. 45

**Accountability, audit and annual report**

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- 14. (1) The chief executive officer shall -
  - (a) be charged with the responsibility of accounting for money received or paid out for or on account of the board; and 55
  - (b) cause the necessary accounting and other related records to be kept. 60
- (2) The records referred to in subsection (1)(b) shall be audited annually by the Auditor-General.

- (3) The board shall -
- (a) report to the responsible Member at least twice every year on its activities, and the responsible Member shall cause such reports, including the annual financial statements of the board, to be tabled promptly in the Provincial Legislature; and 5
  - (b) submit the reports referred to in paragraph (a) to the appropriate national gambling authority established in terms of a national gambling act, within 14 days after it is submitted to the responsible Member. 10
- Meetings of the board** 15
15. (1) (a) The first meeting of the board shall be held at a time and place determined by the chairperson, and thereafter the board shall meet at such times and places as the board may from time to time determine for the expeditious conduct of its business : 20  
 Provided that the board shall meet at least 3 times a year.
- (b) The chairperson may at any time on reasonable notice convene an extraordinary meeting of the board to be held at a time and place determined by him or her : Provided that no decision in terms of this Act relating to the granting, amendment, renewal, transfer, removal, suspension or revocation of a licence or certificate, shall be taken at an extraordinary meeting. 25  
 30
- (2) The proceedings at a meeting of the board shall, in as far as it has not been prescribed, be determined by the board. 35
- (3) The quorum for a meeting of the board shall be a majority of the members of the board. 40
- (4) A decision of the board shall be taken by a majority of the votes of the members present at a meeting of the board and, in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote. 45
- (5) No decision of the board shall be invalid merely by reason of a vacancy in the board or the fact that any person who is not entitled to sit as a member, sat as a member of the board when the decision was taken : Provided that the decision was taken by the required majority of the members of the board then present and entitled to sit as members of the board. 50
- (6) Any meeting of the board convened for the purpose of - 55
- (a) considering representations or objections in relation to any application for a licence made in terms of this Act, shall be accessible to the public : Provided that the chairperson in his or her discretion, or the board, may direct that a person may not attend the meeting or shall leave the meeting, if the chairperson or the board, as the case may be, is of the opinion that such person's presence is not desirable at the meeting concerned; and 60

- (b) deliberations with a view to making decisions and to voting thereon in respect of any matter at a meeting, shall take place behind close doors.

### Committees of the board

16. (1) The board may from time to time appoint a committee to exercise the powers and perform the functions delegated or assigned to it by the board. 5
- (2) A committee shall consist of - 10
- (a) such members of the board as the board may designate; or
- (b) such members of the board as the board may designate and such other persons as the board may co-opt in terms of section 19. 15
- (3) The board shall designate the chairperson of a committee. 20
- (4) (a) A committee shall exercise its powers and perform its functions subject to the provisions of this Act and such directives of the board as are not in conflict with such provisions. 25
- (b) Any delegated power or function so exercised or performed shall be deemed to have been exercised or performed by the board. 30

### Minutes of the board

17. (1) (a) Minutes of the proceedings referred to in section 15(6)(a) of every meeting of the board shall be kept and be retained at the offices of the board. 35
- (b) Any person may obtain copies of the minutes referred to in paragraph (a) or any part thereof against payment of the prescribed fees. 40
- (2) (a) Separate minutes of the proceedings referred to in section 15(6)(b) of every meeting of the board shall be kept and be retained at the offices of the board. 45
- (b) The minutes referred to in paragraph (a) or any document in which any advice, report or recommendation by the board is contained, shall not be disclosed, except to - 50
- (i) the responsible Member; 55
- (ii) any person who requires it for the performance of his or her functions in terms of this Act; and
- (iii) any other person - 60



- (aa) with the approval of the board; or
- (bb) in terms of an order of a competent court or under any law.

**Consultation by board**

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18. (1) The board may consult any person, organisation or institution with regard to any matter deemed necessary by the board to enable the board to exercise its powers and perform its functions.

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(2) The remuneration and allowances determined by the board in terms of section 9(1), if any, and the terms and conditions on which a person is so consulted, shall be contained in a written agreement entered into for that purpose between the board and that person.

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**Co-opting of persons**

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19. (1) If the board is of the opinion that a particular person is able to assist the board in the consideration of a particular matter by the board, the board may co-opt that person for that purpose.

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(2) A person so co-opted shall not be entitled to vote at any meeting of the board or a committee of the board.

(3) The provisions of section 18(2) shall *mutatis mutandis* apply in respect of a person so co-opted.

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**Enquiries by board**

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20. (1) The board may, subject to this section, conduct any enquiry into any matter falling within the scope of its powers and functions.

(2) For the purpose of any enquiry in terms of subsection (1), the board may, by written notice, summon any person who is or who may be affected by or is concerned in the consideration of a particular matter by the board, to appear before the board -

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(a) to give evidence; or

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(b) to produce any book, document or thing which is in his or her possession or under his or her control and which, in the opinion of the board, relates or may relate to a matter to be considered thereat,

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Provided that at any enquiry held by the board, the person applying for a licence or the transfer or removal of a licence in terms of this Act, or any person objecting to the granting of such an application, or the person who is the subject of the enquiry, as the case may be, shall, if he or she so requests, be entitled to appear before the board and to call witnesses.

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(3) A person who has received a notice in terms of subsection (2), shall personally appear before the board on the date, time and place set out in the notice : Provided that if such a person is not legally competent to so appear before the board, any person who by law is competent to act on his or her behalf or any person authorised thereto by the board, may so appear on his or her behalf.

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(4) The provisions of subsection (3) shall *mutatis mutandis* apply to any corporate body, organisation or institution.

(5) The board may call and examine any person present at the enquiry, whether or not he or she has been summoned under subsection (2) to attend the enquiry, and may inspect and retain for a reasonable period any book, document or thing, the production of which was required under that subsection: Provided that the said person affected shall be entitled to make copies of such book, document or thing, if practicable, before it is so retained by the board.

(6) The board may require from any person appearing before the board at an enquiry in terms of subsection (1), to give his or her evidence on oath or affirmation, and the member of the board presiding at the enquiry, may administer the oath or accept an affirmation from any such person.

(7) The law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply in relation to the examination of any such person or the production of any book, document or thing under subsection (2) or (5).

(8) Any person who appears before the board at an enquiry, shall be entitled to be represented by his or her legal representative.

(9) A person summoned in terms of subsection (2) may be paid such amount for his or her reasonable expenses as may be approved by the board.

### CHAPTER 3

#### Licensing

##### National norms and standards

21. No licence shall be granted under this Act unless the board takes cognisance of -

- (a) the provisions of, or norms and standards determined under the National Gambling Act, 1996; and
- (b) any recommendations made by the National Gaming and Wagering Board established under the National Gambling Act, 1996,

which may relate to the granting of such licence.

##### Disqualification for licences in general

22. (1) A licence shall not be granted to any person, including a juristic person -

- (a) unless he, she or it -
  - (i) is a fit and proper person;
  - (ii) is a person of good character and integrity and whose prior activities, reputation, habits and associations do not pose a threat to the public interest; and

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- (iii) is a person of good financial standing;
- (b) if he or she -
  - (i) is an unrehabilitated insolvent; 5
  - (ii) is a political office-bearer; 10
  - (iii) is related to the responsible Member or a member of the board within the second degree by affinity or consanguinity; 15
  - (iv) has in the Republic or elsewhere in the preceding 10 years been convicted of any offence, unless -
    - (aa) the board is of the opinion that the offence was of such a nature that it does not imply that such a person is unsuitable to hold a licence; 20
    - (bb) the conviction and sentence have been set aside by a competent court; or 25
    - (cc) such a person has received a grant of amnesty or free pardon for an offence which would otherwise have disqualified that person from holding a licence; 30
  - (v) is a minor on the date of the consideration of the application concerned; 35
  - (vi) is in the employ of any official law enforcement agency, including the South African Police Service; or 40
  - (vii) is the spouse of a person referred to in subparagraph (i), (ii) and (iv) and (vi); 45
- (c) unless the board is satisfied that -
  - (i) the State, any organisation with which the State is concerned, a political party or any office-bearer of a political party does not hold any financial interest in the applicant or in the gambling business of the applicant or the premises on which a casino is to be conducted: Provided that the provisions of this subparagraph shall not apply in respect of any such financial interest held by the State or such organisation at the commencement of this Act, and for the duration of such period thereafter as may be prescribed in terms of the National Gambling Act, 1996; 50 55 60

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- To amend the Act of 1996* ←
- (ii) the granting of such a licence will not bring into existence or aggravate any dominant and over concentrated market-share or any restrictive practice, acquisition or monopoly situation in the Province as envisaged in the Maintenance and Promotion of Competition Act, 1979 (Act No 96 of 1979), in the gambling industry or a branch thereof; and 5
- (iii) the granting of such a licence will not result in the establishment of an unduly large gambling industry in the Province, having regard to the number of inhabitants of the Province, their financial means and the number of licences already granted in terms of this Act or any other law. 10  
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- (2) If a person who is in terms of subsection (1) disqualified to hold a licence-
- (a) has a direct or indirect financial interest of 5 percent or more in a company, close corporation, partnership, trust or any other corporate body; 20
- (b) is a beneficiary under a trust who receives or is entitled to more than 5 percent of the proceeds or assets of the trust; or 25
- (c) is a manager of a company, close corporation, partnership, trust or corporate body, 30
- such company, close corporation, partnership, trust or other corporate body shall also be disqualified to hold a licence : Provided that the applicant, prior to disqualification, be given a reasonable opportunity to rectify the disqualifying circumstances. 35
- (3) In the application of subsection (1)(b)(iv), "preceding" means preceding the date of the application concerned. 40
- (4) Any disqualified person contemplated in subsection (1), shall not accept more for his or her interest in the applicant than he or she paid for it, or such greater amount approved by the board. 45
- Kinds of licences**
23. (1) The board may, subject to the provisions of this Act, grant the following licences in respect of gambling and racing, namely - 50
- (a) casino licences; 55
- (b) limited gaming machine operator licences; 60
- (c) limited gaming machine site licences;
- (d) bingo operator licences;
- (e) manufacturer, maintenance or supplier licences;
- (f) totalizator licences;

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- (g) bookmaker licences;
- (h) race-meeting licences.
- (2) Any licence referred to in subsection (1) shall be in writing. 5
- (3) A licence grants to the holder thereof such rights and privileges and subjects him to such obligations and liabilities as may by virtue of this Act be regulated thereby or ensue from the holding thereof. 10
- (4) The maximum number of any kind of licence that may be granted by the board, may be prescribed : Provided that the maximum number of casino licences that may be granted by the board, shall at any given time be prescribed. 15
- Applications**
- 24. (1) Any person may apply for a licence referred to in section 23 : Provided that - 20
  - (a) any person whose application has been refused on any ground referred to in section 22, or whose licence has been revoked on any ground referred to in section 39, may not reapply for a licence, within 12 months from the date of such refusal or revocation, and any person who has a direct or indirect interest of 5 per cent or more in the business or premises of such applicant or licensee may not apply for a licence within 12 months from the date of such refusal or revocation, if such person was the direct or effective cause of such refusal or revocation; and 25  
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  - (b) any person whose application has been refused more than once on any ground referred to in section 22, or whose licence has been revoked more than once on any ground referred to in section 39, may not reapply for a licence within 3 years from the date of the latest refusal or revocation, and any person who has a direct or indirect interest of 5 percent or more in the business or premises of such applicant or licensee, may not apply for a licence within 3 years from the date of the latest refusal or revocation, if such person was the direct or indirect or effective cause of such refusal or revocation. 40  
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- (2) Any application for a licence shall -
  - (a) be lodged with the chief executive officer in the prescribed form; and 55
  - (b) be accompanied by -
    - (i) the approval or representations of the local authority within whose area of jurisdiction the premises in respect of which the application is made, are situated; 60

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(ii)	certified copies of the prescribed notice published in the <i>Provincial Gazette</i> and a newspaper circulating in the area in which the premises, where the gambling is to take place, are situated; and	5
(iii)	such other documents and information determined by the board.	
(3)	An applicant may in the application concerned identify any document or information included in the application which in the opinion of the applicant is confidential or should for any reason not be disclosed to the public, and show cause why the board may determine that such document or information should not be open to public inspection.	10
(4)	An application for a licence shall, subject to the provisions of this Act, be considered by the board and the board may thereafter -	15
(a)	refuse the application;	20
(b)	grant the application.	
<b>Application fees</b>		25
25.	Any person who submits an application to the board under section 24, shall -	
(a)	on the submission of such an application, pay to the board the prescribed fees; and	30
(b)	be liable for and pay to the board all reasonable expenses incurred by the board, if any, to conduct the investigations referred to in section 28 : Provided that the board may, at any time before or while conducting such investigations, require from an applicant security for the payment of such expenses.	35
<b>Objections</b>		40
26.	(1) Any person who desires to object to any application made for a licence in terms of this Act, may, not later than 30 days after the publication of the relevant notice in the <i>Provincial Gazette</i> as referred to in section 24(2)(b)(ii), lodge with the chief executive officer in writing an objection in the prescribed manner.	45
	(2) The chief executive officer shall forthwith notify the applicant and supply the applicant with a copy or details, as the case may be, of -	50
(a)	any objections lodged with the board in terms of subsection (1); and	
(b)	any matter or fact whatsoever which may, in the opinion of the board, constitute a ground for an objection against the application of the applicant,	55
	and invite the applicant to reply to such objections, if he or she so chooses, within a period of 14 days, or such longer period as the board may determine, of the date of such notification.	60
(3)	A person lodging an objection may show cause why the board may determine under section 27(2)(b) that his or her identity should not be divulged.	

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**Application and objections to be open to public inspection**

27. (1) Any application, objections and response lodged in terms of sections 24 and 26 shall, subject to subsection (2), be open to public inspection by interested persons during the normal office hours of the board for the prescribed period from the date of lodgement of the application as reflected in the notice referred to in section 24(2)(b)(ii) and the board shall, at the request of any interested person, and on payment of such fees as may be prescribed, furnish him or her with a copy of, or extract from, any such application, objections, response or information. 5

(2) The board may determine that - 10

- (a) any document or information relating to the financial capacity of any person participating in an application, the names of prospective employees or the business plans of an applicant, shall not be open to public inspection, if such document or information can be separated from the remainder of the application and is marked confidential; and 15 20
- (b) the identity of any person who lodged an objection to an application, shall not be divulged to any other person. 25

**Investigations and police reports 25**

28. (1) In order to determine whether or not a licence should be granted, the board may, subject to any other law, gather such information as it deems necessary from any person or source, regarding the suitability of the applicant for a licence to hold such a licence in terms of this Act and the suitability of the premises in respect of which the application has been made. 30

(2) The chief executive officer may, on receipt of an application for a licence, ask the South African Police for a report stating - 35

- (a) particulars of any convictions recorded against the applicant or any person who will be involved in the proposed business of the applicant and in respect of whom the board deems it necessary to obtain the police report; 40
- (b) such matters as may be prescribed; and 45
- (c) such other matters which ought, in the opinion of the South African Police, to be taken into consideration in respect of the application concerned. 50

(3) The report referred to in subsection (2) shall be furnished to the chief executive officer within 1 month of the date of the request thereof. 55

**Temporary licences in respect of incomplete premises 55**

29. (1) If an application for a licence is granted by the board in respect of premises not yet erected or premises requiring any structural alteration, addition or reconstruction so as to make them suitable for the purposes for which they will be used under the licence, the board may, upon being furnished with the required forfeitable guarantee, issue a temporary licence to the applicant concerned, subject to the compliance, with such conditions or requirements referred to in the temporary licence, with regard to these premises as the board may determine, within such period as may likewise be determined and referred to. 60

(2) The board may at any time after the issue of such a temporary licence, on application by the applicant concerned -

- (a) extend the period determined under subsection (1);
- (b) extend or further extend the period determined under subsection (1) or the period so determined and extended under paragraph (a) of this subsection, as the case may be, in respect of premises not yet erected at the time of the issue of the temporary licence, if the board is satisfied that a substantial part of the premises has since been erected.

(3) The period determined under subsection (1) or the period so determined and extended under subsection (2)(a), as the case may be, shall not be longer than 24 months, and the period extended or further extended under subsection (2)(b), as the case may be, shall not be longer than a further 24 months.

(4) When the board is satisfied that the premises in respect of which a temporary licence has been granted under subsection (1), have been substantially completed in accordance with the plan thereof approved by the board, the conditions and requirements determined by the board have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, the board shall issue the licence in accordance with section 24(4) to the applicant concerned.

(5) If the licence is not issued before the expiration of the period determined under subsection (1), extended under subsection (2)(a) or further extended under subsection (2)(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 (1) shall be forfeited.

(6) The provisions of this Act shall, subject to subsection (1), *mutatis mutandis* apply to temporary licences, and in such application a reference in this Act to a licence shall, where applicable, also be construed as a reference to a temporary licence.

#### Casino licences

30. (1) No person may apply for a casino licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, in consultation with the responsible Member, inviting applications and which notice may -

- (a) state the number of licences to be issued and the areas in which the casinos are to be situated;
- (b) state development and other requirements;
- (c) set the amount of the payment referred to in section 58 or invite applicants to tender for such payments;
- (d) state the evaluation criteria to be applied.

(2) The board shall only grant a casino licence after consultation with the responsible Member, and if the board is satisfied that the applicant -



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- (a) has appropriate knowledge or experience, or is able to acquire such knowledge or experience, to operate a casino; 5
  - (b) has consulted the local authority, any regional or traditional authority, or any other competent authority, if any, of the area where the casino will be or is situated; 10
  - (c) shall have and maintain sole and exclusive legal possession of the licensed premises; and 15
  - (d) has met all applicable requirements set by the board. 20
- (3) A casino licence shall authorise, subject to the provisions of this Act, the playing in or on the licensed premises specified in the licence, of such casino games prescribed or specified in the licence. 25

**Limited gaming machine operator licences**

31. (1) No person may apply for a gaming machine operator licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, in consultation with the responsible Member, inviting applications and which notice may state the evaluation criteria to be applied and any other requirements. 20

- (2) A gaming machine operator licence shall not be granted by the board - 25

- (a) unless the board is satisfied that the applicant - 30

- (i) has appropriate knowledge and experience, or is able to acquire such knowledge and experience, to operate gaming machines; and 35

- (ii) meets the prescribed requirements;

- (b) for the operation of more than the prescribed number of gaming machines. 40

- (3) A gaming machine operator licence shall authorise, subject to the provisions of this Act, the operation of any prescribed gaming machines or gaming machines specified in the licence, on the licensed premises of the holder of a gaming machine site licence, and for such purposes the holder of such a gaming machine operator licence may enter into an agreement with the holder of such a gaming machine site licence for the placement of such gaming machines on the premises concerned. 45

- (4) The holder of a gaming machine operator licence shall link all the gaming machines in respect of which the licence has been granted, to an electronic monitoring system as referred to in section 42. 50

- (5) A gaming machine operator licence shall only be granted by the board after consultation with the responsible Member. 55

**Limited gaming machine site licences**

32. (1) A gaming machine site licence shall not be granted by the board - 60

- (a) except to a person who meets the prescribed requirements;

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- (b) for the operation and keeping of more than the prescribed number of gaming machines for any 1 gaming machine site licence; and
- (c) unless the board is satisfied that the premises in respect of which the licence is to be granted, shall not be primarily utilised for the operation of gaming machines. 5

(2) A gaming machine site licence shall authorise, subject to the provisions of this Act, the operation and keeping in or on the licensed premises specified in the licence, of any prescribed gaming machines or gaming machines specified in the licence : 10  
 Provided that -

- (a) the maximum charge for playing on any such gaming machine shall not exceed the prescribed amount; 15
- (b) the prize in respect of any 1 game played by means of any such gaming machine shall not in the aggregate exceed in value the prescribed amount; and 20
- (c) there shall be displayed on every such gaming machine the value of the maximum prize prescribed under paragraph (b) which can be won by playing a game once by means of such a gaming machine. 25

**Bingo operator licences**

33. (1) A bingo operator licence shall not be granted by the board, unless the board is satisfied that the applicant meets the prescribed requirements. 30

(2) A bingo operator licence shall authorise, subject to the provisions of this Act, the playing in or on the licensed premises specified in the licence, of the game of bingo : Provided that the maximum charge for playing a game of bingo once shall be of a prescribed amount. 35

**Manufacturer, maintenance or supplier licences**

34. (1) Any person, desiring to operate, carry on or conduct any form of manufacture, selling, distribution, import, marketing, maintenance or repair of any gaming device shall apply to the board for the relevant licence. 40 45

(2) The holder of a casino licence, a gaming machine operator licence, gaming machine site licence or a bingo operator licence may, notwithstanding the provisions of subsection (1) - 50

- (a) with the approval of the board, dispose of by sale or in a manner approved by the board, of any or all of its gaming devices; and 55
- (b) maintain or repair to the extent approved by the board, any or all of its gaming devices.

(3) In the event of the death, insolvency, liquidation or the placing under judicial management of the licence holder referred to in subsection (2), or a declaration that such licence holder is incapable of handling his or her own affairs - 60

- (a) the administrator of the deceased or insolvent estate; and

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- (b) the judicial manager, curator or liquidator,

may, notwithstanding the provisions of subsection (1), dispose of by sale or in the manner approved by the board, of any or all of the gaming devices of such licence holder.

(4) A manufacturer, maintenance or supplier licence shall not be granted by the board, unless the board is satisfied that the applicant has appropriate knowledge and experience, or is able to acquire such knowledge and experience, to conduct business under the licence.

(5) The relevant manufacturer, maintenance or supplier licence shall authorise, subject to the provisions of this Act -

- (a) the manufacture, selling, distribution, import, marketing, maintenance or repair of the types and models of gaming devices which meet the requirements set and approved by the board; and

- (b) the supply of gaming devices or services to licence holders.

**Race-meeting licences**

35. (1) No person may apply for a race-meeting licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting such applications.

(2) The board shall only grant a race-meeting licence after consultation with the responsible Member -

- (a) to a person who meets the prescribed requirements; and
- (b) if the board is satisfied that the race-course to which it will relate is suitable and complies with the requirements of the Jockey Club of Southern Africa.

(3) A race-meeting licence shall authorise, subject to the provisions of this Act, the holding of so many race-meetings per annum as is specified in the licence on the race-course likewise specified.

(4) No person shall -

- (a) hold, organise or arrange the holding of a race-meeting except under authority of a race-meeting licence;
- (b) aid or abet any other person in the holding, organising or arranging of a race-meeting in contravention of paragraph (a); or
- (c) take part in or attend a race-meeting held in contravention of paragraph (a).

**Totalizator licences**

36. (1) No person may apply for a totalizator licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting applications and which notice may state -

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- (a) the number of licences to be issued and the areas to which the licences will relate;
- (b) an invitation to tender payment of a lump sum for the acquisition of a licence; and 5
- (c) the evaluation criteria to be applied.
- (2) The board shall only grant a totalizator licence to a person who meets the prescribed requirements. 10
- (3) A totalizator licence shall authorise, subject to the provisions of this Act, the conducting of a totalizator on the licensed premises, in accordance with rules made by the holder of the licence and approved by the board. 15
- (4) Nothing in this section shall prohibit the holder of a totalizator licence from applying for additional licensed premises : Provided that the provisions of sections 24 to 28 shall *mutatis mutandis* apply in respect of such an application. 20
- Bookmaker's licences**
37. (1) No person may apply for a bookmaker's licence other than in response to a notice published in the *Provincial Gazette* and the media by the board, inviting applications and which notice may state - 25
- (a) the number of licences to be issued and the areas to which the licences will relate; 30
- (b) an invitation to tender payment of a lump sum for the acquisition of a licence; and 35
- (c) the evaluation criteria to be applied. 40
- (2) The board shall only grant a bookmaker's licence to a person who meets the prescribed requirements. 40
- (3) A bookmaker's licence shall authorise, subject to the provisions of this Act, the accepting of fixed odds bets on sporting events on the licensed premises. 45

**Special licences**

38. (1) Notwithstanding any other provisions of this Act, the board may, on application in the manner determined by the board, issue to any person, for specified dates, a special licence, subject to such conditions as the board may determine. 50

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only 3  
months  
proposed in  
Amendment Bill ?

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(2) The provisions of sections 24 and 26 shall not apply in respect of an application referred to in subsection (1).

**Suspension or revocation of licence**

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39. (1) The board may at any time suspend, for such period as the board may determine, or revoke from such date as the board may determine, any licence, if -

- (a) any information contained in any application made by the licence holder for the purpose of obtaining the granting, renewal, transfer or removal of such licence was at the time when the information was furnished, false in any material respect or was subject to any material omission with the intention to mislead the board; 10 15
- (b) the licence holder is in terms of section 22 disqualified from holding a licence; 20
- (c) the licence holder, an employee of the licence holder or any other person acting on his or her behalf has failed to comply with any term or condition of the licence or any provision of this Act, and has not complied with such term, condition or provision within 30 days, or such further period as the board in writing may allow, after delivery of a written notice by the board to the licence holder requiring such failure to be remedied; 25 30
- (d) the licence holder has, without the prior written consent of the board, failed to carry on business under the licence for a period of at least 3 consecutive months; 35
- (e) the licence holder fails to pay any amount prescribed in terms of this Act within the prescribed period; 40
- (f) the licence holder fails to pay out forthwith any prize legitimately won through any gambling conducted under the licence; 45
- (g) the licence holder fails to comply with section 56(2); or
- (h) the licence holder no longer complies with the prescribed requirements of the licence concerned. 50

(2) The board may at any time revoke any order of suspension or revocation issued in terms of subsection (1), if the reasons for such suspension or revocation have been remedied to the satisfaction of the board. 55

(3) The board shall inform the licence holder in writing of any suspension or revocation of the licence in terms of subsection (1). 60

(4) A casino licence, gaming machine operator licence or race-meeting licence shall only be suspended or revoked by the board after consultation with the responsible Member.

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(5) When a licence is suspended or revoked in terms of subsection (1), no licence fee or any portion thereof shall be refunded.

(6) Where the board proposes to revoke a licence, the board shall serve a written notice on the licensee stating -

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(a) that the board proposes to revoke the licence;

(b) the ground or grounds for revocation;

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(c) that the licensee may within 30 days after the date of the written notice -

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(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

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(d) the effect of subsection (7).

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(7) If, within the period mentioned in subsection (6)(c), the board receives neither written representations nor written notification of the intention of the licensee to make oral representations, the revocation shall take effect at the end of that period.

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#### Transfer and removal of licence

40. (1) A licence granted under this Act shall, subject to this section, not -

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(a) be transferable to another person; or

(b) be removable from the licensed premises concerned to other premises.

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(2) If the holder of a licence -

(a) desires to transfer such licence to another person such licence holder and such other person shall make a joint application to the board for such transfer in the prescribed manner;

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(b) desires to remove such licence from the licensed premises to any other premises, whether permanently or temporarily, such licence holder shall make an application to the board for the removal of such licence in the prescribed manner.

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(3) An application for a transfer or removal of the licence in terms of subsection (2), shall be considered by the board and the board may thereafter -

(a) refuse the application; or

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(b) grant the application, conditionally or unconditionally.

- (4) A licence shall not -
- (a) be transferred to a person who is disqualified or otherwise incompetent in terms of this Act to hold the licence concerned; 5
  - (b) be removable from the licensed premises concerned to other premises unless the board is satisfied that the other premises are or will on completion be suitable for the purposes for which they will be used under the licence. 10
- (5) In the case of a casino licence, gaming machine operator licence or race-meeting licence, the board shall only grant an application in terms of subsection (2) after consultation with the responsible Member. 15
- (6) The provisions of sections 24 to 28 shall *mutatis mutandis* apply to an application in terms of this section. 20

#### CHAPTER 4

##### Conditions 25

##### General conditions of licences 30

41. (1) The board may in respect of any kind of licence impose such conditions to a licence as the board considers appropriate, and may in particular include conditions -
- (a) relating to the games that may be played; 35
  - (b) relating to the method of operation of any game;
  - (c) for the purpose of ensuring that the operation of any gambling accords with decency, dignity, good taste and honesty; 40
  - (d) requiring the keeping of books, accounts, records and other information relating to the operation of any gambling; 45
  - (e) requiring certain minimum standards in relation to the premises on which gambling is to take place; 50
  - (f) requiring the submission to the board of such reports and returns relating to the operation of gambling as the board may from time to time require; 55
  - (g) relating to the days on which and hours during which gambling may be carried on;
  - (h) in the case of a casino licence, relating to the installation and maintenance of surveillance systems; 60

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- (i) relating to the provision by the licensee of a guarantee, as determined by the board, for the liabilities of the licensee in relation to -
    - (i) gambling levies payable in terms of this Act; and 5
    - (ii) gambling debts payable by the licensee.
- (2) The board may at any time suspend, withdraw or amend any condition imposed under subsection (1), by a notice delivered or tendered to the holder of a particular licence. 10
- (3) Where the board proposes to suspend, withdraw or amend any condition under subsection (2), the board shall serve a written notice on the licensee stating - 15
  - (a) that the board proposes to suspend, withdraw or amend, as the case may be, any condition imposed under subsection (1); 20
  - (b) that the licensee may, within 30 days after the date of the written notice - 25
    - (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 30
  - (c) the effect of subsection (4). 35
- (4) If, within the period mentioned in subsection (3)(b), the board receives neither written representations nor written notification of the intention of the licensee to make oral representations, such suspension, withdrawal or amendment of a condition, as the case may be, shall take effect at the end of that period. 40
- (5) Any condition imposed under subsection (1), or suspended, withdrawn or amended under subsection (2), in respect of a casino licence, gaming machine operator licence or race-meeting licence - 45
  - (a) shall be effected after consultation with the responsible Member; and 50
  - (b) may not be effected retrospectively. 50

**Electronic monitoring system for gaming machines**

- 42. (1) The board may, subject to section 30, in respect of a casino licence, a gaming machine operator licence and a gaming machine site licence require any such licence holder to link any gaming device to a central electronic monitoring system for purposes of the monitoring and detection of significant events associated with each gaming device, including a system for continuous on-line real time recording, monitoring and control of any significant game play transactions as may be prescribed or determined by the board. 55 60



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(2)	The board may -	
(a)	require from any licence holder referred to in subsection (1), to conduct such electronic monitoring system; or	5
(b)	on application, approve any other person to conduct, on behalf of such licence holder, such electronic monitoring system,	
	subject to the requirements determined and conditions imposed by the board.	10
(3)	For purposes of this section "electronic monitoring system" means any electronic or computer or communications system or device that is so designed that it may be used, or adapted, to send or receive data from gaming devices in relation to the security, accounting or operation of gaming devices.	15
	<b>Financial interests in business of licensee</b>	20
43. (1)	No person may hold or acquire an interest in a licence as agent or nominee for an undisclosed principal or beneficial owner.	
(2)	A licensee shall not permit any other person to procure any direct or indirect financial interest of 5 percent or more in the business to which the licence relates, unless the board has granted consent that such a person may procure such an interest in that business.	25
(3)	The board shall not grant consent under subsection (2) where the person who is the subject of the application, is disqualified in terms of section 22 to hold a licence.	30
(4)	The provisions of sections 24 to 28 shall, where applicable, <i>mutatis mutandis</i> apply to a person who wishes to procure an interest as referred to in subsection (2).	35
	<b>Suitability of third parties</b>	40
44. (1)	The board may prohibit a licensee from contracting with any supplier for the purchase of goods or services or any lender until such time as such supplier or lender has applied for and been granted a certificate of suitability by the board, in the manner determined by the board.	45
(2)	The provisions of section 28 shall <i>mutatis mutandis</i> apply to an application referred to in subsection (1).	50
	<b>Gaming devices</b>	
45.	The holder of a casino licence, a bingo operator licence, a gaming machine operator licence or a gaming machine site licence shall -	55
(a)	not use or allow any game to be played on a gaming device other than a gaming device which -	60
(i)	has been supplied by the holder of a manufacturer, maintenance or supplier licence;	
(ii)	is identical in all material aspects to a type and model that has been approved by the board; and	

(iii)	has been registered with the board as prescribed; and	
(b)	keep such records and information as may be determined by the board in respect of each gaming device.	5
<b>Books, accounts and records</b>		
46.	The holder of a licence shall keep such books, accounts and records as may be prescribed, specified in the licence or determined in the rules of the board.	10
<b>Control of entry to certain premises</b>		
47.	The holder of a licence (excluding a manufacturer, maintenance or supplier licence), or an employee of such a licence holder may -	15
(a)	refuse to admit any person to the licensed premises;	20
(b)	request any person who is on the licensed premises, to leave the premises;	25
(c)	request any police officer or inspector to remove or assist in removing from the licensed premises any person referred to in paragraph (a) or (b) or remove from the licensed premises any person who refuses or fails to comply with a request referred to in paragraph (a) or (b).	30
<b>Advertisement</b>		
48. (1)	Subject to any regulations made under section 92 and subsection (2), it shall be lawful to advertise any gambling which may lawfully be conducted under this Act.	35
(2)	The holder of a licence, any person acting on his or her behalf or any other person shall not, without the board's consent conduct any advertising with regard to gambling -	40
(a)	at or in close vicinity of any school or other institution or place where persons under the age of 18 years are the dominant frequenters; and	45
(b)	in any newspaper, newsletter, magazine or periodical, or in any broadcast or transmission on radio, television or through any other medium, which is mainly aimed at persons under the age of 18 years.	50
<b>Credit</b>		
49.	The holder of a licence (excluding a manufacturer, maintenance or supplier licence), or an employee of such a licence holder, shall not extend any credit in any form to any person in connection with or for the purpose of gambling, except as may be prescribed.	55

**Act No 6, 1996****FREE STATE GAMBLING AND RACING ACT, 1996****Rules of certain games**

**50.** (1) The holder of a casino licence shall in respect of any game for which no rules have been made by the board under section 91, make rules relating to the method of playing of such a game : Provided that such rules shall be approved by the board. 5

(2) All rules made in terms of section 91 and subsection (1), shall at all times be available where any such game is played and be produced to any player on demand. 10

**Assistance to customers**

**51.** The holder of a licence (excluding a manufacturer, maintenance or supplier licence), shall - 15

- (a) at the request of any customer make available for examination a copy of the rules in respect of any particular gambling game; and 20
- (b) display prominently within the licensed premises such advice or information regarding any gambling game as may be prescribed. 25

**Duration of licence**

**52.** (1) Any licence granted under section 24(4) shall, subject to being renewed, be valid as from the date of the issue thereof until the date on which - 30

- (a) the holder thereof abandons it in writing; 35
- (b) it is revoked by the board under section 39. 40

(2) Where a licence is suspended under section 39, the holder of such licence shall not exercise any right or privilege conferred by such licence during the period of suspension. 45

**Licence fees**

**53.** (1) There shall be charged and payable in respect of any licence granted or renewed under this Act the prescribed licence fees, which shall be in addition to any other amounts or levies payable under this Act. 50

(2) The licence fees referred to in subsection (1), may differ in relation to different types of licences. 55

(3) Any licence holder who fails to pay any licence fees referred to in subsection (1) on or before the date on which he or she becomes liable to pay such licence fees, shall in addition to such licence fees, pay the prescribed penalty : Provided that the amount of such penalty shall not exceed twice the amount of the licence fee applicable to the licence concerned. 60

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**Duty to display licence**

54. A licence holder shall at all times prominently display his or her licence on the licensed premises.

**Duty to produce licence or certificate**

55. A licence holder, employee of the licence holder or a person acting on behalf of the licence holder shall, on demand of an inspector or police officer, produce the relevant licence or certificate of approval referred to in section 61(5).

**Renewal of licence**

56. (1) A licence shall, subject to the provisions of this Act and the conditions under which it was granted, remain in force and shall on application by the licence holder be renewed by the board annually on production of the licence for the preceding year and on payment of the licence fees referred to in section 53.

(2) An application for the renewal of a licence in terms of subsection (1) shall be in the prescribed form and be submitted to the board not later than 90 days prior to the date on which the licence becomes renewable.

**Gambling levy**

57. (1) (a) Over and above any value-added tax or other sales tax, if any, and income tax which may be payable in terms of any other law, every holder of a licence (except a manufacturer, maintenance or supplier licence) shall be liable to pay, at such intervals as may be prescribed, a gambling levy which levy shall be calculated on such basis and at such rate as may be prescribed, and be payable in the manner and before the date as prescribed : Provided that different rates may be so prescribed in respect of different types of licences.

(b) A person who has made a winning bet with a bookmaker shall pay the prescribed levy on the amount and in the manner, as prescribed.

(2) Any payment of the gambling levy referred to in subsection (1), shall be accompanied by a return in the form determined by the board.

(3) Notwithstanding anything to the contrary contained in any other law, there shall be no period of grace for the payment of the gambling levy referred to in subsection (1), and if such levy is not paid on or before the prescribed date referred to in subsection (1), the licence may be suspended by the board in terms of section 39 until the gambling levy and the penalty payable in terms of subsection (4), have been paid.

(4) Any licence holder who fails to pay the gambling levy on or before the prescribed date referred to in subsection (1), shall in addition to such gambling levy, pay for each day or part of a day during which such licence holder is liable for the payment of the gambling levy, a penalty calculated at the prescribed rate of the outstanding amount : Provided that the total amount of such penalty shall not exceed twice the total amount of the gambling levy payable.

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(5) Anything prescribed in terms of this section shall be prescribed in consultation with the Member of the Executive Council responsible for Finance.

**Payment in respect of exclusivity**

58. (1) The board may, after consultation with the responsible Member, require as a condition for granting a casino licence for the first time, a one-time payment in consideration of guaranteeing to such licence holder, exclusivity in respect of any determined type of gambling in a determined area and for a determined period of time: Provided that the board may, after consultation with the responsible Member, and in the prescribed manner, extend such period of exclusivity against such further payment as may be tendered by such licence holder. 5  
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- (2) Any payment in terms of subsection (1) shall be paid to the board for the benefit of the Provincial Revenue Fund, at the time and in the manner determined by the board after consultation with the responsible Member. 15  
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**CHAPTER 5****Employees****Requirement for certain employees**

59. (1) Subject to section 65, no person shall be employed in any business relating to gambling if such a person is not the holder of a certificate of approval issued in terms of section 61(5). 30
- (2) The responsible Member may prescribe any occupation to be an occupation for purposes of subsection (1). 35

**Application for certificate**

60. (1) An application for a certificate of approval shall be made to the chief executive officer in the prescribed form and shall be accompanied by - 40
- (a) a complete set of fingerprints of the applicant taken in the prescribed manner; 45
  - (b) such documents, particulars or information as may be prescribed; and 50
  - (c) the prescribed application fees.
- (2) The provisions of section 28 shall *mutatis mutandis* apply to an application referred to in subsection (1). 55

**Consideration of applicants**

61. (1) The board shall consider an application in terms of section 60 and shall have due regard to - 60
- (a) the age, character, reputation, financial and employment background of the applicant;

(b)	any offences for which the applicant has been convicted and of which dishonesty is an element; and	
(c)	any other matter which may be relevant to establish whether the applicant is a suitable person to be so employed.	5
(2)	If the board is satisfied that the applicant is a suitable person to be so employed, the board shall grant the application subject to such conditions as the board may determine.	10
(3)	The board shall not refuse an application without giving the applicant the opportunity of being heard or presenting evidence.	15
(4)	If the board refuses an application, the chief executive officer shall forthwith notify the applicant in writing of the reasons furnished by the board for such decision.	20
(5)	Where the board grants an application in terms of subsection (2), the chief executive officer shall issue to the applicant a certificate of approval in the prescribed form.	25
	<b>Register of employees</b>	
62.	The chief executive officer shall keep a register in which he or she shall enter the name and prescribed particulars of each person to whom a certificate of approval has been issued under section 61(5), or whose certificate has been suspended or withdrawn under section 64.	30
	<b>Duration of certificate</b>	35
63. (1)	A certificate of approval issued under section 61(5), shall be valid as from the date of the issue thereof until the date on which -	40
(a)	the holder thereof, in writing and accompanied by the certificate, surrenders the certificate to the chief executive officer;	
(b)	the certificate is withdrawn by the board under section 64; or	45
(c)	the certificate lapses if the certificate was issued for a specific period.	50
(2)	Where a certificate of approval is suspended under section 64, the holder of such certificate shall not be so employed during the period of suspension.	
	<b>Suspension and withdrawal of certificate</b>	55
64. (1)	The board may, subject to subsection (2), at any time suspend for such period, not exceeding 6 months, as the board may determine, or withdraw, from such date as the board may determine, a certificate of approval, if -	60
(a)	any information contained in the application for such certificate was at the time when the information was furnished, false in any material respect or was subject to any material omission;	

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(b)	since the issue of the certificate, the holder of the certificate has been convicted of an offence under this Act or of any other offence reflecting on his or her suitability to be so employed;	
(c)	the holder of the certificate has acted in contravention of the provisions of section 66; or	5
(d)	the holder of the certificate is no longer a suitable person to be so employed.	10
(2)	The board shall not suspend or withdraw a certificate of approval, unless the holder thereof has, by notice of not less than 30 days, been given an opportunity of being heard by the board and of presenting evidence : Provided that any certificate of approval may be suspended with immediate effect pending the outcome of the hearing referred to in this subsection.	15
(3)	The board may at any time revoke the suspension of a certificate of approval if the board is satisfied that the reasons for which the suspension was imposed have been remedied and that it would be just to revoke the suspension.	20
	<b>Employment before issue of certificate</b>	25
65.	Notwithstanding the provisions of section 59, where an application for a certificate of approval has been made and the board is of the opinion that -	
(a)	a decision in relation to the application may not be made for some time;	30
(b)	the operation of the business in respect of which the licence concerned was granted will be seriously prejudiced or disadvantaged by the delay in the employment of the applicant; and	35
(c)	the commencement of the employment of the applicant will not prejudice the integrity and proper operation of the business in respect of which the licence concerned was granted,	40
	the board may grant permission in writing to the applicant to be so employed before the determination of the application, subject to such terms, conditions and restrictions as the board considers appropriate in a particular case.	45
	<b>Restrictions applicable to employees</b>	
66.	No person who is required to hold a certificate of approval in terms of section 59(1), shall in a casino or a bingo hall, as the case may be, with which he or she is associated -	50
(a)	participate in or play any gambling game in the Republic : Provided that such a person may participate in such gambling if it is necessary for the performance of his or her functions as such an employee; or	55
(b)	solicit any tip, gratuity, consideration, or other benefit from any player or customer in that casino or bingo hall, otherwise than as prescribed.	60

## CHAPTER 6

## Police officers and inspectors

## Powers of police to enter licensed premises

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67. (1) Notwithstanding anything to the contrary contained in any other law, a police officer of or above the rank of inspector may on reasonable grounds and when he or she deems it necessary, without a warrant enter a licensed premises for the purpose of -

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(a) carrying out such investigations and of taking such steps as he or she may consider necessary for the prevention of an offence;

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(b) the investigation of an offence;

(c) the investigation of the conduct of any person therein; and

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(d) determining whether the conditions referred to in this Act are being complied with.

(2) Any police officer entering a licensed premises under subsection (1), shall within 14 days after such entry submit a written report thereon to the board.

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## Appointment of inspectors by the board

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68. (1) The board may appoint any suitably qualified person as an inspector to exercise and perform, subject to the control and directions of the board, any or all of the powers and functions assigned to an inspector in terms of section 69.

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(2) Every inspector appointed under subsection (1) shall be furnished with a certificate signed by or on behalf of the board and stating that he or she has been appointed as an inspector : Provided that if his or her appointment as inspector is limited to any particular power or function, his or her certificate shall state such limitation.

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(3) Whenever an inspector appointed under subsection (1), exercises or performs a power or function under this Act in the presence of any person affected thereby, the inspector shall on demand by such person produce to him or her the certificate referred to in subsection (2).

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## Powers and functions of inspectors

69. (1) An inspector may, for the purposes of this Act -

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- |       |   |    |
|-------|---|----|
| (a)   | without previous notice or a search warrant enter upon any licensed premises which are occupied or used for the purposes of gambling or any other premises on which it is reasonably suspected that -                             | 5  |
| (i)   | a casino or any other gambling activity is being conducted without the authority of a licence;  |    |
| (ii)  | persons are being allowed to play or participate in any gambling activity; or   | 10 |
| (iii) | any gaming machine or any equipment, device, object, book, records, note or other document used or capable of being used in connection with the conducting of a casino or any other gambling activity by any person is kept, and, | 15 |
|       | after having informed the person who is then in charge of the premises of the purpose of his or her visit, make such investigation and enquiry as he or she deems necessary;  | 20 |
|       |   | 25 |
| (b)   | in or on any premises referred to in paragraph (a) -  |    |
| (i)   | require the production of any licence or written permission or authorisation that any person is required to hold under this Act regulating gambling activities;   | 30 |
| (ii)  | question or search any person who is on or in such premises and inspect any activities in connection with the conducting of gambling; and   | 35 |
| (iii) | examine or inspect any gaming machine, equipment, device, object, book, record, note or other document referred to in paragraph (a) and make a copy thereof or extract therefrom;   | 40 |
| (c)   | require from any person in charge of any premises referred to in paragraph (a) -  | 45 |
| (i)   | to point out any gaming machine, equipment, device or object referred to in that paragraph which is in his or her possession or custody or under his or her control;  | 50 |
| (ii)  | to produce for the purpose of examination or of making copies or extracts, all books, records, notes or other documents referred to in that paragraph which are in his or her possession or custody or under his or her control;  | 55 |
| (iii) | to provide any information in connection with anything which has been pointed out or produced in terms of subparagraph (i) or (ii); and   | 60 |

- (d) seize and remove any gaming machine, equipment, device, object, book, record, note or other document referred to in paragraph (c) which in his or her opinion may furnish proof of a contravention of any provision of this Act or leave it on the premises concerned after marking it for the purposes of identification.

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(2) An inspector may, upon written authorisation by the attorney-general or a public prosecutor authorised thereto in writing by the attorney-general, inspect or make copies of any account of any person at any financial institution, if such account may, in the opinion of the attorney-general, afford evidence of the commission of an offence or may be of value in the investigation of an alleged or suspected offence in terms of the provisions of this Act.

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(3) When exercising or performing any power or function in terms of subsection (1), an inspector may be accompanied by and avail himself or herself of the services of an assistant or interpreter or any police officer.

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(4) Nothing in this section shall preclude any inspector appointed and authorised in terms of a national gambling act to exercise and perform any of the above-mentioned powers and functions in the Province.

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(5) An inspector may at any time deliver such notices as the board is authorised to issue in terms of section 20(2).

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### **Resistance against entry**

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70. (1) A police officer or inspector who has the power to enter any premises referred to in section 69(1), may use such force as may be reasonably necessary to overcome any resistance against such entry of a place including the breaking of any door or window : Provided that such police officer or inspector shall first audibly demand admission to the said premises and notify the purposes for which he or she seeks to enter the place.

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(2) The proviso to subsection (1) shall not apply where the police officer or inspector concerned is on reasonable grounds of the opinion that any article which is the subject of the investigation, may be destroyed or disposed of if the provisions of the said proviso are first complied with.

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## **CHAPTER 7**

### **Furnishing of reasons, reviews and appeals**

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#### **Reasons for decisions by competent authority**

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

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(2) The competent authority shall, after receipt of the last-mentioned application, within the prescribed time and in the prescribed manner, furnish its reasons for the decision concerned.

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**Grounds for review**

72. The court of a division of the Supreme Court may, at the instance of a person who has made any application, objection or representations in terms of this Act and who feels aggrieved by a decision made by the competent authority in connection with that application, objection or representations, review such decision. 5

**Powers on review**

73. The court reviewing a decision of the competent authority in terms of section 72, shall if it sets aside the decision, issue an order that the competent authority consider afresh the matter in respect of which the decision was made, unless, in its opinion, exceptional circumstances warrant another order. 10  
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**Appeals to Supreme Court**

74. (1) A person who has made any application, objection or representations in terms of this Act and who feels aggrieved by a decision on a question, other than a question of fact, made by the competent authority in connection with the application, objection or representations, may appeal to the court of a division of the Supreme Court against the decision. 20  
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- (2) Such an appeal shall be noted and prosecuted as if it were an appeal against a judgement in a magistrate's court in civil proceedings. 30

- (3) If the court, after considering the appeal, is satisfied that the competent authority has erred in the making of the decision concerned, the court may set aside that decision, and shall in setting aside the decision, unless in its opinion exceptional circumstances warrant another order, issue an order that the competent authority consider afresh the matter in respect of which the decision was made. 35

**CHAPTER 8** 40**Judicial and related matters**

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**Financial interests**

75. A contract in terms of which a financial interest is procured in conflict with section 43(1) or (2), shall be void. 50

**Relinquishing or forgoing of certain rights, privileges, obligations and liabilities**

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76. Unless this Act specifically or by necessary implication permits such a provision, a contract which contains a provision whereby a person purports to relinquish or forgo a right, privilege, obligation or liability in terms of this Act, shall be void irrespective of whether the contract was concluded before or after the commencement of this Act. 60

**Service of process**

77. In any judicial proceedings instituted against the competent authority, the service on the chairperson and at the office of the State Attorney, or the branch of that office, if it is situated in the area of jurisdiction of the court concerned, of any process or any document whereby proceedings are instituted, shall be sufficient service on the competent authority. 5

**Intermediation of State Attorney**

78. No steps shall be taken by the competent authority in any judicial proceedings referred to in section 77, and no judicial proceedings shall be instituted by the competent authority, except with the intermediation of the State Attorney. 10

**Costs**

79. The costs incurred by the competent authority in connection with any judicial proceedings referred to in section 78 shall, unless the court concerned orders the costs to be borne by the opposite party or by the competent authority *de bonis propriis*, be paid out of the Provincial Revenue Fund. 15

**CHAPTER 9****General****Prohibition in respect of gambling and presumptions relating thereto**

80. (1) No person shall - 30
- (a) gamble on the result of any event or contingency other than - 35
    - (i) a casino game;
    - (ii) a sporting event, 40
- with the holder of a licence who is authorised by such licence to gamble on the event or contingency concerned : Provided that this section shall not prevent a licence holder from accepting wagers from the public in accordance with the conditions of his or her licence; 45
- (b) without the required licence be in possession of any gaming machine or conduct or permit any gambling activity at any place under his or her control or in his or her charge; 50
  - (c) gamble at any place referred to in paragraph (b) or visit any such place with the object of gambling; 55
  - (d) accept any employment in any occupation contemplated in section 59 with any person who is not the holder of the required licence, without taking all reasonable precautions to establish the validity of the licence; 60
  - (e) employ, or offer employment to any person in an occupation contemplated in section 59, without being the holder of the requisite licence.

**Improper use of the word "casino"**

81. No person shall, without the written consent of the board, trade or conduct or advertise a business under a name or title of which the word "casino" forms a part, unless he or she is the holder of a casino licence.

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**Prohibition of certain persons from entering licensed premises**

82. (1) No person under the age of 18 years shall enter any licensed premises and shall not partake in any gambling or handle or operate a gaming device.

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(2) No licensee or employee of a licensee shall permit any person who is under the age of 18 years, and no parent or guardian of a person under the age of 18 years shall permit such person, to enter or remain in the licensed premises and shall not permit such person to partake in any gambling or handle or operate a gaming device.

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(3) Where the court that has convicted a person of any offence is of the opinion that by reason of the nature of the offence or the circumstances under which it was committed, it is desirable in the interests of public order, public morals or fair play, that such person should not be permitted to enter any or a specific licensed premises, the court may issue a written order prohibiting him or her from entering any such licensed premises specified in the order for a period to be stated in the order.

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(4) Where a court makes an order under subsection (3), the clerk of the Court shall submit a copy of the order to the chief executive officer who shall cause a copy thereof to be delivered to the licensees of all licensed premises named in the order.

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(5) The board may, on such grounds as may be prescribed, prohibit any person from entering any licensed premises or partaking in any gambling.

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**Restriction on betting through agents and unlawful inducement to bet**

83. (1) No person shall, whether or not for gain, -

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(a) act as an agent for the holder of a bookmaker's licence for the purpose of betting on a sporting event; or

(b) act as an intermediary between the holder of a bookmaker's licence and any other person for the purpose of betting on a sporting event.

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(2) No person shall, directly or indirectly, give or undertake to give to any other person money or other valuable consideration, other than the amount of a wager won by such other person, to induce that person to bet on a sporting event.

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**Prohibition in respect of manufacture, sale, distribution, import, marketing, altering and modification of gaming equipment and devices****84. No person shall -**

- (a) operate, manufacture, sell, distribute, import or market any card, token, dice, game or gaming device which is intended to be used in violation of any provision of this Act; 5
- (b) alter, or otherwise modify any gaming device or any associated equipment in a manner that - 10
  - (i) affects the result of a wager by determining win or loss; or
  - (ii) alters or affects the normal criteria of random selection which determines the outcome of a casino game; 15
- (c) provide any person with information or a device to cheat in any casino game, knowing that the information so conveyed or the device so provided may be used to violate any provision of this Act. 20

**Cheating and cheating devices****85. (1) No person shall -**

- (a) allow anyone to conduct, carry on or operate any cheating or cheating device; 25
- (b) conduct, carry on, operate, deal or expose for play any casino game or games played with cards or through any mechanical device, or any combination of such games and devices, which have in any manner been marked or tampered with or placed in a condition or operated in a manner the result of which tends to deceive players or the public or tends to alter the normal random selection of criteria or the normal chance of the game which could determine or alter the result of such game; or 30 35 40
- (c) make use of any counterfeit chip or token, or contravenes the rules of any game or interferes in any way with any gaming device or any other device used for gambling with the intention of obtaining any pecuniary advantage, directly or indirectly, whether for himself or herself or any other person. 45

(2) For purposes of this section and section 84(c), "cheating" or "cheat" means to alter the selection of criteria - 50

- (a) which determine the result of a casino game; 55
- (b) which determine the amount or frequency of payment in a casino game; or
- (c) in terms of 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. 60

**Offences, penalties and forfeitures**

86.	(1)	Any person who -	
	(a)	contravenes or fails to comply with any provision of this Act or any rule or regulation made under sections 91 or 92 respectively;	5
	(b)	makes any false statement in any application or return under this Act;	10
	(c)	contravenes any condition of a licence;	15
	(d)	on any licensed premises conducts any gambling or keeps any gaming device which is not prescribed under this Act or conducts any prescribed game otherwise than in accordance with the rules of such game;	20
	(e)	hinders or obstructs any police officer or inspector in the performance of his or her functions under this Act;	25
	(f)	gives an explanation or information to a police officer or inspector which is false or misleading, knowing it to be false or misleading;	30
	(g)	falsely represents himself or herself to be an inspector;	35
	(h)	without the consent in writing of the inspector or police officer concerned, removes from the place where it has been left by the inspector or police officer, or tampers with, destroys or makes alterations to anything seized by such inspector or police officer in the performance of his or her functions;	40
	(i)	fails to comply with an order made under section 82(3) or knowingly permits such person to enter the licensed premises;	45
	(j)	having been summoned to give evidence at an enquiry under section 20(2), without sufficient cause fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the enquiry 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;	50
	(k)	having been summoned under section 20(2) or called under section 20(5)-	55
			60

- (i) without sufficient cause refuses to take the oath or to make an affirmation as a witness after he or she has been directed by the member of the board presiding at the enquiry to do so, or refuses to testify, or 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 5
- (ii) after having taken the oath or having made an affirmation, gives false evidence before the board at any enquiry on any matter, knowing such evidence to be false or not knowing or believing it to be true, 10
- shall be guilty of an offence and on conviction be liable to a fine, or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment. 15
- (2) Where a person is convicted of a contravention of section 80(1)(b), in addition to the penalty referred to in subsection (1), all moneys, documents, books, records and gaming devices found in or at the place concerned, shall be forfeited to the board: Provided that such forfeiture shall not affect any person's right if it is proven that such person did not know that such gaming device was being used or would be used for the purpose of or in connection with the commission of the offence in question, or that he or she could not prevent such use, and that he or she may lawfully possess such gaming device. 20
- (3) The court may cancel the licence issued in terms of this Act in case of a conviction or subsequent conviction of an offence under this Act. 25
- Vicarious responsibility** 30
- 87.** (1) When the manager of the business to which a licence relates, the agent or employee of the holder of a licence, does or omits to do any act which would be an offence in terms of this Act for the holder concerned to do or omit to do, that holder shall be deemed himself or herself to have done or omitted to do that act, unless he or she satisfies the court that - 35
- (a) he or she neither connived at nor permitted the act or omission by the manager, agent or employee concerned; 40
- (b) he or she took all reasonable steps to prevent the act or omission; and 45
- (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition and under no circumstances fell within the scope of the authority or employment of the manager, agent or employee concerned. 50



(2) For the purposes of subsection (1)(b), the fact that the licence holder issued instructions whereby any act or omission of that nature is prohibited shall not in itself be sufficient proof that he or she took all reasonable steps to prevent the act or omission.

### **Punitive gambling levies**

88. (1) Where a person is convicted of a contravention of section 80(1)(b), the board shall estimate the amount such person would, in the opinion of the board, have been liable to pay as gambling levies in terms of section 57 had he or she been the holder of a licence, and the board shall forthwith notify such person in writing of the amount so estimated.

(2) The amount referred to in subsection (1) shall be estimated in respect of a period of not more than 3 years calculated retrospectively from the date of conviction of the person concerned.

(3) The amount estimated in terms of subsection (1) shall be paid by the person convicted in the manner prescribed in terms of section 57(1)(a) within 21 days from the date of the notice referred to in subsection (1).

(4) The provisions of section 57(4) shall *mutatis mutandis* apply in respect of a person who is liable to pay gambling levies under this section.

### **Competency to impose penalties**

89. Notwithstanding any law to the contrary, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

### **Prohibition of activities in the Province in relation to gambling outside Province**

90. No person shall be exempt from liability under any provision of this Act in respect of any act or thing done or authorised or permitted by him to be done in the Province in connection with any gambling, merely by reason that the management, conduct or business of or concerning such gambling is in whole or part carried on at some place outside the Province.

### **Rules**

91. (1) The board may make rules, not inconsistent with the provisions of this Act, relating to the exercise of its powers and the performance of its functions, including -

- (a) any matter pertaining to an application for a licence;
- (b) the management and control of licensed premises and licence holders;
- (c) rules for the conduct of any form of gambling.

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(2) If a licensee contravenes or fails to comply with any rule made under subsection (1), the board may, after conducting an enquiry referred to in section 20, impose on the licensee a fine not exceeding R10 000 for any one such contravention.

(3) Not less than 1 month before any rule is made under this section, the board shall cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring its intention to make that rule and inviting interested persons to furnish any comments thereon or any representations which they wish to make in regard thereto, to the board on or before a date mentioned in the notice.

**Regulations**

92. (1) The responsible Member may, in consultation with the board, by notice in the *Provincial Gazette* make regulations regarding -

- (a) any matter pertaining to the board; 5
- (b) any matter pertaining to an application for a licence; 10
- (c) the management and control of licensed premises; 15
- (d) the take-out, commissions or other charges which the holder of the licence may charge; 20
- (e) the stakes for which any casino game may be played; 25
- (f) the winning stakes payable in respect of animal races; 30
- (g) the mediation of gambling disputes by the board; 35
- (h) any matter which in terms of this Act is required to or may be prescribed; 40
- (i) in general, any matter in respect of which it is necessary or expedient to make regulations for achieving the objects of this Act. 45

(2) A regulation made under this section may for a contravention thereof or failure to comply therewith, prescribe a fine or imprisonment for a period not exceeding 2 years or both such fine and imprisonment. 50

(3) 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. 55

(4) Not less than 1 month before any regulation is made under this section, the responsible Member shall cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish any comments thereon or any representations which they may wish to make in regard thereto, to the responsible Member on or before a date mentioned in the notice. 60

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(5)	The provisions of subsection (4) shall not apply in respect of -	
(a)	any regulation which, after the provisions of that subsection have been complied with, has been amended by the responsible Member, in consequence of comments or representations received in pursuance of such compliance; or	5
(b)	any regulation in respect of which the public interest requires it to be made without delay.	
<b>Transitional provisions</b> <i>(Repealed version)</i>		10
93.	(1) Any licence for the operation of a casino in the Province, issued in terms of any act which is repealed by this Act, shall be deemed to have been issued in terms of this Act, after which the provisions of this Act shall apply in respect of such a licence.	15
(2)	(a) Notwithstanding the repeal of any provision of any Ordinance by this Act, any application made by virtue of such a provision before the date of commencement of this Act and not disposed of on that date shall be continued with and disposed of as if that provision were not so repealed : Provided that the competent authority considering such application may in its discretion refer the application to the board for disposal.	20 25
	(b) Any licence or other authority granted in terms of any Ordinance repealed by this Act and which is capable of being granted in terms of this Act shall be deemed to have been granted in terms of this Act, after which the provisions of this Act shall apply in respect of such licences or authority.	30
	(c) Any rule or regulation made under a provision of any Ordinance which is repealed by this Act and which may be made under sections 91 or 92 respectively, shall be deemed to have been made under this Act.	35 40
	(d) Anything done in terms of a provision of any Ordinance which is repealed by this Act and which shall or may be done in terms of a provision of this Act shall be deemed to have been done in terms of the latter provision.	45
(3)	At the commencement of this Act all assets, liabilities, rights and obligations of a board, established in terms of any Ordinance repealed by this Act, shall vest in the board.	50
(4)	Notwithstanding anything to the contrary contained in this Act, the responsible Member may exercise and perform the powers and functions of the board, excluding the granting of any licence, until such time as the board has been appointed in terms of section 4(1).	55
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**Application of law**

94. Save for the provisions of a national gambling act, or as may otherwise be provided for in this Act, nothing contained in any law relating to gambling shall apply in respect of any gambling conducted in the Province.

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**Gambling debts enforceable**

95. Any gambling debt lawfully incurred by a person after the commencement of this Act in the course of legal gambling shall, notwithstanding the provisions of any law or the common law, be enforceable in a court of law.

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**Levies, fees and penalties**

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96. (1) All gambling levies, application fees, licence fees, penalties and any other moneys payable in terms of the provisions of this Act and all fines imposed in respect of offences under this Act, shall be paid to the board for the benefit of the Provincial Revenue Fund and the board shall monthly pay such amounts over to the Provincial Revenue Fund, furnishing such returns and information as the Provincial Treasury may require.

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(2) All gambling levies, application fees, licence fees, penalties and any other moneys payable in terms of the provisions of this Act, shall be a debt due to the Provincial Administration of the Free State, and may be recovered in a competent court by the said Administration or by the board on behalf of the Administration : Provided that the board shall primarily be responsible for the collection of the said amounts on behalf of the Provincial Administration.

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**Repeal of laws**

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97. The laws mentioned in the Schedule are hereby repealed to the extent indicated in the second column of the Schedule.

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**Short title and commencement**

98. (1) This Act shall be called the Free State Gambling and Racing Act, 1996, and shall come into operation on a date fixed by the responsible Member by notice in the *Provincial Gazette*.

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(2) Different dates may be so fixed in respect of different areas in the Province.

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(3) Different dates may be so fixed in respect of different sections of this Act.

## SCHEDULE

### Laws repealed

(Section 97)

Title, No. and Year of Law	Extent of repeal
1. Horse-racing and Betting Ordinance, 1956 (Ordinance No 12 of 1956) (Qwaqwa)	The repeal of the whole in so far as it applies in the Province.
2. Horse-racing and Betting Ordinance, 1977 (Ordinance No 8 of 1977)	The repeal of the whole.
3. Casino Act, 1977 (Act No 19 of 1977) (Bophuthatswana)	The repeal of the whole in so far as it applies in the Province.
4. Gaming and Betting Act, 1989 (Act No 39 of 1989) (Bophuthatswana)	The repeal of the whole in so far as it applies in the Province.