

- (a) a vacancy on the board at the time the decision was taken; or
- (b) the fact that a person who was not a member sat as a member at the time when the decision was taken.

Committees of board

71. (1) The board may from time to time appoint one or more committees to perform any duties and exercise any powers delegated to it by the board. 5

(2) A committee may comprise only persons who are members of the board, except to the extent required to comply with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3) The board— 10

- (a) may designate any number of its members to sit on a committee;
- (b) must designate which member will chair the committee; and
- (c) may issue directives to the committee but any such directives must be consistent with this Act.

(4) A committee must perform its duties and exercise its powers subject to the provisions of this Act and any directives issued by the board in terms of subsection (3)(c). 15

(5) A decision of a committee taken in the performance of a duty or exercise of a power delegated to it is a decision of the board, subject to ratification by the board.

Remuneration and allowances of members of board and committees 20

72. (1) The Minister may, with the concurrence of the Minister of Finance, determine the remuneration and allowances of any member of the board, or of a committee, who is not in the full-time service of the State.

(2) The remuneration and allowances of the persons referred to in subsection (1) may differ according to the different offices held by them or the different duties performed by them. 25

Staff of board and remuneration

73. (1) The board—

(a) in consultation with the Minister, must appoint a suitably qualified and experienced person as Chief Executive Officer who— 30

- (i) subject to the direction and control of the board, is responsible for all financial administrative responsibilities pertaining to the functions of the board; and
- (ii) is accountable to the board; and

(b) may appoint any other staff as may be necessary to enable the board to perform its duties. 35

(2) Sections 67(2) and (3) and section 68, read with the changes required by the context, apply to the Chief Executive Officer and each staff member to be appointed in terms of this Act.

(3) The board, in consultation with the Minister, may determine the remuneration, allowances, employment benefits and other terms and conditions of appointment of a person appointed in terms of subsection (1). 40

(4) Subject to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board may delegate to any member of the staff any power or duty that the board may exercise or perform in terms of this Act. 45

Finances

74. (1) The board is financed from—

- (a) money appropriated by Parliament for the board;
- (b) any fees payable to the board in terms of this Act;
- (c) income derived by the board from its investment and deposit of surplus money in terms of subsection (6); and 50
- (d) other money accruing to the board from any source.

(2) The financial year of the board is the period from 1 April in any year to 31 March in the following year.

(3) Each year, at a time determined by the Minister, the board must submit to the Minister a statement of the board's estimated income and expenditure, and requested appropriation from Parliament, in respect of the next ensuing financial year. 55

(4) The board must open and maintain an account in the name of the board with a registered bank or other registered financial institution in the Republic and—

- (a) any money received by the board must be deposited to that account; and
- (b) every payment on behalf of the board must be made from that account.

(5) Cheques drawn on the account of the board must be signed on its behalf by two persons authorised for that purpose by resolution of the board. 5

(6) The board may invest or deposit money of the board that is not immediately required for contingencies or to meet current expenditures—

- (a) on a call or short-term fixed deposit with any registered bank or financial institution in the Republic; or 10
- (b) in an investment account with the Corporation for Public Deposits established in terms of section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).

Accountability, audits and reports

75. (1) The board is responsible to— 15

- (a) account for State and other money received by, or paid for or on account of, the board; and
- (b) cause the necessary accounting and related records to be kept,

in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(2) The records referred to in subsection (1)(b) must be audited by the Auditor-General. 20

(3) The board must report to the Minister at least once every year on its activities.

(4) As soon as practicable after receiving a report referred to in subsection (3), the Minister must—

- (a) transmit a copy of the report to the Premier of each province; and 25
- (b) table it in Parliament.

CHAPTER 5

ENFORCEMENT AND OFFENCES

National inspectorate

76. (1) The board— 30

- (a) may appoint any suitably qualified person as an inspector and assign the inspector to monitor, investigate or evaluate any matter on behalf of the board, subject to the control and direction of the board; and
- (b) must provide each inspector with a certificate signed on behalf of the board and stating— 35
 - (i) that the inspector has been appointed under this Act; and
 - (ii) any limitation on the authority of that inspector.

(2) An inspector performing a function under this Act must show his or her certificate of appointment to any affected person who demands to see it.

(3) For the purpose of this Act or any other national or provincial law in respect of gambling and associated activities, an inspector is deemed to have been appointed a peace officer for the purposes of the relevant sections of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 40

Powers and duties of inspector

77. (1) An inspector may attend at the offices of any provincial licensing authority for the purpose of carrying out any activity contemplated in section 33 or 34. 45

(2) Without prior notice, an inspector in the company of an inspector appointed in terms of provincial law, may—

- (a) enter any licensed premises, or other premises in which licensed activities are engaged in, conducted or made available, or in which records of any of those activities are prepared or maintained; 5
- (b) enter any unlicensed premises in, on or from which it is suspected—
 - (i) that any gambling activity is being engaged in, conducted or made available; or
 - (ii) that any gambling machine or any equipment, device, object, book, record, note, recording or other document used or capable of being used in connection with the conducting of a casino or any other gambling activity may be found; 10
- (c) in any premises referred to in paragraph (a) or (b)—
 - (i) conduct any enquiry that the inspector believes to be necessary, after having informed the person who appears to be in charge of the premises of the purpose of the inspector's visit; 15
 - (ii) require the person in control of such premises to produce any licence or written permission or authorisation required under this Act or any provincial law;
 - (iii) question any person who is on or in those premises; 20
 - (iv) examine any prescribed gambling equipment, device, object, book, record, note, recording or other document in, about, upon or around the premises referred to in paragraph (a) or (b); and
 - (v) seize and remove from those premises, and impound— 25
 - (aa) any such equipment for the purposes of examination and inspection; or
 - (bb) any book, record, ledger, game device, cash box and its contents, counting room or its equipment or gambling operations;
- (d) require any person who appears to be in charge of any premises referred to in paragraph (a) or (b)— 30
 - (i) to point out any equipment, device or object referred to in those paragraphs that the person has possession or custody of, or control over;
 - (ii) to produce for the purpose of examination or of making copies or extracts, any book, record, note, recording or other document referred to in paragraph (a) or (b) that the person has possession or custody of, or control over; and 35
 - (iii) to provide any information in connection with anything that has been pointed out or produced in terms of subparagraph (i) or (ii).

(3) Without prior notice, an inspector may do any thing contemplated in subsection (2) for the purpose of carrying out the responsibilities of the board in terms of section 65(1)(a) or (b). 40

(4) When performing a duty in terms of subsection (2) or (3), an inspector may be accompanied and assisted by an assistant, interpreter or a police official.

(5) An inspector may request and receive information, materials and any other data from any licensee or applicant for a licence or registration under this Act, subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). 45

Breach of confidence

78. (1) It is an offence to disclose any confidential information concerning the affairs of any person obtained—

- (a) in carrying out any function in terms of this Act; or 50
- (b) as a result of making an application or participating in any proceedings in terms of this Act.

- (2) Subsection (1) does not apply to information disclosed—
- (a) for the purposes of the proper administration or enforcement of this Act;
 - (b) for the purposes of the administration of justice; or
 - (c) at the request of an inspector or other person entitled to receive the information.

5

Obstructing administration of Act

79. It is an offence to oppose, obstruct or unduly influence any person who is exercising a power or performing a duty delegated to, conferred upon or imposed on that person by this Act.

Self-incrimination

10

80. (1) A person questioned by an inspector in terms of this Act is not obliged to answer any question if the answer is self-incriminating.

(2) No self-incriminating answer given or statement made to a person exercising any power in terms of this Act is admissible as evidence against the person who gave the answer or made the statement in any criminal proceedings, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in this section, and then only to the extent that the answer or statement is relevant to prove the offence charged.

15

Failure to comply with Act

81. In addition to any other provision in this Act, a person commits an offence who—
- (a) does anything calculated to improperly influence the board concerning any matter connected with an investigation;
 - (b) does anything in connection with an investigation that would have been contempt of court if the proceedings had occurred in a court of law;
 - (c) knowingly provides false information to the board;
 - (d) wilfully interrupts any proceedings or misbehaves in the place where a hearing is being conducted;
 - (e) falsely claims to be—
 - (i) an inspector;
 - (ii) a regulatory authority; or
 - (iii) a person authorised to act on behalf of a regulatory authority;
 - (f) refuses or fails to comply to the best of his or her ability with any request of an inspector under section 77.

20

25

30

Offences and breach of licence condition

82. (1) It is an offence to contravene sections 7 to 20, 22(1) and (4), 23(1), (2) and (3), 25(1), 26(2) and (3) and 28 of this Act.

35

(2) If a person appears to have committed an offence under this Act in circumstances that are also a substantially similar offence under applicable provincial law, the person may be prosecuted for the offence under this Act, or for the substantially similar offence under the applicable provincial law, but not for both.

40

(3) The commission of an offence under this Act by a licensee is a breach of a condition of the licence.

Penalties

83. (1) Any person convicted of an offence in terms of this Act is liable to a fine not exceeding R10 000 000, or to imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

45

(2) A licensee found to be in breach of a condition of a licence is liable to an administrative penalty not exceeding 10% of the annual turnover of the licensee.

Magistrate's court jurisdiction to impose penalties

84. Despite anything to the contrary contained in any other law, a magistrate's court has jurisdiction to— 5

- (c) impose any penalty for an offence or breach of a licence condition in terms of this Act; or
- (d) make an order contemplated in section 14.

Serving documents

85. Unless otherwise provided in this Act, a notice, order or other document that, in terms of this Act, must be served on or given to a person, is properly served or given when it has been either— 10

- (a) delivered to that person;
- (b) sent to that person by fax;
- (c) sent by registered post to that person's last known address; or 15
- (d) published in the *Gazette*.

Proof of facts

86. (1) In any criminal proceedings in terms of this Act, if it is proved that a false statement, entry or record or false information appears in or on a book, document, plan, drawing or computer storage medium, in the absence of evidence to the contrary, the person who kept that item is presumed to have made the statement, entry or record or stored the information. 20

(2) A statement, entry or record, or information, in or on any book, document, plan, drawing or computer storage medium is admissible in evidence as an admission of the facts in or on it by the person who appears to have made, entered, recorded or stored it unless there is evidence to the contrary that the person did not make, enter, record or store it. 25

CHAPTER 6

GENERAL PROVISIONS

Regulations 30

87. (1) The Minister may make regulations regarding—
- (a) any forms required to be used for the purposes of this Act;
 - (b) the maximum number of any kind of licence, relating to gambling to be granted in the Republic or in each province, subject to section 45;
 - (c) the determination of norms and standards that will apply generally throughout the Republic relating to any matter in terms of this Act; 35
 - (d) the exercise by the board of its monitoring, investigative and evaluation functions in terms of sections 33 and 34;
 - (e) the periods, manner and form, and content of information to be provided in terms of section 35; 40
 - (f) minimum standards for the design, use and maintenance of premises that are, or are intended to be, licensed premises, which minimum standards must include—
 - (i) provisions to guard against the over-stimulation of gambling; and
 - (ii) provisions to protect minors from exposure to gambling activities; and 45
 - (g) matters contemplated in section 13, 15 or 17, any other matters to be prescribed in terms of this Act, and in general, any incidental matter that may

- be considered necessary or expedient to prescribe in order to achieve the objects of this Act.
- (2) After consulting the Council the Minister may make regulations concerning—
- (a) norms and standards for the manner and nature of the regulation and control of— 5
 - (i) casinos, racing, gambling and wagering activities in general; or
 - (ii) any specific such activity;
 - (b) the regulation of betting across provincial boundaries;
 - (c) the types of games that may not be played in a casino;
 - (d) the control and restriction of bingo or any similar game; and 10
 - (e) minimum standards in respect of licensing procedures by provincial licensing authorities, including—
 - (i) the granting, issuing, suspension, withdrawal, reviewing and amendment of gambling licences;
 - (ii) procedures for the consideration of applications, including the investigations that must be conducted and the circumstances under which hearings in respect of licence applications must be conducted; 15
 - (iii) the criteria to be complied with before any licence is granted in terms of this Act or applicable provincial law;
 - (iv) the nature and manner of the auditing of the businesses of licensees and the documents and records which they must keep and submit to the relevant licensing authority; and 20
 - (v) the types, minimum standards and qualities of gambling equipment that may be used by any licensee.
- (3) The Minister may make regulations determining, in respect of applications for national licences under this Act— 25
- (a) the manner and form in which applications for licences are to be submitted;
 - (b) the fees payable, and the manner of payment, in respect of various types of licences, including fees in respect of—
 - (i) applications, 30
 - (ii) probity investigations; or
 - (iii) licences;
 - (c) procedures for the consideration of applications, including the investigations that must be conducted and the circumstances under which hearings in respect of licence applications must be conducted; 35
 - (d) the period of duration of a licence and the procedures and fees for the renewal of licences;
 - (e) conditions that may be attached to a licence, in terms of section 48(5); and
 - (f) conditions and requirements for the transfer of a licence, or an interest in a licence. 40
- (4) Before making any regulations in terms of this Act, other than regulations contemplated in subsection (1)(a) and (d), the Minister—
- (a) must—
 - (i) consult the Council, and
 - (ii) publish the proposed regulations for comment for a minimum of 45 days; 45
 - (b) may consult the board and provincial licensing authorities.

Repeal of laws

88. This Act repeals the National Gambling Act, 1996 (Act No. 33 of 1996).

Act No. 7, 2004**NATIONAL GAMBLING ACT, 2004****Short title and commencement**

89. This Act is called the National Gambling Act, 2004, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

SCHEDULE

TRANSITIONAL PROVISIONS

Definition

1. (1) In this Schedule—
 “effective date” means the date on which this Act, or any relevant provision of it, 5
 came into operation in terms of section 89;
 “previous Act” means the National Gambling Act, 1996 (Act No. 33 of 1996).
- (2) A reference in this Schedule—
 (a) to a section by number, is a reference to the corresponding section of—
 (i) the previous Act, if the number is followed by the words “of the previous 10
 Act”; or
 (ii) this Act, in any other case.
 (b) to an item or a sub-item by number is a reference to the corresponding item or
 sub-item of this Schedule.

General preservation of regulations, rights, duties, notices and other instruments 15

2. (1) Despite the repeal of the previous Act, Regulation No. R 1425 promulgated
 under section 17 of the previous Act on 21 December 2000 continues in force as if it had
 been promulgated in terms of section 87, with the following exceptions:
 (a) The definition of “site” in Regulation 1 is repealed; and
 (b) Regulations 4, 8, 10, 11, 12, 16, 28, 29, 39, 40, 41(1), 42, 62, 63 and 64 are 20
 repealed.
- (2) A licence that had been issued in terms of applicable provincial law by a provincial
 licensing authority, and in force immediately before the effective date, continues in
 force, subject to the provisions of this Act, and applicable provincial law.
- (3) In respect of a licence contemplated in sub-item (2)— 25
 (a) regulations made in terms of section 87(1)(f) do not apply until the first
 anniversary of the date on which such regulations are promulgated; and
 (b) section 46 does not apply until the third anniversary of the effective date.
- (4) Any other right or entitlement enjoyed by, or obligation imposed on, any person in
 terms of any provision of the previous Act, that had not been spent or fulfilled 30
 immediately before the effective date must be considered to be a valid right or
 entitlement of, or obligation imposed on, that person in terms of any comparable
 provision of this Act, as from the date that the right, entitlement or obligation first arose,
 subject to the provisions of this Act.
- (5) A notice given by any person to another person in terms of any provision of the 35
 previous Act must be considered as notice given in terms of any comparable provision
 of this Act, as from the date that the notice was given under the previous Act.
- (6) A document that, before the effective date, had been served in accordance with the
 previous Act must be regarded as having been satisfactorily served for the purposes of 40
 this Act.
- (7) An order given by an inspector, in terms of any provision of the previous Act, and
 in effect immediately before the effective date, continues in effect, subject to the
 provisions of this Act.

National Gambling Board

3. (1) A person who was a member of the board immediately before the effective date—
- (a) ceases to be a member of the board upon the coming into operation of this Act, if that person is not entitled to be a member of the board in terms of section 67; and 5
 - (b) otherwise, continues to be a member of the board, holding the same position the person held immediately before the effective date, until the expiry of the term to which the person was appointed in terms of the previous Act.
- (2) A person who held an appointment as an inspector under the previous Act immediately before the effective date is an inspector in terms of this Act as of the effective date, subject to further direction of the board. 10
- (3) An inspector's certificate issued in terms of the previous Act and valid immediately before the effective date continues to be valid as a certificate of appointment as an inspector, as if it had been issued in terms of this Act, until it expires or is cancelled by the board. 15

National licences

4. (1) A person who, immediately before the effective date, held a licence of a type that, in terms of this Act, is required to be issued as a national licence, may apply to the provincial licensing authority that issued the licence for conversion of that licence, and the provincial licensing authority must issue a national licence in substitution for the former licence, on substantially similar terms and conditions. 20
- (2) A person who, immediately before the effective date, held a licence of a type that, in terms of this Act, is not required to be issued as a national licence, but may be so issued, may apply within 6 months after the effective date to the provincial licensing authority that issued the licence for conversion of that licence, and the provincial licensing authority must issue a national licence in substitution for the former licence, on substantially similar terms and conditions. 25

Development of interactive gambling policy and law

5. (1) The board must establish a committee to consider and report on national policy to regulate interactive gambling within the Republic, and may include with its report any draft national law that the committee may consider advisable. 30
- (2) Despite section 71(2), the committee constituted in terms of this item may include—
- (a) representatives of provincial licensing authorities; and 35
 - (b) other persons, whether or not those persons are members of the board.
- (3) Section 71(3) and (4) apply to the committee constituted in terms of this item.
- (4) The committee constituted in terms of this item must report jointly to the board and the Council within one year after the effective date.
- (5) Within two years after the effective date, the Minister, after considering the report of the committee and any recommendations of the board or the Council, must introduce legislation in Parliament to regulate interactive gambling within the Republic. 40

Transitional maximum numbers of casino licences

6. Despite the repeal of the previous Act section 13(1)(j) of that Act, except the words that follow subparagraph 13(1)(j)(ix), remains in force until the Minister first makes a regulation determining a maximum number of casino licences, as contemplated in section 45 of this Act. 45

Excluded persons

7. Despite the coming into operation of section 14—

- (a) subsections (1) to (6) of that section remain inoperative until a date declared by the Minister by notice in the *Gazette* after the board has established the national register of excluded persons as required by section 14(7); and 5
- (b) subsections (10) to (12) of that section remain inoperative—
 - (i) with respect to any gambling activity other than the use of limited pay-out machines, until the date declared in terms of paragraph (a); or
 - (ii) with respect to the use of limited pay-out machines, until a date declared by the Minister by notice in the *Gazette* after the board advises the Minister that reasonable and effective means exist to preclude the use of such a machine by an excluded person. 10

Regulations

8. On the effective date, and for a period of 90 days after the effective date, the Minister may make any regulation contemplated in the Act without meeting the procedural requirements set out in section 87 or elsewhere in this Act, provided the Minister has published such proposed regulations in the *Gazette* for comment for at least 45 days. 15