

- (b) conduct the investigations prescribed by this Act with respect to probity, technical competence, industry competitiveness or any other prescribed matters; and
- (c) conduct any prescribed hearings or other proceedings in respect of the application. 5

(2) After completing the prescribed investigations, hearings or other proceedings required in terms of subsection (1), a provincial licensing authority may—

- (a) notify the applicant in writing that it refuses to grant the licence applied for; or
- (b) notify the applicant and each other regulatory authority in the prescribed manner that it proposes to issue the licence as applied for, and specify any conditions of the proposed licence. 10

(3) A provincial licensing authority that has received a notice in terms of subsection (2)(b) may request the Chief Executive Officer to conduct an oversight evaluation contemplated in section 42.

#### **Review of refusal to issue national licence** 15

41. An applicant who has been refused a licence in terms of section 40(2)(a) may request a review of that decision by the High Court.

#### **Review of proposal to issue national licence**

42. (1) After receiving a notice from a provincial licensing authority that it proposes to issue a national licence, the Chief Executive Officer— 20

- (a) must direct an inspector to conduct an oversight evaluation of the application, investigative report and recommendations of the provincial licensing authority, if two or more provincial licensing authorities have so requested in terms of section 40(3); or
- (b) in any other case, may direct an inspector to conduct such an oversight evaluation, if there are good grounds to believe that the requirements of this Act have not been satisfied. 25

(2) If a direction is given for an oversight evaluation, the Chief Executive Officer must issue a notice of intent to evaluate the proposed licence in the prescribed form to—

- (i) the applicant; 30
- (ii) the provincial licensing authority; and
- (iii) any provincial licensing authority that made a request for the oversight evaluation, in terms of subsection (1)(a).

(3) After conducting an oversight evaluation in terms of subsection (1), the Chief Executive Officer may— 35

- (a) without referring the application to the board, advise the provincial licensing authority in the prescribed manner that there are no objections to the issue of the national licence as proposed;
- (b) request that the provincial licensing authority consider— 40
  - (i) imposing particular or additional conditions before issuing the licence; or
  - (ii) altering any proposed conditions before issuing the licence; or
- (c) issue a deficiency report to the provincial licensing authority— 45
  - (i) requesting the provincial licensing authority to consider the application afresh; and
  - (ii) setting out any matters in respect of which the authority failed to comply with national norms and standards for consideration of the application.

(4) A provincial licensing authority may issue the licence as proposed by it, if the Chief Executive Officer—

- (a) has not issued a notice of intent to evaluate in terms of subsection (2), or a notice in terms of subsection (3), within 20 days after receiving notice of the proposed licence; or 50
- (b) issues a notice in terms of subsection (3)(a).

(5) If the Chief Executive Officer issues a request in terms of subsection (3)(b), the provincial licensing authority may— 55

- (a) issue the licence with the altered conditions as requested by the Chief Executive Officer; or
  - (b) request the board to set aside the request of the Chief Executive Officer, and permit the issuing of the licence as initially proposed.
- (6) If the Chief Executive Officer issues a deficiency report in terms of subsection (3)(c), the provincial licensing authority must either— 5
- (a) consider the application afresh; or
  - (b) request the board to set aside the deficiency report and permit the issuing of the licence as initially proposed.
- (7) If a matter is referred to the board in terms of subsection (5) or (6), the board 10 may—
- (a) confirm the request or deficiency report of the Chief Executive Officer;
  - (b) set aside all or part of the request or the deficiency report; or
  - (c) permit the issuing of the licence with or without conditions.

### **Suspension and revocation of national licence**

15

**43.** (1) A provincial licensing authority may, with the prior concurrence of the board, suspend or revoke a national licence as if that licence were a provincial licence issued by that licensing authority, if—

- (a) the licence was obtained by a materially false or misleading representation;
- (b) the licensee has become disqualified to hold a licence in terms of section 49 or 50; or 20
- (c) within that province—
  - (i) the licensee has violated this Act, or applicable provincial law;
  - (ii) the licensee has contravened or failed to comply with an obligation of accountable institutions in terms of the Financial Intelligence Centre Act 25 in so far as it applies to the gambling industry;
  - (iii) the licensee or any person managing or directing the licensee has contravened or failed to comply with a provision of Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
  - (iv) the licensee has contravened a condition of the licence; or 30
  - (v) the licensee has failed to discharge financial commitments for the licensee's operations.

(2) A provincial licensing authority must immediately advise each other provincial licensing authority of a suspension or revocation of a national licence.

### **Part C**

35

#### **Provincial licences**

#### **Licensing by provinces to comply with national norms and standards**

**44.** (1) When considering an application for a provincial licence or a national licence, a provincial licensing authority must comply with the licensing standards set out in this Act. 40

(2) It is a condition of every provincial licence that the licensee must comply with every applicable provision of this Act.

#### **Maximum numbers of casino licences**

**45.** (1) The Minister, by regulation made in accordance with section 87, and after considering the criteria set out in this section, may prescribe a maximum number of casino licences that may be granted in the Republic, and in each province. 45

(2) Before making a regulation contemplated in subsection (1), the Minister may consult the Competition Commission, and must consider, amongst other things, the following criteria:

- (a) The number and geographic distribution of—
- (i) existing licensed casinos and interactive providers operating within the Republic, and the duration of the licences under which they operate; and
  - (ii) additional casino licences available in terms of the maximum numbers then in force; and 5
- (b) whether it is desirable to alter the maximum numbers of casino licences, in the Republic as a whole, or within any particular province or provinces, in order to—
- (i) address the incidence and social consequences of compulsive and addictive gambling; 10
  - (ii) promote black economic empowerment; or
  - (iii) promote—
    - (aa) new entrants to the gambling industry;
    - (bb) job creation within the gambling industry;
    - (cc) diversity of ownership within the gambling industry; 15
    - (dd) efficiency of operation of the gambling industry; or
    - (ee) competition within the gambling industry.
- (3) If the Minister establishes a maximum number of casino licences, in the Republic as a whole or within a particular province, that is lower than the number of licensed casinos then operating in the Republic or that province, the licensed casinos then operating may continue to operate, subject to the conditions of their respective licences, but no additional licences may be granted in the Republic or the particular province, as the case may be, until the number of operating casinos is lower than the prescribed maximum number of casino licences. 20

#### **Limitation of rights applicable to licence** 25

- 46.** (1) Subject to subsection (2), only a juristic person may be licensed—
- (a) to operate a casino;
  - (b) as a route operator;
  - (c) as a manufacturer;
  - (d) as a testing agent; 30
  - (e) as a totalisator operator; or
  - (f) under any other category of licence, to the extent that applicable provincial law so requires.
- (2) Applicable provincial law may require a licensee contemplated in subsection (1) to be a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973). 35

#### **Amusement games and machines**

- 47.** (1) A provincial law may permit the provincial licensing authority to license and regulate—
- (a) amusement machines, subject to the requirements of subsection (2); and
  - (b) amusement games, subject to the requirements of subsection (3) and any regulations promulgated in terms of subsection (4). 40
- (2) An amusement machine must not be derived or converted from a gambling machine of the type ordinarily found in a casino.
- (3) An amusement game must not—
- (a) be similar to, or derived from, a gambling game other than bingo; 45
  - (b) offer a cash prize or a combination of a cash prize with any other prize; or
  - (c) offer a prize that exceeds the prescribed maximum value for such games.
- (4) The Minister may, by regulation made in accordance with section 87, prescribe the maximum value of the prize, and the type of prizes, that may be offered for an amusement game. 50

**Part D****Licensing norms and standards****Licence criteria, categories and conditions**

- 48.** (1) A national licence or a provincial licence must specify—
- (a) the identity of the licensee; 5
  - (b) the activities that the licence permits the licensee to engage in, conduct or make available to the public; and
  - (c) other than an employment licence, the premises at, in or from which the licensee is permitted to operate.
- (2) A provincial licensing authority issuing a national licence or a provincial licence may issue it only as— 10
- (a) a permanent licence;
  - (b) a temporary licence, subject to the fulfilment of certain conditions within a specified period, with the intention that upon fulfilment of those conditions, a permanent licence will be issued in substitution of the temporary licence; 15
  - (c) a provisional or other interim licence provided for in applicable provincial law; or
  - (d) subject to subsection (3), a special event licence which permits the licensed activity on specified dates only in a particular location set out in the licence.
- (3) A special event licence may not be issued in respect of the operation of a casino or a gambling machine. 20
- (4) A provincial licensing authority issuing a national licence must issue a licence certificate in the prescribed form to the licensee.
- (5) A provincial licensing authority issuing a national licence or a provincial licence— 25
- (a) may issue it with or without conditions; and
  - (b) must set out in the licence certificate—
    - (i) the duration of the licence;
    - (ii) the specific activities permitted in terms of the licence or a reference to the applicable law that describes such activities; and 30
    - (iii) the name or description of the specific premises in, on or from which the licensed activity may take place, unless it is an employment licence.

**Disqualifications for employment licences**

- 49.** (1) A person must not hold an employment licence issued in terms of this Act or applicable provincial law, if that person— 35
- (a) is under the age of 18 years;
  - (b) is a public servant or political office bearer;
  - (c) is listed on the register of excluded persons;
  - (d) is subject to an order of a competent court holding that person to be mentally unfit or deranged; 40
  - (e) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or
  - (f) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or an offence in terms of this Act or applicable provincial law, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence. 45
- (2) A licensing authority may not issue an employment licence to a person if the applicant falls within any of the enumerated disqualifications set out in subsection (1). 50
- (3) An employment licence issued in terms of this Act is deemed to have been cancelled if the licensee becomes disqualified in terms of subsection (1) at any time after the licence was granted.

**Disqualifications and restrictions for other licenses**

**50.** (1) This section does not apply to an employment license.

(2) A person must not hold a licence issued in terms of this Act, or comparable provincial law, or any of the total financial interest in the licensee of such a licence, if that person—

- (a) is under the age of 18 years; 5
- (b) is a public servant or political office bearer;
- (c) is listed on the register of excluded persons;
- (d) is a family member, other than a brother or sister, of a person who is a member or employee of a regulatory authority exercising oversight over that licensee; 10
- (e) is an unrehabilitated insolvent;
- (f) is not a fit and proper person to be involved in the business concerned;
- (g) is subject to an order of a competent court holding that person to be mentally unfit or deranged;
- (h) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or 15
- (i) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or an offence in terms of this Act or applicable provincial law, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence. 20

(3) A provincial licensing authority must refuse to issue a licence to a person who is disqualified from holding an interest in a licence, licensee, licensed premises, or the business to which a licence relates, in terms of subsection (1), or applicable provincial law. 25

(4) A provincial licensing authority must refuse to issue a licence to an applicant if, after conducting the prescribed investigations, the licensing authority has reason to believe that the applicant, any person who has a controlling interest in the applicant, any person who holds any of the total financial interest in the applicant, or any manager of the business concerned is— 30

- (a) a family member, other than a brother or sister, of a person who is a member of that licensing authority; or
- (b) disqualified from holding an interest in a licence, licensee, or the business to which a licence relates, in terms of subsection (1). 35

**Disqualification after licence issued**

**51.** (1) This section does not apply to an employment license.

(2) If a person who holds a licence, or an interest in a licensee, becomes disqualified in terms of section 50(2), or relevant provincial law, after the licence was issued— 40

- (a) that person must advise the licensee and the licensing authority in the prescribed manner and form; and
- (b) if that person—
  - (i) holds an interest in the licensee, that person must dispose of that interest within a period of not more than 3 years, determined by the licensing authority after considering the circumstances, and the nature of the disqualification; or 45

- (ii) is a manager of the business concerned, the licensing authority may impose reasonable conditions on the continuation of the licence with the object of ensuring continuing compliance with the principles of this Act.

#### Acquisition of interest by disqualified person

52. (1) This section does not apply to an employment licence. 5  
 (2) If a person who is disqualified in terms of section 50(2) acquires a licence, or any of the total financial interest in a licensee, that person must, within a period of not more than three years, as determined by the licensing authority after considering the circumstances and the nature of the disqualification, dispose of that licence or all their financial interest in that licensee, as the case may be. 10

### Part E

#### *Additional norms and standards concerning non-employment licences*

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

53. (1) When considering an application for a licence, other than an employment licence, or when considering an application for the transfer of a licence, a provincial licensing authority— 15  
 (a) must consider the commitments, if any, made by the applicant or proposed transferee in relation to—  
 (i) black economic empowerment; or  
 (ii) combating the incidence of addictive and compulsive gambling; 20  
 (b) must consider the potential socio-economic impact on the community of the proposed licence; and  
 (c) may impose reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in paragraphs (a) and (b).  
 (2) At least once every year after the issuance of a licence other than an employment licence, the provincial licensing authority that issued that licence— 25  
 (a) must review the commitments considered in terms of subsection (1)(a) and the achievements of the licensee in relation to those commitments; and  
 (b) may impose further or different reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in subsection (1)(a) and (b). 30

#### Competition issues to be considered

54. (1) When considering an application for a licence, other than an employment licence, or when considering an application for the transfer of a licence, a provincial licensing authority must consider whether approving the application is likely to substantially affect competition in the gambling industry generally, or in respect of the proposed activity— 35  
 (a) within that province, in the case of a provincial licence; or  
 (b) within the Republic, in the case of a national licence.  
 (2) After considering the matters contemplated in subsection (1), the provincial licensing authority must refuse the application unless there are overriding public interest reasons for approving it, if it appears that approving the application would result in the applicant, alone or in conjunction with a related person, achieving market power. 40  
 (3) For the purposes of subsection (2)—  
 “market power” has the meaning set out in section 1 of the Competition Act, 1998 (Act No. 89 of 1998); 45

“public interest reasons” include the reasons set out in section 12A (3) of the Competition Act, 1998; and

“a related person” means a person—

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

### State interests

55. (1) In this section—

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

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

(2) Subject to item 3 of Schedule and subsection (3), a public body must not hold any financial interest in any—

(a) gambling licence, gambling activity or premises used for a gambling activity; or

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

(3) A public body may—

(a) directly or indirectly hold a financial interest in premises used for a gambling activity if it holds that interest in terms of an acceptable arrangement described in subsection (4);

(b) be a party to an acceptable arrangement as described in subsection (5) between the public body and any other person in terms of which the public body undertakes to develop or maintain facilities or supply anything to the other person—

- (i) in the proximity of premises used for a gambling activity; or
- (ii) intended to provide socio-economic, infrastructure, or other support necessary for, or ancillary to, such premises or gambling activities; or

(c) directly or indirectly hold an interest created or acquired in the course of giving effect to an acceptable arrangement contemplated in paragraph (b).

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

- (a) it is an arm’s-length commercial transaction; and
- (b) any payment in terms of the arrangement to the public body is not directly or indirectly determined by reference to the turnover of, or profit from, the gambling activity.

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

### Licence requirements, acquisitions and transfers

56. A licensing authority—

(a) must refuse to issue a licence if the licensing authority considers that—

- (i) the proposed activity would be inconsistent with this Act or applicable provincial law; or
- (ii) the use of the proposed premises for the proposed activity would be contrary to existing zoning laws or rights; and

(b) may refuse to issue a licence if the provincial licensing authority considers that the proposed site—

- (i) is an unsuitable location for the proposed activity, having regard to this Act and applicable provincial law; or
- (ii) does not satisfy the requirements in terms of section 17.

**Part F*****Licence investigations, decisions, transfer and surrender*****External probity reports**

57. (1) When considering an application for a licence, an application for an employment licence or a request to transfer a licence, a provincial licensing authority may request— 5

- (a) additional information from the applicant;
- (b) written authorisation from the applicant permitting the licensing authority to procure information directly from third parties and authorising such third parties to provide that information; or 10
- (c) a report from—
  - (i) any other regulatory authority;
  - (ii) the Financial Intelligence Centre;
  - (iii) the National Director of Public Prosecutions; or
  - (iv) the South African Police Service. 15

(2) A report requested in terms of subsection (1) may include particulars of any convictions recorded against a person, to the extent that those particulars are relevant for the purpose of determining whether that person is disqualified from holding an interest in a licence, licensee, licensed premises, or the business to which a licence relates, in terms of this Act or applicable provincial law. 20

(3) Each provincial licensing authority must submit to the board a copy of every probity report it prepares in terms of this Act or provincial law, and the board must compile all such reports into a national probity register in the prescribed manner and form.

**Decisions**

25

58. After considering an application for a licence, an application to transfer ownership or possession of a gambling machine or gambling device, or a request to transfer an interest in a licence, licensee, licensed premises, or the business to which a licence relates, a provincial licensing authority must either—

- (a) grant the licence, or approve the transfer, as the case may be with or without conditions; or 30
- (b) issue a written refusal to the applicant, with reasons for the decision.

**Licence transfers**

59. (1) This section does not apply to employment licences.

(2) A person who acquires the business to which a licence relates, or acquires a controlling interest in a licensee, must apply to the relevant provincial licensing authority for a transfer of that licence or approval of that acquisition, as the case may be. 35

(3) A provincial licensing authority must not grant a transfer of a licence or approval of that acquisition, as the case may be if, after conducting the prescribed investigations, the licensing authority has reason to believe that, as a result of that transfer or acquisition, a person who is disqualified in terms of section 50(2) or relevant provincial law would directly or indirectly hold any of the total financial interest in the licensee or the business to which the licence relates. 40

**Surrender of licence**

60. (1) A licensee may surrender a licence by written notice given to the provincial licensing authority that issued the licence. 45

(2) The surrender takes effect—



- (a) 3 months after the notice is given; or
- (b) on a date stated in the notice.

## CHAPTER 4

### NATIONAL STRUCTURES

#### *Part A*

5

#### *National Gambling Policy Council*

#### **Establishment of National Gambling Policy Council**

- 61.** (1) The National Gambling Policy Council is established by this Act.
- (2) The Council consists of—
- (a) the following regular members— 10
    - (i) the Minister; and
    - (ii) from each province, the Member of the Executive Council responsible for casinos, racing, gambling and wagering in that province; and
  - (b) the following supplementary non-voting members— 15
    - (i) the chairperson of the National Gambling Board; and
    - (ii) from each province, the chairperson of the provincial licensing authority.
- (3) The Minister is the chairperson of the Council.

#### **Functions of National Gambling Policy Council**

- 62.** (1) The Council is a body in which the national government and the provincial governments consult on— 20
- (a) the determination and establishment of national gambling policy;
  - (b) gambling laws, including the promotion of uniform national and provincial laws in respect of gambling norms and standards;
  - (c) any matter concerning gambling within the national or provincial sphere of government; 25
  - (d) any matter concerning the management or monitoring of gambling in the Republic or in any specific province or provinces;
  - (e) the resolution of any dispute that may arise among provincial licensing authorities, or between a provincial licensing authority and the board, regarding the regulation and control of gambling activities; and 30
  - (f) other matters that may be referred to it by a member of the Council.
- (2) The Council—
- (a) may provide oversight and direction to the board in the exercise of its powers and the performance of its duties;
  - (b) may refer any matter within its authority to the board or any provincial licensing authority, with a request for a report or recommendation; and 35
  - (c) may make a finding that a provincial licensing authority has failed to comply with this Act and, if it does so, may direct that provincial licensing authority to enter into an agreement with the board in respect of the steps to be taken by the provincial licensing authority to ensure compliance with this Act. 40

#### **Council meetings**

- 63.** (1) The Minister may convene a meeting of the Council at any time, but must convene at least two meetings in each financial year.
- (2) The Minister may designate any meeting of the Council to be a meeting of all members, or only of regular members, but must designate at least one meeting in each financial year to be a meeting of all members. 45

(3) At a meeting of the Council to which supplementary members are called a supplementary member may be represented by an alternate, chosen by that supplementary member from among the other board members of the applicable regulatory authority.

(4) As a body through which the national and provincial spheres of government seek to co-operate with one another in mutual trust and in good faith, the Council must attempt to reach its decisions by consensus. 5

(5) If the Council is unable to reach a consensual decision in any matter before it, the Council may resolve the matter by formal vote on a motion.

(6) A motion in terms of subsection (5) passes only if it is supported by— 10

(a) the Minister; and

(b) at least 5 of the other regular members of the Council.

(7) Subject to subsections (2) to (6), the Council may establish Rules of Procedure for its own proceedings.

## **Part B**

 15

### ***National Gambling Board***

#### **Continuation of National Gambling Board**

64. (1) The National Gambling Board, as established by the National Gambling Act, 1996 (Act No. 33 of 1996), is retained under this Act, subject to Item 3 of the Schedule.

(2) The board is a juristic person. 20

#### **Objects and functions of board**

65. (1) The board has the following powers and duties to be exercised and performed in accordance with this Act:

(a) Monitoring and investigating, when necessary, the issuing of national licences by provincial licensing authorities for compliance with this Act in accordance with sections 40 to 43; 25

(b) investigating, monitoring and evaluating compliance with this Act by provincial licensing authorities, entering into agreements with those authorities in respect of steps to be taken to correct any deficiencies, and making recommendations to the Council in relation to such matters, in accordance with sections 33 and 34; 30

(c) establishing and maintaining—

(i) the national register of excluded persons, in accordance with section 14;

(ii) the national central electronic monitoring system, in accordance with section 27; 35

(iii) the national register of gambling machines and devices, in accordance with section 21;

(iv) a central registry of information contemplated in section 35; and

(v) the national probity register in terms of section 57;

(d) monitoring socio-economic patterns of gambling activity within the Republic and in particular must research and identify factors relating to, and patterns, causes, and consequences of— 40

(i) the socio-economic impact of gambling; and

(ii) addictive or compulsive gambling;

(e) carrying out the responsibilities set out in section 33; and 45

(f) exercising any other powers and performing any other duties assigned to it in terms of this Act.

(2) The board may—

(a) advise the Council on the maximum number of any kind of licences relating to casinos, racing, gambling and wagering that should be awarded in the Republic or in any particular province; 50

- (b) advise the Council on matters of national policy relating to casinos, racing, gambling and wagering and on the determination of national norms and standards regarding any matter in terms of this Act that should apply generally throughout the Republic;
- (c) recommend to the Council changes to bring about uniformity in the laws of the various provinces in relation to casinos, racing, gambling and wagering; 5
- (d) advise the Council, through the Minister, in respect of any matter referred to it by the Council;
- (e) monitor market share and market conduct in the gambling industry and refer any concerns regarding market share or possible prohibited practices to the Competition Commission in terms of the Competition Act, 1998 (Act No. 89 of 1998); and 10
- (f) provide a broad-based public education programme about the risks and socio-economic impact of gambling.
- (3) The board may liaise with any foreign or international authorities having any objects similar to the objects of the board. 15
- (4) In exercising its powers and performing its duties set out in this Act, the board—
- (a) must comply with directions issued to it by the Council relating to casinos, racing, gambling and wagering;
- (b) may have regard to international developments in the field of casinos, racing, gambling and wagering; and 20
- (c) may consult any person, organisation or institution with regard to any matter deemed necessary by the board.

#### Relations with provincial licensing authorities

66. (1) At the request of the relevant Member of the Executive Council of a province, or the provincial licensing authority, the board— 25
- (a) may engage with that authority in co-operative activities of research, publication, education, staff development and training; and
- (b) in consultation with the Minister, may— 30
- (i) engage with that authority in staff exchanges or secondments; or
- (ii) provide technical assistance or expertise to that authority.
- (2) At the request of the Member of the Executive Council or provincial licensing authority, the board may engage with that authority in co-operative activities to detect and suppress illegal gambling activities if there are good grounds to believe that those activities may be occurring across provincial boundaries. 35
- (3) At the direction of the Council, the board must engage with any relevant provincial licensing authority in co-operative activities to detect and suppress illegal gambling activities occurring—
- (a) across provincial boundaries; or
- (b) entirely within a particular province, if, in the opinion of the Council, the provincial licensing authority is unable to suppress that activity on its own. 40
- (4) The board may liaise with provincial licensing authorities on matters of common interest.
- (5) The board may request any provincial licensing authority to submit any report or information related to the activities of that licensing authority to the board. 45

#### Composition of board

67. (1) The board consists of—
- (a) the following members appointed by the Minister for a term of no more than five years, as determined by the Minister at the time of appointment: 50
- (i) a Chairperson and a Deputy Chairperson; and
- (ii) not more than three other members, each of whom, in the opinion of the Minister, has applicable knowledge or experience in matters connected with the objects of the board; and
- (b) four other members, of whom one each is designated by the— 55
- (i) Minister;
- (ii) Minister of Finance;

- (iii) Minister of Safety and Security; and  
 (iv) Minister of Social Development,  
 respectively, to serve until substituted by that Minister who designated that member.
- (2) To be eligible for appointment or designation as a member of the board, and to continue to hold that office, a person must— 5
- (a) be a fit and proper person;  
 (b) not be subject to any disqualification set out in subsection (3); and  
 (c) have submitted to the Minister a written declaration stating that—  
     (i) the person is not disqualified in terms of subsection (3); and  
     (ii) the person does not have any interests referred to in subsection (3)(c). 10
- (3) A person may not be a member of the board if that person—
- (a) is a political office bearer;  
 (b) is listed in the register of excluded persons by order of a court;  
 (c) personally or through a spouse, partner or associate—  
     (i) has or acquires a direct or indirect financial interest in a licence issued in terms of this Act, or in premises used for an activity that must be licensed in terms of this Act; or 15  
     (ii) has or acquires an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of a member of the board; 20  
 (d) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;  
 (e) has ever been, or is, removed from an office of trust on account of misconduct;  
 (f) is subject to an order of a competent court holding that person to be mentally deranged; 25  
 (g) within the previous ten years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, or an offence involving dishonesty; or 30  
 (h) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine.
- (4) The Chief Executive Officer is an ex officio member of the board, but may not vote at meetings of the board. 35
- (5) For the purpose of subsection (3)(c), a financial interest does not include an indirect interest held in any fund or investment if the person contemplated in that subsection has no control over the investment decisions of that fund or investment.

### Conflicting interests 40

- 68.** (1) A member of the board must promptly inform the Minister in writing after acquiring an interest that is, or is likely to become, an interest contemplated in section 67(3)(c)(ii).
- (2) A member of the board must not—
- (a) engage in any activity that may undermine the integrity of the board; 45  
 (b) attend, participate in or influence the proceedings during a meeting of the board, if, in relation to the matter before the board, that member has an interest—  
     (i) contemplated in section 67(3)(c)(ii); or  
     (ii) that precludes the member from performing the duties of a member of the board in a fair, unbiased and proper manner; 50  
 (c) vote at any meeting of the board in connection with a matter contemplated in paragraph (b);  
 (d) make private use of, or profit from, any confidential information obtained as a result of performing that person's duties as a member of the board; or 55

(e) divulge any information referred to in paragraph (d) to any third party, except as required as part of that person's official functions as a member of the board.

(3) If, at any time, it appears to a member of the board that a matter before the board concerns an interest of that member referred to in subsection (2)(b), the member must—

(a) immediately and fully disclose the nature of that interest to the meeting; and 5

(b) withdraw from the meeting to allow the remaining members to discuss the matter and determine whether the member should be prohibited from participating in any further proceedings concerning that matter.

(4) A disclosure by a member in terms of subsection (3)(a) and the decision by the board in terms of subsection (3)(b) must be expressly recorded in the minutes of the meeting at which the disclosure is made. 10

(5) Proceedings of the board, and any decisions taken by a majority of the members present and entitled to participate in those decisions, are valid despite the fact that—

(a) a member failed to disclose an interest as required by subsection (3); or

(b) a member who had such an interest attended those proceedings, participated in them in any way, or directly or indirectly influenced those proceedings. 15

### Resignation, removal from office, and vacancies

69. (1) A member may resign from the board by giving to the Minister—

(a) one month written notice; or

(b) less than one month written notice, with the approval of the Minister. 20

(2) The Minister may, after taking the steps required by subsection (3), remove a member of the board, if that member has—

(a) become disqualified in terms of section 67(2) or (3);

(b) acted contrary to section 68(2);

(c) failed to disclose an interest or withdraw from a meeting as required by section 68(3); or 25

(d) neglected to properly perform the functions of his or her office.

(3) Before removing a person from office in terms of subsection (2), the Minister must afford the person an opportunity to be heard.

(4) Upon the expiry of an appointed member's first term of office, the member may be re-appointed to a further term, subject to section 67. 30

(5) A person may not be appointed to serve for more than two terms as a member of the board.

### Meetings of board

70. (1) The chairperson may determine the date, time and place for the first meeting of the board, and the chairperson in consultation with the board may determine the date, time and place for each subsequent meeting. 35

(2) The chairperson in consultation with the board may determine procedure at meetings of the board, after due consideration of the principles of openness and transparency. 40

(3) A majority of the members of the board is a quorum for a meeting of the board.

(4) The board must attempt to reach its decisions by consensus.

(5) If the board is unable to reach a consensual decision in any matter before it, the board may resolve the matter by simple majority vote on a motion.

(6) Subject to subsections (4) and (5), the board may establish rules for its own proceedings. 45

(7) A decision taken at a meeting of the board, or an act performed under the authority of such a decision, is valid despite—