

KWAZULU-NATAL GAMBLING ACT

NO. 10 OF 1996

[ASSENTED TO 17 JULY, 1996]

[DATE OF COMMENCEMENT: 24 JANUARY, 1997. FOR SPECIFIC COMMENCEMENT PROVISIONS SEE P.N. 256 OF 25 JULY, 1996 AND GENERAL NOTICES 37, 38, 39 AND 40 OF 12 SEPTEMBER, 1996, AS PRINTED AT END OF ACT]

(English text signed by the Premier)

as amended by

KwaZulu-Natal Gambling Amendment Act, No. 1 of 1997

KwaZulu-Natal Gambling Amendment Act, No. 11 of 1998

KwaZulu-Natal Gambling Amendment Act, No. 2 of 2000

ACT

To provide for restrictions on gambling, the establishment of a provincial Gambling Board, the licensing of persons conducting casinos and bingo games and of gaming machine operators, the registration of certain persons, the imposition of fees, taxes, levies and penalties on the various gambling activities, the appointment and authorisation of inspectors and their powers and duties and to provide for incidental matters.

[Long title substituted by s. 7 of Act 11 of 1998.]

DIVISION OF ACT

CHAPTER 1

INTERPRETATION, APPLICATION OF ACT AND RESTRICTIONS ON GAMBLING

1. Definitions
2. Application of this Act and other laws
3. Restrictions on gambling
4. Restriction on use of the word “casino”

CHAPTER 2

KWAZULU-NATAL GAMBLING BOARD

5. Establishment of KwaZulu-Natal Gambling Board
6. Objects of Board
7. Functions and powers of Board
8. Composition of Board
9. Disqualification from being appointed to Board
10. Appointment of members to Board
11. Period of office and reappointment
12. Vacancies, removal and resignation from office and filling of vacancies
13. Recusal of member from meetings and proceedings of Board
14. Meetings and procedures at meetings
15. Remuneration of members of Board
16. Staff of Board
17. Position of public trust
18. Appointment of committees to assist Board
19. Consultation and assistance
20. Co-opting of persons
21. Confidentiality
22. Funds of Board
23. Establishment and administration of special funds
24. Accounts and financial records
25. Delegation of functions and powers

CHAPTER 3

LICENCES IN GENERAL, EXCLUDING LICENCES TO PROMOTE AND CONDUCT LOTTERIES

26. Application for licence
27. Grounds for refusal of licence
28. Disqualification for licence
29. Representations by local authorities, interested persons and response by applicant to representations
30. Application and representations to be open to public inspection and confidential information
31. Investigation of an application by Board and inspection of premises
32. Obtaining of further information in connection with application
33. Hearing of application, investigation and summoning of witnesses—
34. Reasons for decision
35. Renewal of licence
36. Suspension of licence
37. Cancellation of licence
38. Surrender of licence and conditions imposed thereon
39. Transfer of licence
40. Removal of business to other premises
41. Death or placing under curatorship of licensee
42. Suitability of third parties

CHAPTER 4 CASINOS

43. Ministerial directives as to requirements for casinos
44. Licence required to operate a casino
45. Consideration of applications by Board
46. Decision-making in casino licensing
47. Issue of casino licence and temporary casino licence
48. Temporary casino licence
49. Conditions of a casino licence
50. Financial and controlling interests

CHAPTER 5 GAMING MACHINES AND VARIOUS LICENCES REQUIRED

51. Licences required for gaming machines
52. Application for site operator and route operator licence
53. Issue of site operator and route operator licence and conditions
54. Electronic monitoring system
55. Gaming machines and gaming equipment

CHAPTER 6 BINGO LICENCES

56. Licence required to conduct bingo games
57. Application for licence to conduct bingo games
58. Issue of a bingo licence and conditions

CHAPTER 7

59.
60.
61.

- 62.
- 63.

CHAPTER 8 REGISTRATION OF CERTAIN PERSONS

- 64. Registration of persons employed as special employees
- 65. Registration of certain persons associated with the provision of gaming equipment
- 66. Disqualification for registration
- 67. Registration
- 68. Duration of registration
- 69. Operator's responsibilities in terms of this chapter
- 70. Suspension or cancellation of registration
- 71. Special employees not permitted to gamble

CHAPTER 9 FEES, TAXES AND LEVIES

- 72. Application and investigation fees
- 73. Registration fees
- 74. Fees in respect of a casino licence
- 75. Licence fees in respect of other licences
- 76. Taxes and levies payable
- 77. Penalty for late payment
- 78. Recovery of fees, taxes and levies

CHAPTER 10 INSPECTIONS, INVESTIGATIONS AND ENQUIRIES

- 79. Restriction on operating as an inspector
- 80. Appointment of inspectors
- 81. Disqualification from being appointed as an inspector
- 82. Removal of inspector
- 83. Position of public trust
- 84. Functions and powers of inspectors
- 85. Resistance against entry
- 86. Enquiries by Board

CHAPTER 11 MISCELLANEOUS PROVISIONS

- 87. Regulations
- 88. Restriction on advertisements
- 89. Appeals
- 90. Extending credit in connection with gambling in a casino
- 91. Cheating and cheating devices
- 92. Gambling debts enforceable
- 93. Reward for information supplied
- 94. Offences, penalties and forfeitures
- 95. Interim arrangements
- 95A. Transitional Arrangements
- 95B. Pending applications
- 96. Short title and commencement

CHAPTER 1

INTERPRETATION, APPLICATION OF ACT AND RESTRICTIONS ON GAMBLING

1. Definitions.—In this Act, unless the context indicates otherwise—

“bingo” means a game that is played in a bingo hall or a casino with cards or other devices which are divided into numbered squares and in which the player who is first to cover all the numbers on such card or device or who covers a specified set of numbers on the card or device, wins a prize;

“bingo hall” means any premises on which the game of bingo is played, whether with cards or other devices, under authority of a licence issued in terms of this Act;

“Board” means the KwaZulu-Natal Gambling Board established in terms of section 5;

“Cabinet” means the Executive Council of the province of KwaZulu-Natal;

“casino” means any premises upon which casino games, bingo and gaming machines may be played under the authority of a casino licence issued by the Board in terms of this Act;

[Definition of “casino” substituted by s. 1 (a) of Act No. 2 of 2000.]

“casino game” means any game played for money, property, cheques, credit or anything of value, excluding an opportunity to play a further game, with—

(a) playing-cards or dice; or

(b) any other machine or device used to determine win or loss;

and includes, without derogating from the generality of the foregoing, roulette, keno, twenty-one, blackjack, poker, chemin de fer, baccarat, but excludes any lottery;

“casino licence” means a casino licence issued by the Board in terms of this Act;

“chief executive officer” means the person appointed to this position in terms of section 16 (1);

“committee” means a committee appointed by the Board in accordance with section 18;

“electronic monitoring system” means a computerised system designed to receive and send data to and from gaming machines;

“financial year” means the financial year of the Board referred to in section 24;

“gambling” means engaging in any activity whereby money or any other thing of value is staked on the unknown result of a future event at the risk of losing all or a portion of the money or valuable thing so staked for the sake of a return and is the generic term encompassing all forms of gaming as defined in this Act and to bet as defined in the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), but shall exclude—

(a) any lawful lottery; and

(b) any recognised investment activity undertaken with a recognised financial institution and “gamble”

shall have the same meaning;

“gambling area” means any area within licensed premises in which gambling takes place in terms of a licence issued by the Board in terms of this Act and “gambling room” or “gambling premises” shall have the same meaning;

“gambling jurisdiction” means any territory in which gambling is conducted according to legislation enacted by that territory’s competent authority;

“gaming” means playing any casino game, bingo or any gaming machine;

“gaming equipment” means any equipment, apparatus or components thereof which are used for gaming;

“gaming machine” means any electronic, electro-mechanical or mechanical machine, apparatus or device, other than a roulette wheel, which is used for playing a game that commences upon the payment of any consideration whatsoever in any manner whatsoever or is available to play such a game, and the operation of which may, automatically or in any other manner whatsoever, deliver to the person playing or operating or playing and operating the machine, or any other person, money, goods, services or anything of value whatsoever or credit or any object or token to be exchanged for money, goods, services or anything of value whatsoever, and includes a machine, apparatus or device which is set in operation by another person upon the wagering of a stake: Provided that for the purposes of this Act a gaming machine shall not include—

(a) any machine, apparatus or device which provides as the only prize, reward or consideration for successfully playing the game concerned—

(i) a coin or token to enable the player, by inserting such coin or token in the machine, apparatus or device to play the game once again; or

(ii) the opportunity to play no more than ten further games immediately without the insertion of another coin or token;

(b) any machine, apparatus or device which is deemed by regulation to be an amusement machine and which is registered with the Board in the manner prescribed and is in the possession of a person duly authorised by the Board to keep and make such amusement machine available in the manner prescribed;

[Definition of “gaming machine” substituted by s. 1 (a) of Act No. 11 of 1998.]

“House of Traditional Leaders” means the House of Traditional Leaders established by section 3 of the KwaZulu-Natal Act on the House of Traditional Leaders, 1994 (Act No. 7 of 1994), and any other House of Traditional Leaders established by legislation enacted by a provincial legislature in terms of section 183 of the Constitution;

“inspector” means any—

(a) person appointed as an inspector by the Minister; or

(b) person specially authorised by the Board to exercise any authority or perform any duty conferred on an inspector in terms of any provision of this Act;

“licence” means a licence or temporary licence issued in terms of this Act;

“licensed premises” means any premises on which gambling takes place under the authority of a licence issued in terms of this Act;

“licensee” means a person who holds a valid licence or temporary licence issued in terms of this Act;

“lottery”

[Definition of “lottery” deleted by s. 1 (b) of Act No. 11 of 1998.]

“Minister” means—

(a) the member of the Executive Council appointed in terms of subsection (4) of section 149 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) to the portfolio under which the administration of this Act falls or to whom the administration of the Act is assigned in terms of section 152 of the aforesaid Constitution; or

(b) the Premier of the province of KwaZulu-Natal, whenever the administration of this Act falls under the portfolio of the Premier or is assigned to him or her and in such event, the word “Premier” shall have a corresponding meaning;

[Definition of “Minister” substituted by s. 2 (a) of Act No. 1 of 1997.]

“opportunity to play a further game”

[Definition of “opportunity to play a further game” deleted by s. 1 (c) of Act No. 11 of 1998.]

“person” means a natural or juristic person or a group of such persons unless the context shows a contrary intention;

“Portfolio Committee” means the Portfolio Committee appointed by the provincial legislature, in accordance with its standing rules, for the purposes of dealing with matters which fall under the portfolio of the relevant Minister or the Premier, as the case may be;

[Definition of “Portfolio Committee” inserted by s. 2 (b) of Act No. 1 of 1997.]

“prescribed” means prescribed in terms of this Act or the regulations;

“Parliament” means the Provincial Legislature of the Province of KwaZulu-Natal;

[Definition of “Provincial Legislature” substituted by s. 1 (b) of Act No. 2 of 2000.]

“Provincial Revenue Fund” means the Provincial Revenue Fund of the province of KwaZulu-Natal established by section 159 of the Constitution;

“regulations” means the regulations made by the Minister under this Act;

“relative” means any of the following, as the case may be:

(a) a husband or a wife, any partner in a customary union according to indigenous law or any partner in a relationship where the parties live together in a manner resembling a marital partnership or a customary union;

(b) any child born out of any one of the unions referred to in paragraph (a) or any child born to one of the partners referred to in the said paragraph;

(c) the parents of a person referred to in paragraph (a) and the parents of such person’s husband, wife or partner referred to in the said paragraph (a);

“route operator” means a person who is licensed in terms of this Act to provide gaming machines to site operators and to conduct any other prescribed activities;

“rules” means the rules made by the Board;

“Secretary for Finance” means the Secretary of the Department of Finance in the Provincial Administration of KwaZulu-Natal;

“site operator” means a person who is authorised to keep gaming machines on his or her premises in terms of a licence issued in accordance with this Act;

“special employee” means a person who is registered as a special casino employee or as a person associated with the provision of gaming equipment in accordance with this Act;

“the province” means the Province of KwaZulu-Natal; and

“this Act” includes the regulations and any schedule thereto.

“unanimous agreement” referred to in section 95A of this Act means unanimous agreement of members of Cabinet present at a meeting duly convened for purposes of section 95A.

[Definition of “unanimous agreement” inserted by s. 1 (c) of Act No. 2 of 2000.]

2. Application of this Act and other laws.—(1)

[Sub-s. (1) deleted by s. 2 of Act No. 2 of 2000.]

(2)

[Sub-s. (2) deleted by s. 2 of Act No. 2 of 2000.]

(3) A person who is in possession of a licence issued in accordance with paragraph (d) of Item 2 to Schedule 1 of the Businesses Act, 1991 (Act No. 71 of 1991), shall not be exempted from obtaining a licence to operate gaming machines in terms of this Act.

(4) The granting of any application in terms of this Act shall not relieve the applicant from complying with any other law or legal requirement in relation to the business in question.

3. Restrictions on gambling.—(1) No person shall perform any act appertaining to gambling or assist any persons in such activity except in accordance with the provisions of this Act and the provisions of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957).

(2) No person shall gamble in premises which are not licensed in terms of this Act or in terms of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957) or gamble on any gaming machine or gaming equipment which has not been registered by the Board in terms of this Act.

(3) (a) The owner of any building, dwelling, structure or premises of any other nature whatsoever shall not use such building, dwelling, structure or premises of any other nature whatsoever for gambling purposes or allow any other person to conduct any gambling activity therein or thereon unless he or she or the person conducting the gambling activity in or on such building, dwelling, structure or premises, is in possession of a licence issued in terms of this Act or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957);

(b) It shall not be a defence in any court by the owner of any building, dwelling, structure or premises of any other nature whatsoever, that he or she stipulated in any contract or agreement, either written or verbal, that any gambling activity shall not take place therein or thereon without a licence issued in terms of this Act or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957).

[Sub-s. (3) substituted by s. 3 (a) of Act No. 1 of 1997.]

(4) No person shall—

(a) accept any employment in any gambling activity with any person without taking all reasonable precautions to establish that such person is the holder of a valid licence issued in terms of this Act or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957); and

(b) employ or offer employment to any person in any gambling activity, unless he or she is the holder of a valid licence issued in terms of this Act or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957).

[Sub-s. (4) substituted by s. 3 (b) of Act No. 1 of 1997.]

(5) No person who is under the age of eighteen years shall be permitted to gamble.

(6) A licensee under this Act or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957) or a licensee’s manager or any person authorised by the licensee to take charge of gambling activities authorised in the licensee’s licence shall take all reasonable steps to ensure that persons under the age of eighteen do not gamble in the licensed premises concerned and for the purposes of this subsection, reasonable steps shall include requesting any person suspected of being under the age of eighteen to produce identification and proof of age.

[Sub-s. (6) substituted by s. 3 (c) of Act No. 1 of 1997.]

(7) Any person who contravenes the provisions of this section shall be guilty of an offence.

4. Restriction on use of the word “casino”.—(1) Subject to the provisions of subsection (2), any person who trades or carries on business or who advertises the carrying on of business under the name or title in which the word “casino” appears and who is not the holder of a valid licence under this Act, shall be guilty of an offence (2) The Board may, in its discretion, grant written permission, which permission shall not be unreasonably withheld, to a person who is not the holder of a valid licence to use the word “casino” in the manner contemplated in subsection (1).

CHAPTER 2

KWAZULU-NATAL GAMBLING BOARD

5. Establishment of KwaZulu-Natal Gambling Board.—There is hereby established a Board to be known as the KwaZulu-Natal Gambling Board which shall be a juristic person.

6. Objects of Board.—(1) The objects of the Board shall be to ensure that all gambling authorised under this Act—

(a) is conducted in a manner which promotes the integrity of the gambling industry and does not cause harm to the public interest; and

(b) promotes the province’s objectives for developing a gambling industry which objectives are the promotion of tourism, employment and economic and social development in the province.

(2) To give immediate effect to the object of the Board contemplated in paragraph (b) of subsection (1), the Board shall develop a macro-plan for the licensing of route and site operators, which plan shall address the—

(a) number of gaming machines to be operated by route and site operators in the province;

(b) geographic distribution of gaming machines throughout the province and the accessibility of such machines to the general public;

(c) types of premises on which site operators should be permitted to make gaming machines available for play;

(d) effect which the licensing of route and site operators in the province will have on casino operations in the province, bearing in mind the province’s objectives for developing a casino industry as described in subsection (2) of section 43;

(e) the extent, if any, to which the licensing of route and site operators will create an over stimulation of a latent demand for gambling in the province; and

(f) any other matter which the Minister may direct the Board to take into account or which the Board, in its discretion, considers to be relevant to the macro-plan.

(3) The macro-plan shall be finalised and be referred to the Minister within six months of the date of the Board’s first meeting or immediately thereafter.

7. Functions and powers of Board.—(1) In addition to the powers, functions and obligations assigned to the Board under this Act, the Board shall, subject to the provisions of this Act, exercise the following powers and functions—

(a) to invite and accept applications for any licence contemplated by this Act or to accept applications without such invitation;

(b) to consider and process all applications for any licence contemplated by this Act, and in the case of—

(i) a casino licence to determine any conditions or restrictions to be attached to the grant of such licence; and

(ii) any other licence, to grant or refuse such licence applications;

[Para. (b) substituted by s. 3 (a) of Act No. 2 of 2000.]

(bA) to licence, regulate and control gambling activities in the province;

[Para. (bA) inserted by s. 3 (b) of Act No. 2 of 2000.]

(c) to amend, substitute or rescind a condition attached to a casino licence;

[Para. (c) substituted by s. 3 (c) of Act No. 2 of 2000.]

(d) to specify the scope of a licence, other than a casino licence, to impose any conditions on the issue of such a licence and to grant or refuse an application to amend, substitute or rescind any such condition;

(e) to undertake or engage any person, law enforcement agency, gambling regulatory agency or company to undertake any investigation or inspection necessary to determine the suitability of an applicant for a licence;

- (f) to authorise the chief executive officer to renew a licence upon its expiry, unless it has been cancelled or surrendered;
- (g) to grant or refuse any application by a licensee to relocate his or her licensed premises to other premises within the province;
- (h) to impose conditions, if any, under which a casino licence may be surrendered;
- (i) to authorise an inspector, officer or other person appointed by any organ of State at any level of government or any other board, committee, body or agency to conduct an inspection or investigation into any gambling operation in the province: Provided that an officer of the South African Police Services and an inspector appointed by the Minister shall not require such authorisation in order to perform his or her duties;
- (j) to conduct an enquiry into any alleged contravention of this Act or the rules and to take appropriate action against any licensee or any person registered in accordance with the provisions of sections 64 and 65, which may include—
 - (i) instituting legal action against such licensee or person;
 - (ii) suspending the relevant licence or certificate of registration in accordance with the provisions of section 36 or section 70, respectively;
 - (iii)
 [Sub-para. (iii) deleted by s. 3 (d) of Act No. 2 of 2000.]
 - (iv) cancelling a licence, which is not a casino licence, or a certificate of registration in accordance with the provisions of section 37 or section 70, respectively; or
 - (v) levying a fine or penalty on such licensee or person: Provided that the amount of such fine or penalty does not exceed the prescribed amount;
- (k) to conduct hearings, call for the attendance of witnesses at such hearings and demand the production of any books, records and any other documents which, in the opinion of the Board, have been used in connection with or will reveal a contravention of this Act or of the rules;
 - (l) to make rules—
 - (i) governing the accounting and audit systems to be used in a casino, a bingo hall and by a route operator for the purpose of verifying the taxes and any levies to be paid in terms of this Act;
 - (ii) for any casino games played in a casino and the rules under which such games are played;
 - (iii) governing the operation of gaming machines in premises other than casino premises;
 - (iv) for the payment of gratuities to persons employed in a casino and bingo hall;
 - (v) for the promotion and conduct of lotteries;
 - (vi) for bingo games, the devices which may be used for bingo games where cards are not used and the rules under which bingo games are played;
 - (vii) for the exclusion of persons from licensed premises;
 - (viii) governing the manner in which the Board will deal with complaints by patrons and any disputes between players and licensees; and
 - (ix) which, in the discretion of the Board, are necessary to ensure compliance with this Act or to protect or enhance the credibility and integrity of gambling operations authorised under this Act;
 - (m) to monitor constantly all matters connected with—
 - (i) casinos and the activities of casino operators, persons associated with casino operators and persons who are in a position to exercise direct or indirect control over casino operators or persons associated with such operators;
 - (ii) bingo halls and the activities of the operators of bingo halls, persons associated with such operators and persons who are in a position to exercise direct or indirect control over the operators of bingo halls or persons associated with such operators; and
 - (iii) gaming machine premises and the activities of any gaming machine operator, persons associated with gaming machine operators and persons who are in a position to exercise direct or indirect control over gaming machine operators or persons associated with such operators;
 - (n) to conduct, or hire private persons or companies or universities to conduct, research into any matter connected with gambling and to report the findings of such research to the Minister;
 - (o) to determine norms and standards for gaming equipment and gaming machines whenever there are no national norms and standards;

(p) to make recommendations to the Minister on any matter, including matters which have a direct bearing on the objects of the Board and its powers and functions; and

(q) to perform any other function or exercise any other power which the Minister may, by regulation, empower the Board to do.

[Previous s. 7 renumbered to sub-s. (1) by s. 4 (a) of Act No. 1 of 1997.]

(2)

[Sub-s. (2) inserted by s. 4 (b) of Act No. 1 of 1997 and deleted by s. 3 (e) of Act No. 2 of 2000.]

8. Composition of Board.—(1) The Board shall consist of nine members who are fit and proper persons to serve the best interests of the province plus the chief executive officer, ex officio, as contemplated in section 16.

(2) The Board shall, subject to subsection (4), be appointed by the Minister, in consultation with the Cabinet and after consultation with the Portfolio Committee, and shall consist of—

(a) one member who is qualified to be admitted to practice as a legal practitioner in the Republic and who has experience related to the application or administration of the law or has lectured in law at a university in the Republic;

(b) one member who is qualified as a chartered accountant in the Republic and has practiced as a chartered accountant or lectured in that field of study at a university in the Republic;

(c) one member who shall be appointed by virtue of his or her knowledge and experience in the field of community welfare and/or socio-economic development;

(d) one member who, in the opinion of the Minister, is fit and proper to represent the community at large;

(e) four members who, in the opinion of the Minister, have a cumulative knowledge in fields such as tourism, entertainment, organised local government, business and commerce, including persons with a knowledge of the promotion of small and medium size business; and

(f) one member who, in the opinion of the Minister, has a knowledge of gambling.

[Sub-s. (2) amended by s. 1 of Act No. 1 of 1997.]

(3) The Minister shall appoint a chairperson who shall be a person referred to in subsection (2) (a), and a deputy chairperson who may be any of the persons referred to in subsection (2) (b) to (f).

(4) The Minister shall, in appointing the Board, recognise the concept of special facilitation for women embodied in the province's Constitution.

9. Disqualification from being appointed to Board.—(1) A person shall be disqualified from being appointed to the Board or from remaining on the Board, by reason that—

(a) he or she is not a South African citizen;

(b) he or she is not a resident of the province;

(c) he or she is, at the time of the appointment, or during the preceding twelve months was—

(i) over the age of sixty five;

(ii) appointed as a public servant;

(iii) a member of Parliament or any provincial legislature;

(iv) a member of a local authority or any council or board established in terms of the Constitution,

including a member of the House of Traditional Leaders; or

(v) an office bearer or employee of any party, organisation or body of a party political nature;

(d) his or her relative is a person contemplated in paragraph (c) (iii), (iv) or (v);

(e) he or she is a member of a board of directors of any gambling or fund-raising activity, has a controlling interest or any financial or other interest in any gambling or fund-raising activity or acquires a direct or indirect financial interest in any gambling or fund-raising activity or is employed by any person, company, organisation or other body, whether corporate or unincorporated, which has any interest contemplated in this paragraph;

(f) his or her relative is a member of a board of directors of any gambling or fund-raising activity or has any direct or controlling interest in such activity;

(g) he or she is an unrehabilitated insolvent;

(h) he or she is of unsound mind, or is subject to an order of a competent court declaring him or her to be mentally ill or disordered;

(i) he or she has at any time been removed from an office of trust on account of misconduct;

(j) he or she has at any time been convicted, whether in the Republic or elsewhere, of any offence—

(i) except that the Minister may, upon a candidate who is nominated for appointment disclosing full details of an offence in the affidavit contemplated in section 10 (3), condone a previous conviction: Provided that it is not a conviction for murder, culpable homicide involving an assault, rape, robbery, theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), any serious offence involving dishonesty, an offence relating to money-laundering, an offence relating to scheduled substances and drugs and an offence relating to proceeds of defined crime as contemplated in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), or any offence under this Act or any other similar law;

(ii) unless the conviction and sentence have been set aside by a competent court or such person has received a grant of amnesty or free pardon;

(k) he or she failed to disclose an interest in terms of section 13 (1) or attended or participated in the proceedings of the Board while having an interest contemplated in the said subsection.

(2) If any member of the Board is disqualified during his or her term of office in terms of subsection (1) or acquires, or whose relative acquires an interest which is likely to be an interest as contemplated in subsection (1) (f), he or she shall immediately upon such disqualification 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 Chairperson who shall immediately inform the Minister to enable the Minister to take steps to fill the vacancy so caused.

10. Appointment of members to Board.—(1) The Minister shall, by notice in the Provincial Gazette and in at least two newspapers circulating in the province, invite any interested parties within the province to nominate candidates for appointment to the Board.

(2) Any nominations made in response to the notice referred to in subsection (1) shall be made within twenty-one days of the date of publication of the said notices, which shall be calculated from the date following the publication of the notices to the twenty-first day thereafter: Provided that if the twenty-first day falls on a Sunday or a public holiday it shall be deemed to be the day following such Sunday or public holiday.

(3) Any nominations made in accordance with this section shall take into account the composition of the Board and the provisions relating to the disqualification of members and shall be accompanied by—

(a) the full names of the nominee, his or her address and the curriculum vitae of such person; and

(b) an affidavit by the nominee wherein the nominee shall affirm that he or she is not disqualified in terms of section 9: Provided that if the nominee has been convicted of an offence, as contemplated in paragraph (j) of section 9 (1), such nominee shall furnish an affidavit wherein he or she shall disclose full details of any conviction and affirm that he or she is not disqualified in terms of any of the other provisions of section 9.

(4) Within fourteen days after expiry of the period of twenty-one days referred to in subsection (2), the Minister shall publish for general information, in the Provincial Gazette and in the same newspapers circulating in the province in which the notices referred to in subsection (1) were published, the names of all persons nominated in accordance with this section.

(5) The Minister shall appoint the chairperson, deputy chairperson and members to the Board, in consultation with the Cabinet and after consultation with the Portfolio Committee.

[Sub-s. (5) amended by s. 1 of Act No. 1 of 1997.]

(6) The Minister shall cause the names of the persons appointed to the Board to be published in the manner contemplated in subsection (4), immediately after such persons have been notified, in writing, of their appointment to the Board.

(7) This section shall apply mutatis mutandis to the filling of a vacancy on the Board.

(8) A member of the Board shall, before assuming duty, make and subscribe an oath or solemn affirmation in the prescribed form before the Minister.

11. Period of office and reappointment.—The persons appointed to the Board shall hold office for a period of three years and shall, subject to section 9, be eligible for reappointment at the expiration of such period: Provided that no person shall be reappointed after having served on the Board for a continuous period of nine years.

Provided further that any person whose membership of the Board has expired shall continue as such until a new member has been appointed.

[S. 11 substituted by s. 4 of Act No. 2 of 2000.]

12. Vacancies, removal and resignation from office and filling of vacancies.—(1) A member of the Board shall vacate office if he or she becomes subject to a disqualification contemplated in section 9.

(2) The Minister may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her discretion, there are good reasons for doing so.

- (3) A member shall vacate office if he or she is absent, without a leave of absence having first been granted by the Board, from two consecutive meetings of the Board for which reasonable notice was given to that member personally or by post.
- (4) A member may resign from office in writing to the Minister.
- (5) Whenever a vacancy occurs on the Board, the Minister shall, subject to section 10, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.
13. Recusal of member from meetings and proceedings of Board.—(1) A member shall, prior to the commencement of the proceedings of the Board, fully disclose the nature of any interest whatsoever, including a pecuniary interest, which—
- (a) he or she; or
 - (b) his or her relative, whether as an employee or as a director, member or partner,
- may have in the business of any applicant or may derive from the grant of a licence to an applicant whose licence application is before the Board for consideration.
- (2) Upon making the disclosure referred to in subsection (1), the member shall leave the meeting to enable the Board to discuss the matter so as to determine whether or not the member is precluded from participating in the proceedings at such meeting by virtue of a conflict of interests.
- (3) Any disclosure in terms of this section and the decision of the Board as regards the determination referred to in subsection (2), shall be recorded in the minutes of the meeting concerned.
- (4) In the event that a member fails to make a disclosure as contemplated in subsection (1) and is present at a meeting in which such a licence application is considered, the decision of the Board shall be invalid.
- (5) A member of the Board shall not take part in the proceedings of the Board where any application for a licence is under consideration and such member or his or her relative, business partner or associate is associated with any person objecting to the application.
14. Meetings and procedures at meetings.—(1) The first meeting of the Board shall be held on a date and at a time and venue determined by the chairperson whereafter all future meetings shall be as determined by the Board.
- (2) The quorum for a meeting of the Board shall be the majority of the members of the Board.
- (3) The proceedings at a meeting of the Board shall, subject to the provisions of this section, be determined by the chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.
- (4) The chairperson shall preside at all meetings of the Board: Provided that in his or her absence the deputy chairperson shall preside and in the event that neither the chairperson nor the deputy chairperson are present at a meeting of the Board, the members then present shall elect from their own number, a person who shall act as chairperson for the duration of that particular meeting.
- (5) A decision of the Board shall be taken by a majority of the votes of the members present at a meeting, 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.
- (6) The Board shall arrange for minutes of its meetings to be kept and such minutes shall, subject to section 30, be open to public inspection in the manner prescribed.
- (7) No decision of the Board shall be invalid merely by reason of a vacancy in the Board: 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.
- (8) The chairperson, or a majority of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section shall apply *mutatis mutandis*.
15. Remuneration of members of Board.—A member of the Board shall be paid such remuneration and allowances out of the funds of the Board as may be determined by the Minister.
16. Staff of Board.—(1) The Board shall appoint a chief executive officer to perform such functions as are assigned to him or her under this Act and to assist the Board in the performance of its functions.
- (2) The chief executive officer shall be an *ex officio* member of the Board but shall not have the right to vote at its meetings.
- (3) The Board may appoint such other persons to assist it and the chief executive officer in the performance of their functions and duties under this Act.
- (4) No person may be appointed to the staff of the Board or continue to be so appointed if—
- (a) he or she; or

(b) his or her relative, whether as an employee or as a director, member or partner, has any interest whatsoever in any gambling activity.

(5) The staff of the Board shall—

(a) receive such remuneration; allowances and other employment benefits out of the funds of the Board as may be determined by the Minister with the concurrence of the provincial Minister of Finance.

[Para. (a) substituted by s. 5 of Act No. 2 of 2000.]

(b) be appointed on such terms and conditions and for such periods as the Board may determine; and

(c) be employed in accordance with fair and equitable employment practice.

(6) A member of the staff of the Board shall, before assuming duty, make and subscribe an oath or solemn affirmation in the prescribed form before the chairperson of the Board.

17. Position of public trust.—(1) Members and staff of the Board shall be in positions of public trust and 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) accept any donation, reward or other benefit from or on behalf of any applicant for a licence under this Act, a licensee under this Act or any other person associated with a gambling activity and neither shall any person give or offer or intimate that he or she is willing to give or offer any donation, reward or other benefit; and

(ii) participate in any gaming in the province except in the performance of his or her duties in terms of this Act;

(b) a member or former member of the Board or a member or former member of its staff shall not solicit or accept employment from a licensee or an applicant for a licence in terms of this Act within one year after the termination of the term of office of such a member or after the termination of the services of such member of staff, as the case may be.

(2) A licensee or an applicant for a licence in terms of this Act shall be disqualified from remaining a licensee or from obtaining a licence, as the case may be, if such licensee or applicant employs any person contemplated in subsection (1) (b).

18. Appointment of committees to assist Board.—(1) The Board may appoint such number of committees as it may require to assist it in any of its functions or to enquire or conduct research into any manner falling under the Board's jurisdiction in terms of this Act.

(2) A committee of the Board shall consist of such number of members of the Board and other persons as the Board may consider necessary.

(3) The Board shall, by resolution, designate one of its members on a committee as chairperson of the committee.

(4) The committee shall arrange for minutes of its meetings to be kept and such minutes shall, subject to section 30, be open to public inspection in the manner prescribed.

(5) A member of a committee who is not a member of the Board shall be paid such remuneration and allowances out of the funds of the Board as may be determined by the Board.

19. Consultation and assistance.—(1) The Board may, whenever necessary, appoint or call to its assistance any person for purposes of assisting the Board with any investigation contemplated in section 31 or advising the Board on any manner pertaining to the exercise of its powers, functions and duties under this Act.

(2) The Board shall, on appointing any person as contemplated in subsection (1), conclude a written agreement with the person concerned which shall include a description of the service to be rendered by the person and the date by which he or she shall furnish the Board with a report and/or recommendations in regard thereto.

(3) The terms, conditions, remuneration and allowances pertaining to the appointment of any person in terms of this section shall be paid out of funds of the Board as may be determined by it and shall be included in the written agreement contemplated in subsection (2).

(4) The Board may consult any person, organisation or institution with regard to any matter it deems necessary to enable it to perform its functions.

20. Co-opting of persons.—(1) The Board may, if it is of the opinion that a particular person is able to assist it in regard to any of its functions and powers, co-opt such person for that purpose.

(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) A person co-opted shall be paid such remuneration and allowances out of the funds of the Board as may be determined by the Board.

21. Confidentiality.—(1) No member of the Board, staff of the Board, committee member, consultant, co-opted person or any other person associated with the Board in terms of this Act shall disclose any information, documents or records at the disposal of or belonging to the Board, except—

- (a) to any person who requires it for the performance of his or her functions in terms of this Act or any other similar law in force in the Republic;
- (b) to any other person in terms of an order of a competent court or under this Act or any other law; or
- (c) with the permission of the Board, another government agency charged with law enforcement powers or with powers to regulate gambling in another gambling jurisdiction, in which event such agency shall take steps to ensure the confidentiality of the information, documents or records concerned, failing which the Board shall have the power to withdraw any permission granted in terms of this paragraph.

(2) Notwithstanding the provisions of subsection (1), the Board shall not be prohibited from disclosing any information and statistics regarding gambling in general, if such information or statistics do not refer to or reflect on the affairs of business of any particular applicant for a licence, a licensee or any other person connected therewith or person who has made representations to the Board.

22. Funds of Board.—(1) The funds of the Board shall—

- (a) consist of monies—
 - (i) appropriated by the Provincial Legislature and paid to the Board on a quarterly basis for purposes of enabling it to effectively perform its functions and to carry out its duties in terms of this Act; and
 - (ii) accruing to the Board in terms of this Act; and
- (b) be used to fund any expenditure authorised by this Act or by the Minister.

(2) The Board shall be required to furnish to the Secretary for Finance, in accordance with such budget directives as he or she may issue from time to time, the required estimates of revenue and expenditure and any other inputs in support of such estimates, to enable the appropriation contemplated in subsection (1) (a) to be made.

(3) All monies accruing to the Board shall be paid into a banking account opened by the Board.

(4)

[Sub-s. (4) deleted by s. 6 of Act No. 2 of 2000.]

(5) The Board may invest monies deposited into its account which are not required for immediate use provided that the investment is not of a speculative nature.

(6) Any surplus monies and investments standing to the credit of the Board at the close of the Board's financial year shall be paid into the Provincial Revenue Fund unless the Minister has authorised the Board to retain such funds to finance specific projects of the Board: Provided that this provision shall not apply to any special funds established and administered by the Board in accordance with section 23.

23. Establishment and administration of special funds.—The Board may establish and maintain special funds, including a fund for the treatment and rehabilitation of pathological gamblers, as the Cabinet may authorise and the Board shall administer such funds in the manner prescribed.

24. Accounts and financial records.—(1) The financial year of the Board shall commence on 1 April of each year and close on 31 March of the following year.

(2) The chief executive officer shall be the accounting officer of the Board and shall be responsible for—

- (a) ensuring that all money payable to the Board is properly collected and accounted for;
- (b) ensuring that all expenditure by the Board is authorised and accounted for;
- (c) ensuring efficiency and economy of operations and avoidance of waste and extravagance;
- (d) preparing or causing to be prepared, by no later than 30 June of each year, annual financial statements reflecting all monies received, invested and expended by the Board during the preceding financial year ended on 31 March; and
- (e) ensuring that the records and the annual financial statements referred to in this subsection are audited by the Auditor-General annually.

25. Delegation of functions and powers.—(1) The Board may, subject to such conditions it deems appropriate, delegate the following functions and powers to the chief executive officer—

- (a) to grant a site operator licence, to impose conditions on the issue of such a licence and to amend, substitute or rescind any condition;
- (b) to grant or refuse an application by a site operator to relocate his or her licensed premises to other premises within the province; and
- (c) to appoint persons to assist the Board and the chief executive officer.

(2) Any delegation in terms of subsection (1) shall not prevent the Board from exercising such power or performing such function itself.

CHAPTER 3

LICENCES IN GENERAL, EXCLUDING LICENCES TO PROMOTE AND CONDUCT LOTTERIES

26. Application for licence.—(1) Any person who wishes to obtain a licence in terms of this Act may apply to the Board for such licence in the manner prescribed and shall pay such application fee as may be prescribed: Provided that—

(a) any person whose licence application has been refused or whose licence has been cancelled, shall not apply for a licence for a period of twelve months from the date of such refusal or cancellation and any person who has a direct or indirect interest of five percent or more in the business or premises of such applicant or licensee may not apply for a licence within twelve months from the date of such refusal or cancellation if such person was the direct or effective cause of such refusal or cancellation; and

(b) any person whose application has been refused more than once or whose licence has been cancelled more than once, may not reapply for a licence within three years from the date of the most recent refusal or cancellation, and any person who has a direct or indirect interest of five percent or more in the business or premises of such applicant or licensee, may not apply for a licence within three years from the date of the most recent refusal or cancellation if such person was the direct or effective cause of such refusal or cancellation.

(2) For the purpose of subsection (1) the word “refused” shall mean an application which has been refused because the applicant is disqualified in terms of section 28 or because an investigation as contemplated in section 31 has revealed that the applicant is not a fit and proper person to be granted a licence under this Act.

(3) An applicant shall furnish the prescribed information, including fingerprints as may be required by the Board, and in the event that he or she refuses to do so, the Board may refuse to consider the application.

(4) On receipt of an application for a licence, the chief executive officer shall, subject to section 27, institute the prescribed procedures forthwith.

(5) When submitting an application in terms of subsection (1), an applicant—

(a) may identify any particulars, document and information included in the application which he or she regards as being confidential or which should not be disclosed to the public; and

(b) shall show cause as to why the Board should rule that such particulars, document and information should not be open to public inspection:

Provided that the Board may make such particulars, document and information available to a person who assists it with an investigation.

(6) Any particulars, document and information referred to in subsection (5) which the Board has ruled should not be open to public inspection shall not be made available for public inspection.

27. Grounds for refusal of licence.—The Board shall, without derogating from its powers to grant or refuse a licence application, have the power to refuse a licence application under the following circumstances, without the provisions of sections 26 (4), 29 to 33 being applied:

(a) in the case of an application for a casino licence—

(i) where the application relates to a casino for which the Minister has not issued a directive in accordance with the provisions of section 43; or

(ii) where the maximum permissible number of casino licences have already been issued in accordance with a directive issued by the Minister in terms of paragraph (a) of section 43 (1);

(b) where the application is for a route operator licence and the grant of the licence will result in the route operator concerned being permitted to operate more than the prescribed maximum number of gaming machines for route operators;

(c) where the application is for a site operator licence and the premises on which the site operator intends to make gaming machines available for play do not conform with the prescribed premises for site operators;

28. Disqualification for licence.—(1) Subject to the provisions of subsection (2) a person, including a juristic person, shall be disqualified from being granted a licence and from retaining or holding any licence already granted if he or she or any person acting as his or her principal—

(a) is, at the time of making the application—

(i) appointed as a public servant or is a member of an official law enforcement agency in any gambling jurisdiction, including the South African Police Services;

- (ii) a member of Parliament or any provincial legislature;
- (iii) a member of a local authority or any council or board established in terms of the Constitution, including a member of the House of Traditional Leaders;
- (iv) an office bearer or employee of any party, organisation or body of a party political nature;
- (b) is under the age of eighteen years on the date of the application being considered by the Board;
- (c) is an unrehabilitated insolvent or a member of a corporate body that is subject to winding-up or judicial management;
- (d) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;
- (e) has at any time been removed from an office of trust on account of misconduct;
- (f) has at any time been convicted, whether in the Republic or elsewhere, of any offence—
- (i) except that the Board may, upon the applicant disclosing full details of the offence in his or her application, condone a previous conviction: Provided that it is not a conviction for murder, culpable homicide involving an assault, rape, robbery, theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), any serious offence involving dishonesty, an offence relating to money-laundering, an offence relating to scheduled substances and drugs and an offence relating to proceeds of defined crime as contemplated in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), or any offence under this Act or any other similar law;
- (ii) unless the conviction and sentence have been set aside by a competent court or such person has received a grant of amnesty or free pardon;
- (g) is the husband or wife, or is a partner in a customary union according to indigenous law, or is a partner in a relationship where the parties live together in a manner resembling a marital partnership or customary union, of a person referred to in paragraph (a);
- (h) is a relative of a member of the Board; or
- (i) is a member of the Board, a member of its staff or an inspector or was a member of the Board, a member of its staff or an inspector during the preceding twelve months.

(2) A company, close corporation, partnership, trust or any other corporate body shall also be disqualified from being granted a licence and from retaining or holding any licence already granted, if any person who is disqualified to hold a licence in terms of—

- (a) the provisions of paragraphs (a) (ii), (h) and (i) of subsection (1) and of paragraph (g) of subsection (1) insofar as such provisions relate to a member of Parliament or any provincial legislature only,—
- (i) has any financial or pecuniary interest in such company, close corporation, partnership, trust or other corporate body;
- (ii) is a beneficiary under such trust and receives or is entitled to any of the proceeds or assets of the trust;
- (iii) is a director or a manager of such company, close corporation, partnership, trust or any other corporate body; or

[Para. (a) substituted by s. 5 of Act No. 1 of 1997.]

- (b) any other provisions of subsection (1) not referred to in paragraph (a) of this subsection—
- (i) has a direct or indirect financial interest of five percent or more in such company, close corporation, partnership, trust or other corporate body;
- (ii) is a beneficiary under such trust and receives or is entitled to more than five percent of the proceeds or assets of the trust;
- (iii) is a director or a manager of such company, close corporation, partnership, trust or any other corporate body:

Provided that the applicant or the licensee so disqualified shall be given a reasonable opportunity to rectify the disqualifying circumstances, prior to the disqualification, and in the event that the disqualification has been rectified in accordance with the provisions of this section, there shall be no disqualification.

Provided that—

- (i) the applicant or the licensee so disqualified shall be given a reasonable opportunity to rectify the disqualifying circumstances, prior to the disqualification, and in the event that the disqualification has been rectified in accordance with the provisions of this section, there shall be no disqualification; and

(ii) the Board may condone a disqualification in the case of a person contemplated in subsection (1) (g) who is disqualified by virtue of his or her relationship with a person contemplated in subsection (1) (a) (I) upon the applicant or licensee disclosing in his or her application full details of such person's disqualification and only if the Board is satisfied that the person contemplated in subsection (1) (a) (I) is not in a position to influence the application process.

[Sub-s. (2) amended by s. 3 of Act No. 11 of 1998.]

(3) A person shall be disqualified from being granted a casino licence, a bingo licence or a route operator's licence if he or she, or any person acting as his or her principal does not have access to financial resources that are, in the opinion of the Board, adequate to ensure the financial viability of the proposed casino, bingo hall or route operator's business and the services of persons who have sufficient experience in the management and operation of a casino, bingo hall or route operator's business.

(4) A licence shall not be granted to the State, a local government or a statutory body.

(5) The State and any organ of State at any level of government shall, apart from taxes and levies, not have any financial interest in any gambling activity.

(6) For the purposes of this section, a "manager" means any person who, in any material respect, exercises control over or directs the business of any company, close corporation, partnership, trust or any other corporate body by virtue of the office he or she holds in such company, close corporation, partnership, trust or any other corporate body, irrespective of the name or title by which he or she may be designated.

29. Representations by local authorities, interested persons and response by applicant to representations.—

(1) Any local authority, person or other body who wishes to submit written representations in response to a licence application shall do so in the manner prescribed.

(2) The chief executive officer shall furnish any written representations received, to the applicant for a response in the manner prescribed.

30. Application and representations to be open to public inspection and confidential information.—(1) Subject to subsection (2) of this section and to section 26 (5)—

(a) any application, representations, response and further information lodged with the Board shall be open to public inspection by interested persons during the normal office hours of the Board for the prescribed period; and

(b) the Board shall, at the request of any interested person, and on payment of the prescribed fee furnish such person with a copy of or extract from any such application, representations, response or further information.

(2) The board may determine that any document or information relating to—

(a) the financial capacity of any person participating in an application;

(b) the names of prospective employees of the applicant concerned; or

(c) the business plans of an applicant, shall not be open to public inspection.

(3) The Board may, in its discretion, rule that the identity of any person who has lodged representations relating to an application shall not be divulged: Provided that—

(a) the person concerned has requested the Board to make such a ruling and has shown cause as to why such ruling should be made; and

(b) the representations shall not be used as a basis for refusing an application for a licence or as grounds for the suspension or cancellation of a licence, unless the substance of the representations have been communicated to the applicant or licensee and the applicant or licensee has been given the opportunity to respond to the representations.

31. Investigation of an application by Board and inspection of premises.—(1) On receipt of an application for a licence, the Board shall undertake or cause to be undertaken all such investigations, including the inspection of any premises, it deems necessary to enable it to consider the application comprehensively.

(2) In order to satisfy the objects of the Board, an investigation contemplated in subsection (1) shall also establish whether or not the applicant, principal, any manager of the business concerned and any person who has a direct interest of five percent or more in the business concerned—

(a) is of good repute, having regard to character, honesty and integrity;

(b) has any business association with any person or body who, or any association which, in the opinion of the Board, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;

- (c) has at any time, whether in the Republic or elsewhere, been convicted of an offence which, in the opinion of the Board, should be taken into account for purposes of achieving the objects of the Board;
- (d) has been directly or indirectly involved or associated with any practice which is improper, dishonest or discreditable, whether unlawful or not;
- (e) is of sound and stable financial standing; and
- (f) has appropriate knowledge or experience, or is able to acquire the necessary knowledge or experience, to conduct the activities for which the application is being made.

[Sub-s. (2) amended by s. 4 of Act No. 11 of 1998.]

(3) Subject to the provisions of section 27 (a), whenever the Board receives an application for a casino licence, it shall consult with the municipality in whose area of jurisdiction the casino is or will be situated as to the suitability of the proposed site for the casino.

(4) The KwaZulu-Natal Provincial Commissioner of the South African Police Services or his or her delegatee shall, if requested by the Board, assist in undertaking background investigations into an applicant for a licence, his or her principal, any manager of the business concerned, any person who has a controlling interest or any financial interest whatsoever in the business concerned.

(5) The Board may, when conducting an investigation in terms of this section, disclose any document or information submitted in support of an application for a licence to any person who, in the opinion of the Board, may be of assistance to it in conducting such investigation.

(6) Any person who assists the Board in the manner contemplated by subsection (5), shall not disclose any document or information whatsoever to any other person.

32. Obtaining of further information in connection with application.—The Board may, by notice in writing, require an applicant for a licence, and any relative of an applicant or any person whose business association with the applicant is, in the opinion of the Board, relevant to the application, to provide such additional information as the Board may require to enable it to consider an application.

33. Hearing of application, investigation and summoning of witnesses—(1) The Board or a committee appointed by the Board for the purpose of this section shall, except where the Board has refused to consider an application in terms of section 26 (3) or where the Board has refused an application in the manner contemplated in section 27, hold a hearing in respect of every application for a licence received by it and such hearing shall be accessible to the public.

(2) The Board, or the committee contemplated in subsection (1), shall determine the date, time and place of the hearing which shall be made known in the manner prescribed.

(3) At such hearing—

- (a) the applicant shall be afforded an opportunity to be heard;
- (b) any person or local authority may make oral representations; and
- (c) the applicant and each such person and authority may be assisted or represented by any person of his or her choice.

(4) The Board, or the committee contemplated in subsection (1), may determine that a hearing be adjourned and be resumed on such date and at such time and place as it designates.

(5) The person presiding at the hearing may direct that—

- (a) any person whose presence is not conducive to the good order or conduct of the hearing, shall leave the hearing and shall not attend a hearing which resumes after an adjournment; and
- (b) the hearing shall continue in private if the Board or the committee contemplated in subsection (1) is considering a matter which is affected by its ruling in terms of section 26 (5) or section 30 (2) in relation to particulars, documents and information not accessible to the public or if it is otherwise in the interest of the matter under consideration.

(6) The Board or the committee contemplated in subsection (1) may, for the purposes of a hearing or an investigation contemplated in section 31—

- (a) summon any person who may be able to give material information concerning the application under consideration or who is believed to have in his or her possession or custody or under his or her control any book, document or thing which has any bearing on such application, to appear before it or the said committee at a time specified in the summons, which shall not be less than seven days after service thereof, and at a place so specified, to be questioned or to produce the book, document or thing concerned, and may retain for examination any book,

document or thing so produced: Provided that the person concerned shall be entitled to make a copy of such book, document or thing, if practicable, before it is retained by the Board; and

(b) call, and cause an oath to be administered by the person presiding at such hearing or accept an affirmation from, any person present at the hearing, who was or could have been summoned in terms of paragraph (a), and question such person or require him or her to produce any book, document or thing in his or her possession or custody or under his or her control.

(7) A summons for a person to appear before the Board, or the committee contemplated in subsection (1), or to produce any book, document or thing shall be in the prescribed form, shall be signed by the chairperson of the Board or the said committee, or a person authorised thereto by him or her, and shall be served by an inspector or a person in the service of the Board.

(8) Any person—

(a) duly summoned under this section, who fails without sufficient cause to attend at the time and place specified in the summons or to remain in attendance until discharged from further attendance by the person presiding at the hearing; or

(b) called under subsection (6) (b), who refuses to be sworn or to make an affirmation as a witness, or fails without sufficient cause to answer fully and satisfactorily to the best of his or her knowledge and belief all questions lawfully put to him or her concerning the application 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 required to produce, shall be guilty of an offence.

(9) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply in regard to the examination of any person or the production of any such book, document or thing in terms of this section: Provided that failure to give such evidence and to produce any such book, document or thing may be grounds for denial of a licence, registration or other approval sought in terms of this Act.

(10) Any person who appears before the board, or the committee contemplated in subsection (1), at a hearing shall be entitled to be represented by a legal representative.

(11) Any witness who, having been duly sworn or having made an affirmation, gives a false answer to any question lawfully put to him or her or makes a false statement in any matter, knowing such answer or statement to be false, shall be guilty of an offence.

(12) Any person who hinders a member of the Board or the committee contemplated in subsection (1), or any person in the service of the Board or the said committee, in the exercise of any power conferred upon him or her by or under this section shall be guilty of an offence.

34. Reasons for decision.—The chief executive officer shall convey, in writing, the reasons for the decision of the Board and a committee on being requested to do so—

(a) the applicant, where the application has been granted subject to conditions or has been refused; and

(b) any person who made representations in the manner prescribed, where the application has been granted.

[S. 34 amended by s. 7 of Act No. 2 of 2000.]

35. Renewal of licence.—(1) A licence shall, subject to the provisions of this Act and the conditions under which it was granted, remain in force until the date of renewal or in the case of a temporary licence the date of expiry.

(2) It shall be the responsibility of the licensee to apply to the Board for the renewal of a licence at least sixty days prior to the date on which the licence becomes renewable and to pay the prescribed licence fee.

(3) If a licensee fails to renew his or her licence by the date of renewal, the licence shall lapse and the licensee shall—

(a) cease operating the activities authorised by the licence; and

(b) if he or she so wishes, apply to the Board for a new licence in accordance with the provisions of section 26 in which event all the provisions in this Act relating to an application for a licence shall apply mutatis mutandis.

36. Suspension of licence.—(1) The Board may at any time, and after giving the licensee concerned an opportunity to be heard, suspend for such period as it may determine, any licence if—

(a) any information given to the Board during an investigation contemplated in section 31 or any information contained in any application made by the licensee for the purpose of obtaining a licence, a variation to any specification or condition attached to a licence, the renewal or transfer of a licence or for the removal of the

business concerned to other licensed premises, was at the time of being furnished false in any material respect or was subject to any material omission with the intention to mislead the Board;

(b) the licensee is disqualified from holding a licence in terms of section 28;

(c) the licensee, an employee of such licensee 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 or of the rules or has not complied with such term, condition or provision within thirty days, or such further period as the Board may in writing allow, after delivery of a written notice by the Board to the licensee requiring such failure to be remedied;

(d) the licensee has, without the prior written consent of the Board, failed to conduct the gambling activities authorised by his or her licence for a period of three consecutive months;

(e) the licensee fails to pay any amount prescribed in terms of this Act within the prescribed period;

(f) the licensee fails to pay out forthwith any prize legitimately won in a gambling game conducted under the licence;

(g) the licensee or his or her manager uses any gaming machine or gaming equipment or permits any game to be played on a gaming machine or with gaming equipment which—

(i) has been supplied by a person who is not registered in accordance with section 65; or

(ii) does not comply in all material respects with a national norm or standard or with a norm or standard determined by the Board; or

(h) the licensee fails to comply with any other provision of this Act or a rule of the Board which the Board, in its discretion, deems to be of such a nature as to warrant the suspension of the licence concerned.

(2) The Board may, pending an enquiry contemplated in section 86, immediately suspend the licence of any licensee for a material contravention of any provision of this Act, a condition of a licence or of the rules.

(3) The Board may at any time lift any order of suspension issued in terms of subsection (1) if the reasons for such suspension have been remedied to the satisfaction of the Board.

(4) When a licence is suspended in terms of subsection (1)—

(a) the chief executive officer shall immediately inform the licensee in writing of such suspension and of the reasons for the suspension; and

(b) the licensee shall have no claim to a refund of any licence fee paid or any portion thereof.

(5) The Board may delegate its powers to suspend a licence to the chief executive officer or to a committee of the Board in which event the chief executive officer or the committee—

(a) may suspend the licence for a temporary period of not more than seven days; and

(b) immediately notify the Board of such temporary suspension to enable it to take a decision as to whether or not the period of suspension should be extended for such further period as the Board may determine or whether or not the suspension should be lifted forthwith.

37. Cancellation of licence.—(1) Where the Board considers that sufficient grounds exist for the cancellation of a licence, it shall serve a written notice on the licensee which shall—

(a) notify the licensee that the Board proposes to consider the cancellation of the licence concerned;

[Para. (a) substituted by s. 8 (a) of Act No. 2 of 2000.]

(b) state clearly the ground or grounds for cancellation;

(c) invite the licensee to, within thirty days after the date of the written notice—

(i) make written representations to the Board; or

(ii) notify the Board in writing that he or she intends making oral representations to the Board; and

(d) state clearly that should the licensee fail to respond to the written notice in the manner contemplated in paragraph (c), the Board will take a decision as to whether or not the licence concerned should be cancelled.

[Para. (d) substituted by s. 8 (b) of Act No. 2 of 2000.]

(2) The Board may, when taking the action referred to in subsection (1), suspend the relevant licence in the manner contemplated in section 36 for such period as it may determine: Provided that the duration of such period may be varied by the Board.

[Sub-s. (2) substituted by s. 8 (c) of Act No. 2 of 2000.]

(3) Where written representations are made to the Board by the holder of—

(a) a casino licence, the Board shall on such representation consider whether or not the licence should be cancelled; or

(b) any other licence, the Board shall take such decision as may be justified by the information at its disposal and the written representations received.

[Sub-s. (3) substituted by s. 8 (d) of Act No. 2 of 2000.]

(4) When a licensee notifies the Board that he or she intends making oral representations to it, the Board shall set a date, time and place for the hearing and the chief executive officer shall notify the licensee concerned in writing.

(5) The licensee may be assisted or represented at a hearing by any person of his or her choice.

(6) The Board shall—

(a) at the hearing, request the chief executive officer to present evidence justifying cancellation of the licence and thereafter give the licensee an opportunity to respond to the evidence presented and to state his or her case; and

(b) after the hearing, in the case of any licence, take a decision as to whether or not the licence concerned should be cancelled.

[Sub-s. (6) substituted by s. 8 (e) of Act No. 2 of 2000.]

(7)

[Sub-s. (7) deleted by s. 8 (f) of Act No. 2 of 2000.]

(8) The chief executive officer shall convey to the licensee, in writing—

(a) the relevant decision of the Board; and

(b) the reasons for the said decision, upon being requested to do so by the licensee.

[Sub-s. (8) substituted by s. 8 (g) of Act No. 2 of 2000.]

(9) A licence shall be cancelled forthwith if the licensee or any person in control of the licensee has been convicted of an offence in terms of this Act.

(10) When a licence is cancelled, any guarantee paid by the licensee shall be used to settle any fees, taxes or penalties prescribed in this Act and any monies remaining thereafter shall be used toward the settlement of any gambling debts payable by the former licensee.

(11) Any monies remaining after the settlement contemplated in subsection (10) has been finalised, shall be paid to the former licensee.

38. Surrender of licence and conditions imposed thereon.—The Board may, in its discretion and subject to this Act, impose any conditions on the surrender of a licence.

39. Transfer of licence.—(1) A licensee may at any time make application to the Board for his or her licence to be transferred to another person and in such event, the provisions of sections 26 to 34 shall apply mutatis mutandis.

(2) When an application is granted, the chief executive officer shall cause the name of the licensee to be altered appropriately on the licence.

40. Removal of business to other premises.—(1) A licensee may at any time make application for the removal, whether permanently or temporarily, of his or her business from the premises specified in the licence to other premises.

(2) The Board may—

(a) grant the application, subject to any conditions the Board, in its discretion, imposes; or

(b) refuse the application.

(3) When an application is granted, the chief executive officer shall cause the licence to be amended appropriately.

41. Death or placing under curatorship of licensee.—(1) In the event of—

(a) a licensee being placed under curatorship; or

(b) the death of a licensee, his or her husband or wife, next-of-kin, authorised representative or the executor of the deceased person's estate shall immediately notify the Board of such death or curatorship.

(2) Where the person who is under curatorship or is deceased is the sole licensee, the Board may, in its discretion, authorise his or her husband or wife, next-of-kin, authorised representative or the executor of the deceased person's estate to continue the operation of the business concerned pending an application by such person for a licence.

(3) In circumstances where the interest held in a licensed business by a person who is under curatorship or is deceased passes, by operation of law or otherwise, to his or her estate or to any person other than a co-licensee, such person shall, within thirty days after the date of such death or disability, make application to the Board for a licence.

(4) The Board may, if satisfied of the necessity of such action—

(a) issue to the applicant for such period of time as it may deem necessary and subject to any conditions appropriate to the licence concerned; or

[Para. (a) substituted by s. 9 of Act No. 2 of 2000.]

(b) in its discretion, grant any other licence to the applicant for such period of time as it may deem necessary and subject to any conditions appropriate to the licence concerned.

(5) A licence granted in accordance with the provisions of this section will entitle the licensee to take part in the operation of the gambling activity authorised by the licence and to receive profits therefrom as successor of the person who is under curatorship or is deceased.

(6) The chief executive officer shall cause a licence to be issued to the applicant in the prescribed form setting out the conditions subject to which the licence was issued.

(7) A licensee shall not permit any relative, heir, next-of-kin, authorised representative or the executor of the deceased person's estate to take part in the operation of the gambling activity authorised by the licence, nor pay over to such person any part of the profits of such operation which accrue after the date of death or placing under curatorship, unless such person is either a co-licensee or the holder of a licence as successor of the person who is under curatorship or is deceased.

42. Suitability of third parties.—The Board may, in the manner prescribed,—

(a) require a licensee to disclose the detail of any contract or agreement with any supplier of gaming equipment, goods and services and with any lender, borrower, lessee or lessor and direct such licensee to amend or terminate such contract or agreement; and

(b) require any supplier for the purchase, hire or lease of gaming equipment, goods and services and any lender, borrower, lessee or lessor to make application to the Board, in the manner prescribed, for a certificate of suitability prior to contracting with a licensee.

CHAPTER 4

CASINO

43. Ministerial directives as to requirements for casinos.—(1) The Minister may, subject to subsection (2) and as and when necessary, issue to the Board directives relating to—

(a) the maximum permissible number of casino licenses to be issued in the province;

(b) the permissible locations for casinos in the province;

(c) the required size, type and style of casinos generally or of any particular casino;

(d) the grant of exclusive rights, for a specified period to a person to whom a casino license is issued

which shall prevent the Board from granting another casino license for a location within a specified area of the said licensee's casino during the period so specified;

[Para. (d) substituted by s. 10 (a) of Act No. 2 of 2000.]

(e)

[Para. (e) deleted by s. 10 (b) of Act No. 2 of 2000.]

(f)

[Para. (f) deleted by s. 10 (b) of Act No. 2 of 2000.]

(g)

[Para. (g) deleted by s. 10 (b) of Act No. 2 of 2000.]

(h) any other policy matter which may be relevant to the establishment of casinos in the province.

[Para. (h) substituted by s. 10 (c) of Act No. 2 of 2000.]

(2) The Minister shall issue a directive in terms of subsection (1) in consultation with the Cabinet and after consultation with the Board and the Portfolio Committee, including the Portfolio Committee on Economic Affairs and Tourism appointed by the Provincial Legislature, and the Minister, Cabinet, Board and the said Portfolio Committees shall have due regard to the province's objectives for developing a casino industry which are to promote tourism, employment and economic and social development in the province.

[Sub-s. (2) substituted by s. 6 of Act No. 1 of 1997.]

(3) The Minister may, in consultation with the Cabinet and after consultation with the Board, the Portfolio Committees referred to in subsection (2) and any holder of a casino licence issued in terms of section 47, who will be affected by the Minister's decision in terms of this subsection, vary or withdraw any directive issued in terms of this section.

44. Licence required to operate a casino.—No person may operate or attempt to operate a casino unless he or she is in possession of a valid casino licence issued by the Board in terms of this Act.

45. Consideration of applications by Board.—The Board shall, subject to section 27, give due consideration to all applications for casino licenses made to it in terms of this Act and, in doing so, shall take into consideration—

(a) any Ministerial directive issued in terms of section 43 of this Act;

[Para. (a) substituted by s. 11 of Act No. 2 of 2000.]

- (b) whether the proposed casino operation will satisfy the objects of the Board;
- (c) any representations made to it in connection with the application as well as any responses received to the representations;
- (d) any further information obtained in connection with the application as a result of a request or an investigation by the Board or by a person assisting the Board;
- (e) the extent to which a proposed casino and any resort attached to such casino will promote the attainment of the objectives referred to in section 6;
- (f) the applicant's commitment to the promotion of tourism, sustainable employment and economic and social development in the province; and
- (g) the extent to which the applicant intends to provide for participation in ownership or profits of the casino by persons, groups or categories of persons disadvantaged by unfair discrimination.

46. Decision-making in casino licensing.—(1) After having considered all applications made to it in the prescribed manner, the Board may grant an application, subject to any conditions it may in its discretion impose, or may refuse an application.

[S. 46 substituted by s. 12 of Act No. 2 of 2000.]

47. Issue of casino licence and temporary casino licence.—(1) Within one month of the grant of a casino licence and upon the payment of any prescribed licence fee by the applicant, the chief executive officer shall cause a licence to be issued to the applicant in the prescribed form setting out the conditions subject to which the application was granted.

(2) The licence shall, in addition to the conditions imposed—

- (a) specify the full names of the licensee;
- (b) specify the premises to which it relates; and
- (c) specify the date on which the licence is issued and the date by which it shall be renewed or if it is a temporary licence, the date on which it expires.

48. Temporary casino licence.—(1) The chief executive officer shall issue a temporary licence in accordance with the provisions of section 47 in a case where a licence is granted and the casino premises are not ready or suitable for occupation or where the Board, considers that circumstances justify the issue of a temporary licence.

[Sub-s. (1) substituted by s. 13 (a) of Act No. 2 of 2000.]

(2) A temporary casino licence shall bind the licensee to all the provisions of this Act and any reference to a licence or a licensee shall be deemed to be a reference to a temporary licence or the holder thereof, respectively.

(3) The Board may on application to it by the holder of a temporary licence—

- (a) amend, substitute or rescind any condition attached to the licence; and

[Para. (a) substituted by s. 13 (b) of Act No. 2 of 2000.]

(b) extend the period specified under paragraph (c) of section 47 (2) subject to the payment of any prescribed fee or penalty: Provided that the period by which the licence is extended shall not exceed twenty-four months from the date of the extension being granted.

(4) Where an application referred to in subsection (3) has been granted, the chief executive officer shall cause the amendment, substitution or rescission to be endorsed on the licence.

(5) When the Board is satisfied that the casino premises contemplated in subsection (1) have been completed substantially in accordance with the plan thereof approved by the Board or that the circumstances which justified the issue of a temporary licence no longer exist, 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 authorise the chief executive officer to issue the licence to the applicant in accordance with section 47.

(6) A temporary licence shall lapse within thirty days of the issue of the licence contemplated in subsection (5).

49. Conditions of a casino licence.—(1) The Board may impose such conditions on a casino licence as it considers appropriate, which may include any or all of the following—

- (a) the payment of a guarantee as security for any fees, taxes or penalties prescribed in this Act or any gambling debts payable by the licensee;
- (b) the payment of a guarantee as security for the completion, by a date determined by the Board, of the casino, any project associated with the casino, any premises connected to or associated with the casino including the installation of any gaming equipment, gaming machines and any other furnishings, fixtures and fittings;

- (c) standards in relation to the premises on which gambling is to take place;
 - (d) the erection, alteration, addition or reconstruction of any casino premises or premises connected to or associated with the casino;
 - (e) standards and requirements in relation to the gaming equipment and gaming machines placed, used and operated in a casino;
 - (f) the total number of casino games which may be placed and played on the premises concerned;
 - (g) the days on which and the hours during which gambling may be carried on;
 - (h) the keeping of books, accounts, records and other information relating to the operation of gambling;
- and
- (i) the submission to the Board of any reports and returns relating to the operation of gambling as the Board may from time to time require.

[Sub-s. (1) amended by s. 14 of Act No. 2 of 2000.]

(2) Every casino licence shall be subject to the condition that the licensee guarantees to pay any winnings to a player who has won on a casino game in the licensee's casino and that any disputes in this regard shall be referred to the Board for mediation in accordance with the relevant rules of the Board.

(3) The Board may require a licensee to furnish an additional guarantee if any circumstances arise which increase the risks relating to the settlement by the licensee of any liability contemplated in subsection (1) (a).

(4) A licensee may at any time apply to the Board for any condition to be amended, substituted or rescinded whereupon the Board may grant or refuse the application: Provided that a guarantee contemplated in subsection (1) (a) and (b) shall only be returned to the licensee in the manner prescribed.

[Sub-s. (4) amended by s. 14 of Act No. 2 of 2000.]

(5) Where the application has been granted, the chief executive officer shall cause the amendment, substitution or rescission to be endorsed on the licence.

50. Financial and controlling interests.—(1) A licensee shall not, without the consent of the Board, permit any other person to acquire a controlling interest or a financial interest of five percent or more in the business to which the licence relates.

(2) When a licensee applies to the Board for its consent as contemplated by subsection (1), the provisions of sections 28 to 34 shall apply mutatis mutandis to the person who proposes to acquire a controlling interest or a financial interest of five percent or more in the business concerned.

CHAPTER 5

GAMING MACHINES AND VARIOUS LICENCES REQUIRED

51. Licences required for gaming machines.—(1) No person shall maintain premises where gaming machines are played, unless he or she is in possession of a valid casino licence, bingo licence or a site operator's licence issued in terms of this Act.

(2) No person shall—

- (a) make gaming machines available for use in any licensed premises;
- (b) undertake the regular maintenance or the repair, replacement or upgrading of a gaming machine in such premises; and
- (c) conduct any other prescribed activities of a route operator, unless he or she is in possession of a casino licence, a bingo licence or a route operator's licence issued in terms of this Act.

52. Application for site operator and route operator licence.—(1) Any person who wishes to obtain a site operator licence to place and use gaming machines on the prescribed premises, may apply to the Board for such a licence in the manner prescribed.

(2) Any person who wishes to obtain a route operator licence to make gaming machines available for use in premises of site-operators, may apply to the Board for such a licence in the manner prescribed.

(3) An applicant shall furnish the prescribed information and in the event that he or she refuses to do so, the Board may refuse to consider the application.

(4) On receipt of an application for a licence, the chief executive officer shall institute the prescribed application procedures forthwith.

53. Issue of site operator and route operator licence and conditions.—(1) The Board may authorise the chief executive officer to issue a site operator or route operator licence subject to any conditions the Board, in its discretion, wishes to impose, including—

- (a) the premises or area within such premises on which gaming machines may be placed for use by players;
- (b) the maximum number of gaming machines allowed on the licensed premises: Provided that the number of gaming machines does not exceed the prescribed maximum;
- (c) the maximum amount that may be staked by a player per game: Provided that the amount does not exceed the prescribed maximum amount;
- (d) the maximum amount that may be won by a player: Provided that the amount does not exceed the prescribed maximum amount;
- (e) the minimum standards with which gaming machines must comply;
- (f) the days on which and hours during which gaming machines may be made available for use by players;
- (g) the payment of a guarantee as security for any fees, taxes or penalties prescribed in this Act or any gambling debts payable by the licensee;
- (h) certain standards in relation to the premises on which gaming is to take place;
- (i) the keeping of books, accounts, records and other information relating to the operation of gaming machines; and
- (j) the submission to the Board of any reports and returns relating to the operation of gaming machines as the Board may from time to time require.

(2) Every site operator licence shall be subject to the condition that the site operator guarantees to pay any winnings to a player who has won a game played on a gaming machine in the licensee's licensed premises and that any disputes in this regard shall be referred to the Board for mediation in accordance with the relevant rules of the Board.

(3) The Board may require a route operator or a site operator to furnish an additional guarantee if any circumstances arise which increase the risks relating to the settlement by the licensee of any liability contemplated in subsection (1) (g).

(4) A licensee may at any time apply to the Board for any condition to be amended, substituted or rescinded whereupon the Board may, in its discretion, grant or refuse the application.

(5) Where the application has been granted, the chief executive officer shall cause the amendment, substitution or rescission to be endorsed on the licence.

54. Electronic monitoring system.—Every gaming machine that is authorised by the Board for use on licensed premises shall be connected to the prescribed electronic monitoring system.

55. Gaming machines and gaming equipment.—A licensee shall not use a gaming machine or gaming equipment or allow any game to be played on a gaming machine or on or with gaming equipment which—

- (a) is of a type and model that does not conform with a national norm or standard or, where there is no national norm or standard, does not conform with a norm and standard determined by the Board;
- (b) has been supplied by a manufacturer or supplier who has not been registered by the Board in terms of section 65; or
- (c) has not been separately registered by the Board.

CHAPTER 6

BINGO LICENCES

56. Licence required to conduct bingo games.—(1) No person shall maintain premises where the gambling game of bingo is played, without—

- (a) a casino licence; or
- (b) a bingo licence, whether or not any such game is linked as contemplated in subsection (2).

(2) No person shall by any electronic or similar method of linking to any other premises provide for a game of bingo to be played simultaneously in two or more premises unless all such premises are licensed as bingo halls or casinos.

57. Application for licence to conduct bingo games.—Any person who wishes to obtain a licence to conduct bingo games may apply to the Board for such a licence in the manner contemplated in section 26.

58. Issue of a bingo licence and conditions.—(1) The Board may authorise the chief executive officer to issue a bingo licence subject to any conditions the Board, in its discretion, wishes to impose, including—

- (a) the erection, alteration, addition or reconstruction of any premises which are to be used as a bingo hall, including any premises connected to or associated with the bingo hall;

(b) the payment of a guarantee as security for the completion, by a date determined by the Board, of any project associated with the bingo hall, any premises on which it is situated or any premises connected to or associated with the bingo hall including the installation of any gaming equipment, gaming machines or other furnishings, fixtures and fittings;

(c) standards in relation to the premises on which gambling is to take place;

(d) standards and requirements in relation to the gaming equipment and gaming machines placed, used and operated in a bingo hall;

(e) the premises or area within such premises on which gaming machines may be placed for use by players;

(f) any devices in place of cards which may be used to play bingo;

(g) the maximum number of gaming machines allowed on the licensed premises: Provided that the number of gaming machines does not exceed the prescribed maximum for a bingo hall;

(h) the maximum amount that may be staked by a player per game: Provided that the amount does not exceed the prescribed maximum amount;

(i) the maximum amount that may be won by a player: Provided that the amount does not exceed the prescribed maximum amount;

(j) the days on which and hours during which bingo games may be played and gaming machines may be made available for use by players;

(k) the payment of a guarantee as security for any fees, taxes or penalties prescribed in this Act or any gambling debts payable by the licensee;

(l) the keeping of books, accounts, records and other information relating to the bingo games authorised and the operation of gaming machines; and

(m) the submission to the Board of any reports and returns relating to the bingo games authorised and the operation of gaming machines as the Board may from time to time require.

(2) Every bingo licence shall be subject to the condition that the licensee guarantees to pay any winnings to a player who has won any gambling game in the licensee's licensed premises and that any disputes in this regard shall be referred to the Board for mediation in accordance with the relevant rules of the Board.

(3) The Board may require a licensee to furnish an additional guarantee if any circumstances arise which increase the risks relating to the settlement by the licensee of any liability contemplated in subsection (1) (k).

(4) A licensee may at any time apply to the Board for any condition to be amended, substituted or rescinded whereupon the Board may, in its discretion, grant or refuse the application.

(5) Where the application has been granted, the chief executive officer shall cause the amendment, substitution or rescission to be endorsed on the licence.

CHAPTER 7

[Chapter 7 deleted by s. 5 of Act No. 11 of 1998.]

CHAPTER 8

REGISTRATION OF CERTAIN PERSONS

64. Registration of persons employed as special employees.—Subject to the provisions of section 67 (8), no person may be employed by or work for a route operator, the holder of a casino or a bingo license in—

(a) a managerial capacity or in a position where such person is authorised by the licensee to make decisions that regulate a route operator's operations or operations in a casino or a bingo hall; or

(b) any capacity relating to the following activities—

(i) the conduct of gaming;

(ii) the movement of money, chips or other items of value;

(iii) the exchange of money, chips or other items of value to patrons;

(iv) the counting or custody of money, chips or other items of value;

(v) the construction, purchase, operation, maintenance, service, repair of or access to gaming equipment;

(vi) any supervision of the above activities; or

(vii) any other activity relating to the operations of a route operator or the operations in a casino or a bingo hall which the Board may, from time to time, specify in its rules, unless such person has been registered as a special employee and has been issued with a certificate of registration by the Board.

65. Registration of certain persons associated with the provision of gaming equipment.—No person may manufacture, sell, make available, lease, distribute, import, market, maintain, service or repair any gaming equipment unless such person has been registered by the Board and such gaming equipment has been separately registered by the Board in accordance with the provisions of section 55 (c).
66. Disqualification for registration.—An application for registration shall not be granted if the applicant is subject to any disqualification contemplated in section 28.
67. Registration.—(1) Any person who wishes to be registered in accordance with the provisions of this chapter, shall apply to the Board in the manner prescribed together with the prescribed registration fee.
- (2) On receipt of an application for registration, the Board shall undertake or cause the investigation contemplated in section 31 to be undertaken.
- (3) The Board shall make rules for the procedures to be applied by it in regard to processing and considering an application for registration in terms of this chapter.
- (4) The Board may grant an application with or without conditions and shall have the power to refuse an application: Provided that—
- (a) it shall not refuse an application for registration without giving the applicant the opportunity of being heard; and
 - (b) the chief executive officer shall, on being requested to do so by the applicant, convey to him or her, in writing, the reasons for a decision of the Board not to grant his or her application for registration.
- (5) Where the Board grants an application for registration, the chief executive officer shall cause a certificate of registration to be issued to the applicant in the prescribed form setting out any conditions subject to which the application was granted.
- (6) A person who has been registered subject to any condition may at any time apply to the Board for such condition to be amended, substituted or rescinded whereupon the Board may, in its discretion, grant or refuse such application and in either event, the Board's decision shall be final.
- (7) Where an application contemplated in subsection (6) is granted, the chief executive officer shall cause the amendment, substitution or rescission to be endorsed on the certificate of registration.
- (8) The Board may, in writing, authorise a person who has applied to it for registration as a special employee to commence employment prior to the grant of a certificate of registration by the Board, if the Board is of opinion that—
- (a) it will not be in a position to make a decision on the application for some considerable time;
 - (b) the delay in issuing a certificate of registration to the applicant will seriously prejudice or disadvantage the operation of the relevant licensee's business; and
 - (c) permitting the applicant to be employed prior to the grant and issue of a certificate of registration contemplated in subsection (5), will not prejudice or compromise the objects of the Board.
- (9) A person to whom the Board has given written permission to commence employment in the manner contemplated in subsection (8) and whose application for registration as a special employee is thereafter refused by the Board, shall immediately cease employment in the capacity contemplated in section 64 and shall have no claim whatsoever upon the Board for the refund of the registration fee or for any other form of compensation.
- (10) The Board's decision as to whether to grant or refuse an application for registration shall be final.
68. Duration of registration.—A person's registration shall remain valid from the date of issue until—
- (a) the date on which the person registered surrenders his or her registration, in writing together with the certificate of registration, to the chief executive officer;
 - (b) a continuous period of twelve months has elapsed from the date on which the person registered ceased to be employed in the capacity for which he or she was registered;
 - (c) a person registered is subject to a disqualification contemplated in section 28; or
 - (d) the registration is cancelled by the Board in terms of section 70.
69. Operator's responsibilities in terms of this chapter.—(1) A casino licensee, licensee of a bingo hall or a route operator shall not employ, engage the services of or enter into any contract or agreement with any of the persons contemplated in sections 64 and 65 unless such person is the holder of a valid certificate of registration or written authorisation by the Board contemplated in section 67 (8).
- (2) A casino licensee, licensee of a bingo hall or a route operator who employs, engages the services of or enters into any contract or agreement with any person who is required to be registered in accordance with the provisions of this chapter, shall inform the Board in writing of such employment and of any cessation or termination thereof.

70. Suspension or cancellation of registration.—(1) The Board may, after having afforded a person who has been registered in accordance with the provisions of this chapter the opportunity to state his or her case, suspend, for such period as it may determine, or cancel such person's registration if—

(a) any information given to the Board during an investigation contemplated in section 31, any information contained in the application for registration or for the variation of a condition attached to the grant of registration, was at the time of being furnished by the applicant false in any material respect or was subject to any material omission with the intention of misleading the Board;

(b) the person registered is subject to a disqualification contemplated in section 28; or

(c) the person registered has contravened a term or condition of his or her registration or a provision of this Act.

(2) When a person's registration is suspended in terms of subsection (1), he or she shall not be employed in a casino or a bingo hall or by a route operator for the period during which the registration is suspended.

71. Special employees not permitted to gamble.—A person who is registered as a special employee in terms of this Act, shall not, as a player, participate in any gambling activity on the premises at which he or she is employed.

CHAPTER 9

FEES, TAXES AND LEVIES

72. Application and investigation fees.—Any person who submits an application to the Board for a licence, for the amendment, substitution or rescission of a condition attached to a licence, for the transfer of a licence or for the removal of his or her business from the premises specified in the licence to other premises, shall pay to it—

(a) the prescribed application fee; and

(b) all direct expenses incurred by the Board in respect of any investigations undertaken by it in terms of section 31 and section 33: Provided that the Board may require an applicant to lodge with it such security, as it may determine, before conducting any investigation contemplated in the said section.

73. Registration fees.—Any person who applies for registration as a special employee in terms of section 64 or to perform the activities contemplated in section 65, shall pay the prescribed registration fee.

74. Fees in respect of a casino licence.—(1) Any person who is required to—

(a) make a lump sum payment as directed by the Minister in accordance with section 43;

(b) pay a fee for the grant of exclusive rights as directed by the Minister in accordance with section 43;

or

(c) pay the prescribed licence fee,

shall, within thirty days of the grant of a casino licence, pay the applicable amount into the Provincial Revenue Fund prior to the casino licence being issued by the chief executive officer.

(2) In the event that the applicant fails to pay the fees referred to in subsection (1) within thirty days of the grant of such licence, the licence shall lapse.

(3) The licensee shall pay to the Board, the prescribed licence renewal fee.

75. Licence fees in respect of other licences.—(1) There shall be charged and payable in respect of any licence, other than a casino 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.

(2) The licence fees prescribed in terms of subsection (1) may make different provision in relation to different types of licenses.

(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.

76. Taxes and levies payable.—(1) There shall be payable to the Provincial Revenue Fund—

(a) the prescribed taxes; and

(b) the prescribed local government levy;

which shall be paid on the date prescribed and in the manner prescribed.

(2) The local government levy shall be disbursed annually in accordance with an appropriation by the Provincial Legislature.

77. Penalty for late payment.—(1) On failure to pay any fee, tax or levy or part thereof by the due date, the licence of the person concerned shall be deemed to be immediately suspended until such time as the fee, tax or levy is paid, together with the prescribed penalty.

(2) When a licence is suspended in terms of this section, the activity authorised by the licence shall also be suspended.

(3) The prescribed penalty shall be paid to the Provincial Revenue Fund.

78. Recovery of fees, taxes and levies.—All fees, taxes and levies due and payable in accordance with this Act and any remaining unpaid may be recovered by action as for a debt in any court of law.

CHAPTER 10

INSPECTIONS, INVESTIGATIONS AND ENQUIRIES

79. Restriction on operating as an inspector.—No person may operate as an inspector in the province for the purpose of exercising any power, function or duty relating to a casino or gambling, unless such person—

(a) has been appointed as an inspector by the Minister;

(b) has been specially authorised by the Board to exercise any authority or perform any duty conferred on an inspector by this Act, in which event such person shall be deemed to have been appointed as an inspector; or

(c) is a member of the South African Police Services.

80. Appointment of inspectors.—(1) The Minister may, from time to time, appoint any person as an inspector for the purposes of this Act.

(2) No person shall be appointed as an inspector if he or she is subject to any disqualification contemplated in section 81.

(3) A person who is not in the full-time employ of the State or the Board and who is appointed as an inspector shall be appointed on such conditions and shall be paid such remuneration as may be determined by the Minister or the Board, as the case may be.

(4) A person may be appointed as an inspector for an indefinite or a specific period and to perform specific powers and functions which shall be endorsed on the identity card contemplated in subsection (5).

(5) An inspector shall, on appointment, be provided with an identity card in the prescribed form signed by the Minister or the chairperson of the Board, as the case may be, or by their delegatee.

(6) An inspector shall, whenever performing a function or exercising a power in terms of this Act, have such identity card in his or her possession and shall produce it whenever requested to do so by any person affected by the actions of the inspector concerned.

81. Disqualification from being appointed as an inspector.—A person shall be disqualified from being appointed as an inspector if he or she is—

(a) a member of Parliament or any provincial legislature;

(b) a member of a local authority or any council or board established in terms of the Constitution, including a member of the House of Traditional Leaders;

(c) an office bearer or employee of any party, organisation or body of a party political nature;

(d) is under the age of eighteen years on the date of appointment;

(e) is an unrehabilitated insolvent;

(f) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;

(g) has at any time been removed from an office of trust on account of misconduct;

(h) has at any time been convicted, whether in the Republic or elsewhere, of any offence—

(i) except that the Minister may, upon the person being considered for appointment as an inspector disclosing full details of the offence, condone a previous conviction: Provided that it is not a conviction for murder, culpable homicide involving an assault, rape, robbery, theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), any serious offence involving dishonesty, an offence relating to money-laundering, an offence relating to scheduled substances and drugs and an offence relating to proceeds of defined crime as contemplated in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), or any offence under this Act or any other similar law;

(ii) unless the conviction and sentence have been set aside by a competent court or such person has received a grant of amnesty or free pardon; or

[Para. (h) substituted by s. 7 of Act No. 1 of 1997.]

(i) is a relative of any licensee.

82. Removal of inspector.—The Minister shall have the power to forthwith remove an inspector from his or her duties and to take appropriate steps to terminate the services of such inspector, and the Board shall have similar

powers in respect of any person who is specially authorised by it to exercise any authority or perform any duty conferred on an inspector by this Act, if such inspector—

- (a) is subject to a disqualification contemplated in section 81;
- (b) violates his or her position of public trust;
- (c) exceeds his or her powers in terms of this Act;
- (d) is convicted of an offence in terms of this Act; or
- (e) conducts himself or herself, during the course of exercising the functions and powers under this Act,

in a manner which discredits the position of an inspector.

83. Position of public trust.—An inspector shall be in a position of public trust and shall not—

(a) accept any donation, reward or other benefit from or on behalf of any person, a licensee under this Act or any other person associated with a gambling activity and neither shall any such licensee or person give or offer or intimate that he or she is willing to give or offer any donation, reward or other benefit;

(b) if his or her duties relate to betting control participate in any betting activity, contemplated in the Regulation of Racing and Betting Ordinance 1957 (Ordinance No. 28 of 1957), in the province except in the performance of his or her duties;

(c) if his or her duties relate to casino control participate in any gaming activity, contemplated in this Act, in the province except in the performance of his or her duties; and

(d) solicit or accept employment from a licensee or an applicant for a licence in terms of this Act within one year after the termination of his or her appointment as an inspector.

84. Functions and powers of inspectors.—(1) An inspector may at any time and without previous notice enter, be and remain upon any licensed premises and may—

(a) inspect the said premises;

(b) view any gambling operations and other activities associated with a casino or other gambling operations, including the counting of any money, chips, securities or any other item of value;

(c) view any recording of operations or activities referred to in paragraph (b);

(d) ascertain whether the operation of a casino or any gambling in other licensed premises is being properly supervised and managed and whether the provisions of this Act, the rules and the conditions attached to a licence are being complied with;

(e) request from the person deemed by the inspector to be in charge of the premises the immediate production of any licence or certificate required under this Act or any gaming equipment, chips, money, books, accounts, records, documents and any other objects capable of being used in connection with gambling;

(f) examine, inspect and test any gaming equipment or chips found in or upon such premises which are used or are suspected of being used in connection with gambling;

(g) examine and inspect any money, books, accounts, records, documents and any other objects found in or upon such premises which are used or are suspected of being used in connection with gambling and make a copy of or take an extract from any such item examined;

(h) question the licensee or any person deemed by the inspector to be in charge of the premises at the time as to any entries in such book accounts, records and documents or request any information about any gaming equipment, chips or money; and

(i) seize and remove, against the issue of a receipt, any gaming equipment, chips, money, books, accounts, records, documents and any other objects found in or upon such premises which are used or are suspected of being used in connection with gambling and which, in the opinion of the inspector concerned—

(i) may furnish proof of a contravention of any provision of this Act; or

(ii) should be retained for further examination, testing or for safe custody.

(2) Subject to the provisions of subsection (2A), an inspector may, in the company of a member of the South African Police Services—

(a) at any time and without previous notice, enter any premises on which it is suspected that—

(i) a casino or any other gambling activity is being conducted without the authority of a licence; and

(ii) persons are being allowed to gamble or to participate in any gambling activity,

and, after having informed the person deemed by the inspector to be in charge of the premises of the purpose of his or her visit, perform any of the functions referred to in subsection (1); and

(b) inspect any account of any person at any bank or financial institution for the purpose of establishing whether an offence has been committed in terms of this Act and if deemed necessary by such inspector, make a copy of or take an extract from such account.

[Sub-s. (2) amended by s. 6 (a) of Act No. 11 of 1998.]

(2A) An inspector whose identity card has been endorsed in accordance with the provisions of section 80 (4) to include the powers of a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) may perform any of the functions and powers referred to in subsection (2) of this section.

[Sub-s. (2A) inserted by s. 6 (b) of Act No. 11 of 1998.]

(3) An inspector may receive and investigate complaints from the players or patrons of any licensed premises regarding any aspect of the operation of such premises and—

(a) may in so doing, require any licensee or his or her manager, any person registered in terms of this Act or any other person associated with the operation or management of a casino or other licensed premises, to attend before the inspector at a time and place designated by him or her for the purpose of answering any questions or supplying any information which the inspector concerned considers relevant to the complaint; and

(b) shall forthwith furnish the Board with a report of such complaint, any findings as a result of investigating such complaints and any recommendations as to any action proposed to remedy the complaint concerned.

(4) Whenever anything is seized and removed in the manner contemplated in subsection (1) (i)—

(a) the person from whose possession or charge such item has been taken shall, at any reasonable time and at his or her own expense, be permitted to make copies thereof or take extracts therefrom under the supervision of an inspector; and

(b) the items so seized and removed may be retained for such period as the inspector may require and, where the items concerned are required in any proceedings of the Board or any proceedings instituted by the Board, they may be retained until after such proceedings have been finalised, whereupon the Board shall decide as to whether such items should be returned, forfeited or disposed of, including the manner of such disposal.

(5) When performing any function in terms of this section, an inspector may be accompanied by and may utilise the services of an assistant, an interpreter or any police official.

(6) Where an inspector has reason to believe that a provision of this Act, the conditions attached to a licence or a certificate of registration or the rules of the Board have been contravened, he or she shall investigate the manner in the manner contemplated in this section and shall forthwith furnish the Board with a report on the findings of such investigation.

(7) A person shall be guilty of an offence if he or she—

(a) obstructs or hinders an inspector or a member of the South African Police Services in the performance of the functions under this section;

(b) when asked to give an explanation or information to an inspector, gives an explanation or information which is false or misleading, knowing it to be false or misleading; or

(c) falsely represents himself or herself to an inspector.

85. Resistance against entry.—(1) An inspector or a member of the South African Police Services may, in entering any premises in accordance with section 84, use such force as may be reasonably necessary to overcome any resistance against such entry including the breaking of any door or window: Provided that such inspector or police officer shall first audibly demand admission to the said premises and indicate the purposes for which he or she seeks entry to the premises.

(2) The proviso to subsection (1) shall not apply where the inspector or police officer have reasonable grounds to believe that any article which is the subject of the investigation may be destroyed or disposed of while the action contemplated in the said proviso is taken.

86. Enquiries by Board.—(1) The Board may conduct an enquiry into any matter falling within the scope of its powers and functions in which case the provisions of section 33 shall apply mutatis mutandis to such enquiry.

(2) The Board may, after any enquiry, find a licensee or person registered in accordance with the provisions of sections 64 and 65 guilty of not complying with any of the provisions of this Act or the rules and may—

(a) institute legal action against such licensee or person;

(b) suspend the relevant licence or certificate of registration in accordance with the provisions of section 35 or section 70, respectively;

(c)

[Para. (c) deleted by s. 15 (a) of Act No. 2 of 2000.]

(d) cancel a licence, or a certificate of registration in accordance with the provisions of section 37 or section 70, respectively; or

[Para. (d) substituted by s. 15 (b) of Act No. 2 of 2000.]

(e) levy a fine or penalty on such licensee or person: Provided that the amount of such fine or penalty does not exceed the prescribed amount.

CHAPTER 11

MISCELLANEOUS PROVISIONS

87. Regulations.—(1) The Minister may by notice in the Provincial Gazette make regulations not inconsistent with the provisions of this Act in respect of any or all of the following matters—

- (a) any matter applicable to the Board;
- (b) any matter applicable to any licence required in terms of this Act;
- (c) the procedures to be applied in respect of any licence application;
- (d) the management and control of licensed premises, including any matters relating to security and surveillance in licensed premises;
- (e) the types of premises that site operators may maintain for purposes of making gaming machines available for play;
- (f) any matter which is prescribed in terms of this Act;
- (g) the maximum number of gaming machines allowed on licensed premises;
- (h) the maximum amount that may be staked by a player per game;
- (i) the maximum amount that may be won by a player;
- (j) the maximum number of gaming machines which a route operator may make available for use in licensed premises in the province;
- (k) any matter applicable to the electronic monitoring system;
- (l) the registration of certain persons;
- (m) the imposition of any fees, taxes and levies;
- (n) the appointment of an inspector and any matter relating to such inspectors and to investigations and enquiries;
- (o) the regulation and control of advertisements concerning gambling;
- (p) the extension of credit to casino players or casino patrons; and
- (q) any other matter which generally will achieve the objects and purposes of this Act.

(2) Any regulation may be made to apply generally throughout the province or within any defined area or areas thereof or to any specified casino or bingo hall.

(3) Any regulation made in terms of this section may be amended, substituted or deleted and may be made with effect from any date, whether prior to or subsequent to the publication of such regulation.

(4) The Minister shall, whenever he or she makes a regulation or amends a regulation in accordance with this section, advise the Chairperson of the Portfolio Committee, of such regulation or amendment of a regulation.

[Sub-s. (4) amended by s. 1 of Act No. 1 of 1997.]

88. Restriction on advertisements.—It shall be unlawful to advertise anything relating to gambling—

(a) at or within sight of any place of worship or any school, place or institution which is frequented predominantly by persons under the age of eighteen years; or

(b) through any written medium or in any broadcast or transmission on radio, television, personal computer or any other electronic medium which is aimed at persons under the age of eighteen years:

Provided that this section shall not apply to any information concerning the availability of resources for the treatment of gambling problems.

89. Appeals.—(1)

[Sub-s. (1) repealed by s. 16 of Act No. 2 of 2000.]

(2) Any person who feels aggrieved by a decision of the chief executive officer made in accordance with the provisions of section 25 or by a committee of the Board or a delegatee of the Board, may appeal to the Board in the manner prescribed.

90. Extending credit in connection with gambling in a casino.—The holder of a casino licence or any manager or employee authorised by such licensee may extend credit, in the manner prescribed, to a person to enable him or her to gamble in such casino.

91. Cheating and cheating devices.—(1) No person shall—

(a) knowingly allow anyone to cheat or operate any cheating device;
(b) knowingly conduct, operate, deal or expose for play any gambling game or games played with cards or through any 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

(c) knowingly make use of any counterfeit chip or token, or contravene the rules of any game or interfere in any way with any gaming equipment or device or any other device used for gaming with the intention of obtaining any pecuniary advantage, directly or indirectly, whether for himself or herself or any other person.

(2) For purposes of this section “cheating” means to alter the selection of criteria—

(a) which determine the result of a gambling game;
(b) which determine the amount or frequency of payment in a gambling game; or
(c) in terms of any scheme, arrangement, system or plan which the Minister may from time to time by notice in the Provincial Gazette so declare to be cheating.

92. Gambling debts enforceable.—Any gambling debt lawfully incurred by a person after the commencement of this Act shall be enforceable in a court of law.

93. Reward for information supplied.—(1) Notwithstanding anything to the contrary in any other law contained, the Board may in its discretion and from its own funds, pay a reward in such amount and under such circumstances as it sees fit to any person furnishing information which results in—

(a) the arrest and conviction, by a competent court, of any person contravening any provision of this Act; or

(b) the Board or the Cabinet, as the case may be, imposing on a licensee any of the penalties contemplated in this Act.

(2) The identity of any informant rewarded in terms of this section shall not be disclosed unless such informant consents to such disclosure.

94. Offences, penalties and forfeitures.—(1) Any person who contravenes any provision of this Act or any rules of the Board shall, if such contravention is not elsewhere in this Act declared to be an offence, be guilty of an offence.

(2) Any person convicted of performing any licensable act appertaining to gambling without a valid licence issued in terms of this Act or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957) shall, on conviction and in addition to any competent forfeiture contemplated in subsection (4), be liable to—

(a) in the case of a first conviction, imprisonment for a period not exceeding ten years without the option of a fine; and

(b) in the case of a second or subsequent conviction, imprisonment for a period not exceeding twenty years without the option of a fine:

Provided that a juristic person shall be liable, by virtue of the provisions of section 332 (2) (c) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), to a fine commensurate with the period of imprisonment contemplated herein and provided for in the Adjustment of Fines Act, 1991, (Act No. 101 of 1991).

(3) Any person convicted of any other offence in terms of this Act shall, on conviction and in addition to any competent forfeiture contemplated in subsection (4), be liable to—

(a) in the case of a first conviction, a fine not exceeding two million rands or imprisonment for a period not exceeding ten years; and

(b) in the case of a second or subsequent conviction, a fine not exceeding four million rands or imprisonment for a period not exceeding twenty years or to such imprisonment without the option of a fine.

(4) In addition to any penalty contemplated in this section—

(a) all monies, coins, notes, chips, cheques, any documents acknowledging debt or other articles used for securing the payment of money, any other documents, books and records relating to the gambling activity in question found in or at the place where such contravention occurred shall be forfeited to the Provincial Administration of the Province for disposal, including destruction, at the discretion of the Minister; and

(b) any gaming equipment or gaming machines found in or at the place where such contravention occurred shall be destroyed forthwith.

(5) In addition to any other penalty contemplated in this section, a person convicted of performing an act contemplated in subsection (1) or who is convicted of contravening or failing to comply with sections 3 (1), 4, 74, 75, 76 and 77 shall pay for the benefit of the Provincial Revenue Fund, such amount as the Secretary for Finance determines is equal to the tax payable in terms of this Act: Provided that such amount does not exceed five hundred thousand rands.

95. Interim arrangements.—(1) The Premier shall, not less than thirty days prior to the coming into operation of this Act in terms of section 96,—

- (a) make a public announcement; and
- (b) cause a notice to be published in the Provincial Gazette,

in which the Premier shall specify the date on which this Act will come into operation so as to afford all persons in the province who are involved with any gambling activity which is not licensed in accordance with this Act, an early opportunity to cease such involvement on or before the coming into operation of the said provisions:

Provided that the provisions of this subsection shall not apply to the coming into operation of the sections of the Act relating to the establishment and appointment of the Board.

(2) Within fourteen days of the publication of the notice relating to the appointment of members to the Board as required by section 10 (6), any person in possession of gaming equipment which has not been registered in accordance with the provisions of section 55 of this Act shall apply to the Board for a permit for the storage of such equipment.

(3) The Board may issue a permit referred to in subsection (2) under any conditions it may deem fit: Provided that it shall be a condition that—

- (a) the gaming equipment shall be stored in such a manner that it is not available to be played or operated by any person; and
- (b) the person to whom such a permit has been issued and who has not been granted a licence by a date fixed by the Minister by notice in the Provincial Gazette, shall dispose of such gaming equipment in such a manner that it is not available to be played or operated by any person on or by the date specified by the Minister in the said notice.

(4) Any permit issued in accordance with this section shall lapse upon the relevant licence being issued to the permit holder or the gaming equipment being registered by the Board or upon the date specified by the Minister in the notice contemplated in subsection (3).

95A. Transitional Arrangements.—Notwithstanding the provisions of this Act, any person who immediately before the commencement of this Amendment Act served as a member of the Board then in existence, shall cease to be a member of such Board after the expiry of the 3 year term of office referred to in section 11: Provided that such person may continue to be a member of the Board until a new Board or substitute for such person is appointed in terms of this Act by unanimous agreement of the Cabinet.

[S. 95A inserted by s. 17 of Act No. 2 of 2000.]

95B. Pending applications.—Any application pending at the time of the commencement of this Amendment Act shall be dealt with in terms of this Act and of the regulations to the principal act as they may be modified from time to time.

[S. 95B inserted by s. 17 of Act No. 2 of 2000.]

96. Short title and commencement.—This Act shall be called the KwaZulu-Natal Gambling Act, 1996, and shall come into operation on a date fixed by the Premier by Notice in the Provincial Gazette: Provided that the Premier may fix different dates of coming into operation for different sections of this Act.