(English text signed by the President.)
(Assented to 6 August 2004.)

ACT

To provide for the co-ordination of concurrent national and provincial legislative competence over matters relating to casinos, racing, gambling and wagering, and to provide for the continued regulation of those matters; for that purpose to establish certain uniform norms and standards applicable to national and provincial regulation and licensing of certain gambling activities; to provide for the creation of additional uniform norms and standards applicable throughout the Republic; to retain the National Gambling Board; to establish the National Gambling Policy Council; to repeal the National Gambling Act, 1996; and to provide for matters incidental thereto.

PREAMBLE

CONSIDERING that the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), establishes that casinos, racing, gambling and wagering are matters of concurrent national and provincial legislative competence;

It is desirable to co-ordinate activities relating to the exercise of that concurrent competence within the national and provincial spheres of government;

It is desirable to establish certain uniform norms and standards, which will safeguard people participating in gambling and their communities against the adverse effect of gambling, applying generally throughout the Republic with regard to casinos, racing, gambling and wagering, so that-

* gambling activities are effectively regulated, licenced, controlled and policed;
* members of the public who participate in any licenced gambling activity are protected;
* society and the economy are protected against over-stimulation of the latent demand for gambling; and
* the licensing of gambling activities is transparent, fair and equitable;

It is expedient to establish certain national institutions, and to recognise the establishment of provincial institutions, which together will determine and administer national gambling policy in a co-operative, coherent and efficient manner.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:–

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CHAPTER 1

INTERPRETATION AND APPLICATION

Definitions

1. In this Act, unless the context indicates otherwise-

"amusement game" means a game that has a restricted prize, and that may be regulated and licensed in terms of provincial law contemplated in section 47;

"amusement machine" means a machine or device on which an amusement game may be played and that may be regulated and licensed in terms of provincial law contemplated in section 47;

"associate" means–

(a) an employer;

(b) a co-shareholder of a private company contemplated in section 20 of the Companies Act, 1973 (Act No. 61 of 1973);

(c) a co-member of a Close Corporation contemplated in section 2 of the Close Corporations Act, 1984 (Act No. 69 of 1984); and

(d) a person to whom one has granted or from whom one has received a general power of attorney;

"bingo" means a game, including a game played in whole or in part by electronic means-

(a) that is played for consideration, using cards or other devices –

(i) that are divided into spaces each of which bears a different number, picture or symbol; and

(ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols;

(b) in which an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match each such number, picture or symbol on the card or device as it is called or displayed; and

(c) in which the player who is first to match all the spaces on the card or device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize,

or any other substantially similar game declared to be bingo in terms of section 6(4);

"board" means the National Gambling Board retained and constituted by Part B of Chapter 4;

"bookmaker" means person who directly or indirectly lays fixed-odds bets or open bets with members of the public or other bookmakers, or takes such bets with other bookmakers;

"Cabinet" means the body of the National Executive referred to in section 91 of the Constitution;

"cash dispensing machine" means an automatic teller machine or any similar device that dispenses cash to approved account holders or card holders;

"casino" means premises where gambling games are played, or are available to be played, but does not include premises in which-

(a) only bingo and no other gambling game is played or available to be played;
(b) only limited pay-out machines are available to be played;
(c) limited pay-out machines are available to be played and bingo, but no other gambling game is played or available to be played; or
(d) only social gambling is conducted in terms of a temporary license or provincial law;

"Chief Executive Officer" means the person appointed by the board in terms of section 73(1)(a);

"consideration" means–

(a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar object; or
(b) any other thing, undertaking, promise, agreement or assurance,

regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

"contingency" means an event or occurrence of which the outcome is uncertain or unknown to any person until it happens;

"Council" means the National Gambling Policy Council established by section 61;

"designated area"-

(a) when used in relation to a site, means an area at that site in which any limited pay-out machine is authorised to be placed; and
(b) when used in any other case, means an area within licensed premises where any gambling game is available to be played;

"discounted price" means a price charged by a licensee for any goods or services that is significantly below the prevailing fair market price for similar goods or services provided in the ordinary course of business by persons who are not licensees in terms of this Act or provincial law;

"electronic agent" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

"employment licence" means a license permitting a person to work in the gambling industry within the Republic;

"excluded person" means a person who has been registered as such in terms of section 14 in order to be prevented from engaging in any gambling activity;

"family member" means a person's–

(a) spouse; or
(b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

"financial interest" means–

(a) a right or entitlement to share in profits or revenue;
(b) a real right in respect of property of a company, corporation or business;
(c) a real or personal right in property used by a company, corporation or business; or
(d) a direct or indirect interest in the voting shares, or voting rights attached to shares, of a company or an interest in a close corporation;

"Financial Intelligence Centre Act" means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), and the regulations made in terms of that Act;

"fixed-odds bet" means a bet on one or more contingencies in which odds are agreed at the time the bet is placed;

"gambling activity" means any activity described as such in section 3;

"gambling device" means equipment or any other thing that is used, or at the time of its manufacture was designed to be used, in determining the result of a gambling activity;

"gambling game" means any activity described as such in section 5;

"gambling industry" includes any matter regulated in terms of this Act, but does not include a regulatory authority;

"gambling machine" means any mechanical, electrical, video, electronic, electro-mechanical or other device, contrivance, machine or software, other than an amusement machine, that–

(a) is available to be played or operated upon payment of a consideration; and

(b) may, as a result of playing or operating it, entitle the player or operator to a pay-out, or deliver a pay-out to the player or operator;

"informal bet" means a bet, wager, undertaking, promise or agreement contemplated in section 4, between or among two or more persons, if –

(a) none of the parties involved is a bookmaker or derives a significant portion of their livelihood from gambling: and

(b) no person is paid a fee or derives any gain, other than winning the bet itself, from the activity;

"interactive game" means a gambling game played or available to be played through the mechanism of an electronic agent accessed over the Internet other than a game that can be accessed for play only in licensed premises, and only if the licensee of any such premises is authorised to make such a game available for play;

"interactive provider" means a person licensed to make an interactive game available to be played;

"Internet" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

"inspector" means a person appointed in terms of section 76;

"license" includes to register, approve or certify, in terms of any applicable provincial law;

"licensed" when used in relation to-

(a) a person, means to be in lawful possession of a valid licence, registration card or certificate issued to that person in terms of this Act or provincial law; or

(b) a gambling activity, means that a valid licence has been issued, in terms of this Act or provincial legislation, to a licensee permitting the licensee to engage in or conduct that activity, or make that activity available for other persons to engage in it;

"licensed premises" means specific premises that are named or described in a licence issued in terms of this Act or applicable provincial law;

"limited pay-out machine" means a gambling machine with a restricted prize, described in section 26;

"manufacturer, supplier or maintenance provider" means a person whose business is to import, manufacture, sell, lease, make available, distribute, maintain or repair a gambling device;

"Minister" means the member of Cabinet responsible for the administration of this Act;

"minor" means a person under the age of 18 years;

"national licence" means a license issued in terms of this Act;

"open bet" means–

(a) a bet, other than a totalisator bet, taken by a bookmaker on one or more contingencies, in which no fixed-odds are agreed at the time the bet is placed; or

(b) a bet in respect of which the payout is determined after the outcome of the contingency on which such a bet is struck became known, with reference to dividends generated by a totalisator;

"organ of state" has the meaning set out in section 239 of the Constitution;

"partner" means a person with whom one has entered into a partnership agreement with the intention of making a profit;

"person" includes a partnership, association, trust, or ajuristic person established by or in terms of any law;

"political office bearer" means–

(a) a member of the National Assembly, the National Council of Provinces or the Cabinet;

(b) a member of a provincial legislature;

(c) a member of a municipal council or local authority;

(d) a diplomatic representative of the Republic who is not a member of the public service;

(e) a member of a house, or council of traditional leaders; or

(f) a national or provincial office bearer of a political party;

"premises" includes land and any building, structure, vehicle, ship, boat, vessel, aircraft or container;

"prescribed" means prescribed by regulation in terms of this Act;

"prohibited practice" has the meaning assigned to it in the Competition Act, 1998 (Act No. 89 of 1998);

"provincial law" means an Act of a provincial legislature concerning the regulation of casinos, gambling, racing or wagering and includes subordinate legislation made in terms of such Act;

"provincial licence" means a licence issued by a provincial licensing authority in terms of applicable provincial laws;

"provincial licensing authority" means a body established by provincial laws to regulate casinos, racing, gambling or wagering;

"public servant" means a person employed within an organ of state or within a court, or a judicial officer;

"register of excluded persons" means the register required to be maintained by the board in terms of section 14;

"regulatory authority" means the board or a provincial licensing authority;

"restricted gambling activity" means a gambling activity other than social gambling or an informal bet;

"route operator" means a person who is licensed as such in terms of applicable provincial laws contemplated in section 18;

"site" means premises licensed in terms of applicable provincial law for the placement of one or more limited pay-out gambling machines contemplated in section 18;

"site operator" means a person who is licensed to operate a site in terms of applicable provincial laws contemplated in section 18;

"social gambling" has the meaning, if any, set out in applicable provincial laws;

"South African Bureau of Standards" means the entity of that name established in terms of section 2(1) of the Standards Act, 1993 (Act No. 29 of 1993);

"spouse" means a person's–

(a) partner in a marriage;

(b) partner in a customary union according to indigenous law; or

(c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

"testing agent" means a person licensed in terms of this Act to test and calibrate gambling machines or gambling devices; and

"this Act" includes the schedule and regulations.

Application of Act

2. This Act does not apply to an activity that is regulated in terms of the Lotteries Act, 1997 (Act No. 57 of 1997).

CHAPTER 2

NATIONAL GAMBLING POLICY

Part A

Gambling activities

Gambling activities generally

3. An activity is a gambling activity if it involves–

(a) placing or accepting a bet or wager in terms of section 4(1);

(b) placing or accepting a totalisator bet, in terms of section 4(2); or

(c) making available for play, or playing-

(i) bingo or another gambling game in terms of section 5; or

(ii) an amusement game, to the extent that applicable provincial laws require such games to be licensed.

Bets and wagers

4. (1) A person places or accepts a bet or wager when that person-

(a) being a player, stakes money or anything of value on a fixed-odds bet, or an open bet, with a bookmaker on any contingency: or

(b) being a bookmaker-

(i) accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency; or

(ii) stakes money or anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency;

(c) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or

(d) expressly or implicitly undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c).

(2) A person places or accepts a totalisator bet when that person stakes money or anything of value on the outcome of an event or combination of events by means of–

(a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or

(b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles.

Gambling games

5. (1) An activity is a gambling game if-

(a) it meets the following criteria:

(i) it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to, or receive a pay-out and

(ii) the result might be determined by the skill of the player, the element of chance, or both; or

(b) it is a bet or wager in terms of section 4(1), that is placed in a casino in relation to an activity that meets the criteria in paragraph (a).

(2) Despite subsection (1), for all purposes of this Act, none of the following activities is a gambling game:

(a) A bet or wager in terms of section 4(1), other than abet or wager contemplated in subsection (1)(b).

(b) a totalisator bet in terms of section 4(2); or

(c) an amusement game.

Pay-out and opportunity to play further game

6. (1) Subject to subsection (2), a pay-out is any money, merchandise, property, a cheque, credit, electronic credit, a debit, a token, a ticket or anything else of value won by a player-

(a) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and

(b) regardless how the pay-out is made.

(2) Neither of the following is a pay-out:

(a) An opportunity to play a further game; or

(b) a prize given to a participant or team of participants in a sporting event in respect of the participant's or team's performance in that event.

(3) The result of a gambling game–

(a) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game-

(i) in respect of which the opportunity was won; and

(ii) on the machine on which the opportunity was won; but

(b) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be–

(i) distributed or transferred to the person who has won such an opportunity or to any other person, or

(ii) converted into money, property, a cheque, credit or any other thing of value; or

(iii) converted in terms of any scheme, arrangement, system, plan or device prescribed in terms of subsection (4).

(4) The Minister may by regulation made in accordance with section 87 declare–

(a) that any scheme, arrangement, system or plan is not an opportunity to play a further game; or

(b) that any particular game that is substantially similar to bingo, as described in section 1, is bingo.

Part B

Prohibited gambling, restricted activities and status of gambling debt

Gambling in relation to illegal activities unlawful

7. Despite any other law, a person must not–

(a) engage in, conduct or make available a gambling activity if the outcome of that activity depends directly, indirectly, partly or entirely on a contingency related to an event or activity that is itself unlawful in terms of any law;

(b) permit any gambling machine or device under the person's control to be used for the purposes of a gambling activity contemplated in paragraph (a);

(c) maintain or operate any premises, whether or not such premises are licensed premises, for the purposes of a gambling activity contemplated in paragraph (a); or

(d) permit any premises under the person's control, whether or not such premises are licensed premises, to be used for the purposes of a gambling activity contemplated in paragraph (a).

Unlicensed gambling activities unlawful

8. Despite any other law, a person must not engage in, conduct or make available a gambling activity except–

(a) a licensed gambling activity;

(b) social gambling that is licensed or otherwise permitted in terms of any applicable provincial law; or

(c) an informal bet, unless, in the circumstances, there are valid grounds to conclude that any of the parties to the bet intended to establish an enforceable contractual relationship when they staked, or accepted the stake of, money on that contingency.

Unlicensed dealing in machines and devices unlawful

9. (1) Despite any other law, a person must not–

(a) import, manufacture, supply, sell, lease, make available, possess, store or alter a gambling machine or gambling device, or transport or maintain such a machine or device except to the extent contemplated in section 23(4), unless that person is authorised to do so in terms of this Act or applicable provincial law;

(b) possess or make available for play a gambling machine or gambling device for use in a gambling activity unless registered ownership or possession of the machine or device has been transferred to that person in terms of section 23(6).

(2) The Minister, by regulation made in accordance with section 87, may prescribe categories of gambling machines or gambling devices that are exempt from the application of subsection (1).

Unlicensed use of premises unlawful

10. (1) Despite any other law, a person must not–

(a) maintain or operate any premises for the purposes of a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorised in terms of a licence under this Act or applicable provincial laws;

(b) permit any premises under that person's control to be used for the purposes of a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorised in terms of a licence under this Act or applicable provincial law; or

(c) permit an individual in or on any premises under that person's control to engage in a restricted gambling activity, unless that gambling activity in, on or from those premises has been authorised in terms of a licence under this Act or applicable provincial law.

(2) A person must notify a provincial licensing authority and the board, if the person–

(a) owns, maintains, operates or has control over any premises, or any gambling machine or device; and

(b) believes, or has reason to believe, that those premises, or that gambling machine or device, is being, or has been, used without that person's permission for any purpose that is unlawful in terms of this section or section 7, 8 or 9.

Unauthorised interactive gaming unlawful

11. A person must not engage in or make available an interactive game except as authorised in terms of this Act or any other national law.

Protection of minors

12. (1) A minor must not–

(a) enter a designated area within any licensed premises;

(b) operate a gambling machine or gambling device;

(c) conduct or make available a gambling activity;

(d) engage in social gambling or a gambling activity other than an amusement game; or

(e) falsely claim to be 18 years of age or over, in order to–

(i) gain access to a designated area within licensed premises;

(ii) gain access to a gambling machine or gambling device; or

(iii) engage in, conduct or make available a gambling activity.

(2) A person must not falsely claim that a minor is 18 years of age or over, in order for that minor to–

(a) gain access to a designated area within licensed premises;

(b) gain access to a gambling machine or gambling device; or

(c) engage in, conduct or make available a gambling activity.

(3) A licensee, licensed employee, or a person in control of licensed premises or a gambling machine or gambling device must not knowingly permit a minor to–

(a) enter or remain in a designated area within such licensed premises;

(b) operate that gambling machine or gambling device;

(c) conduct or make available a gambling activity within such licensed premises; or

(d) engage in social gambling or a gambling activity, other than an amusement game, within such licensed premises.

(4) A person referred to in subsection (3) must take reasonable measures to determine accurately whether or not a person is a minor, before permitting that person to do any thing contemplated in subsection (3)(a) to (d).

Restrictions on granting credit to gamblers

13. A person licensed to make any gambling activity available to the public must not extend credit contrary to this Act, in the name of the licensee or a third party, to any person for the purposes of gambling.

Excluded persons

14. (1) A person who wishes to be prevented from engaging in any gambling activity may register as an excluded person by submitting a notice to that effect in the prescribed manner and form at any time.

(2) A person who registered as an excluded person in terms of subsection (1) may submit a notice in the prescribed manner and form to cancel that registration at any time.

(3) A notice filed in terms of subsection (1) or (2) takes effect on a date determined in accordance with the regulations.

(4) A person may apply to a court of competent jurisdiction for an order requiring the registration as an excluded person of—

(a) a family member of the applicant;

(b) a person on whom the applicant is economically dependent in whole or in part;

(c) a person for whom the applicant is economically responsible in whole or in part;

(d) a person who is subject to an order of a competent court holding that person to be mentally deranged; or

(e) any other person–

(i) to whom the applicant has a duty of care; and

(ii) whose behaviour manifests symptoms of addictive or compulsive gambling.

(5) If, in the circumstances of an application in terms of subsection (4), the court considers it reasonable and just to prevent the person concerned from engaging in any gambling activity, the court may order the registration of that person as an excluded person.

(6) An excluded person affected by an order in terms of subsection (5) may apply to the court that made the order at any time to set aside the order, and the court may do so if, after considering the grounds for making the original order and any new evidence before it, the court is satisfied that it is no longer reasonable and just to prevent that person from engaging in any gambling activity.

(7) The board must-

(a) establish and maintain a national register of excluded persons in the prescribed manner and form; and

(b) make the information in the register continuously available to-

(i) each provincial licensing authority; and

(ii) every person who is licensed to make a gambling activity available to the public.

(8) The board may not charge a fee for registering a person as an excluded person.

(9) The Minister, by regulation made in accordance with section 87, may prescribe-

(a) forms, standards and procedures for the registration of persons on, and cancellation of registrants from, the register of excluded persons;

(b) fees for services in connection with the maintenance and access to the register of excluded persons, other than the registration of excluded persons; or

(c) standards to be employed by licensees in giving effect to subsections (10) and (11).

(10) A licensee, licensed employee, or person in control of licensed premises or a gambling machine or gambling device, must not knowingly permit an excluded person to-

(a) enter or remain in a designated area within those premises;

(b) operate that gambling machine or gambling device;

(c) conduct or make available a restricted gambling activity, or an activity, licensed as social gambling, within those premises; or

(d) engage in social gambling or a restricted gambling activity within those premises.

(11) A person referred to in subsection (10)-

(a) must take the prescribed measures to determine accurately whether or not a person is an excluded person. before permitting that person to do anything contemplated in subsection (10)(a) to (d); and

(b) is not liable under this Act or any other civil or criminal law for admitting an excluded person provided the licensee has taken the prescribed measures.

(12) Every licensee authorised to make a gambling activity available to the public must-

(a) make available at all of its licensed premises-

(i) the prescribed form to be used by a person wishing to register as an excluded person in terms of subsection (1): and

(ii) a directory of local recognised counselling, treatment or education services addressing the problems of compulsive and addictive gambling; and

(b) prominently post a notice advertising the availability of those materials, in the prescribed manner and form, at every entry to those premises.

Restrictions on advertising and promotion of gambling activities and granting of discounts

15. (1) A person must not advertise or promote

(a) any gambling activity–

(i) in a false or misleading manner; or

(ii) that is unlawful in terms of this Act or applicable provincial law; or

(b) a gambling activity, other than an amusement game, in a manner intended to target or attract minors.

(2) Any advertisement of a gambling machine or device, a gambling activity, or licensed premises at which gambling activities are available–

(a) must include a statement, in the prescribed manner and form, warning against the dangers of addictive and compulsive gambling; and

(b) must not include any element that directly or indirectly promotes or encourages the removal of a person from the register of excluded persons.

(3) A person must not advertise or promote any gambling or related activity as being available to the public free of charge or at a discounted rate contrary to this Act, as an inducement for gambling.

(4) The Minister may by regulation in accordance with section 87 exempt any specific type of advertising or advertising media from the application of this section if the Minister is satisfied that the advertising is not targeted to the general public.

Enforceability of gambling debts and forfeiture of unlawful winnings

16. (1) Despite any provision of the common law, or any other law other than this Act–

(a) a debt incurred by a person, other than an excluded person, subject to paragraph (d)(ii). or a minor, in the course of a gambling activity that is licensed in terms of this Act or provincial law, is enforceable in law;

(b) a debt incurred by a person other than an excluded person, subject to paragraph (d)(ii), or a minor, in the course of a gambling activity that is lawful but not required to be licensed, in terms of this Act or provincial law, is enforceable in law only to the extent that it is enforceable in terms of the common law or another law;

(c) a debt incurred by a person in the course of any gambling activity that is unlawful in terms of this Act or applicable provincial law is not enforceable in law;

(d) a debt incurred in the course of a gambling activity-

(i) by a minor is not enforceable in law; or

(ii) by an excluded person is not enforceable in law, unless that excluded person gained access to that gambling activity by fraudulently claiming to be a different person; and

(e) an informal bet is not enforceable in law.

(2) A person must not knowingly pay any winnings from a gambling activity to–

(a) a minor;

(b) an excluded person; or

(c) any other person who won those winnings in a gambling activity that is unlawful in terms of this Act.

(3) Any person who is prevented from paying winnings referred to in subsection (2) must remit those winnings to the board in the prescribed manner and form, to be held by the board in trust, pending a decision in terms of subsection (4).

(4) Upon receiving any winnings under subsection (3), the board must investigate the circumstances of the relevant gambling activity, and either–

(a) deliver the winnings to the person who won them, if the board is satisfied that the gambling activity was lawful, and the winner was not a minor or excluded person at the time of the activity; or

(b) apply to the High Court for an order declaring the winnings forfeit to the State.

Part C

Gambling premises

Standards for gambling premises

17. (1) No person may place or operate a cash dispensing machine contrary to this Act–

(a) within a designated area, or

(b) within a prescribed distance from such a designated area.

(2) Every licensee operating licensed premises at which a gambling activity is conducted must post a notice, in the prescribed manner and form, warning of the dangers of compulsive and addictive gambling.

(3) A person licensed to engage in, conduct, or make available licensed activities in, on or from particular licensed premises must comply with prescribed standards for the design, use and maintenance of such licensed premises in which gambling activities may take place.

Sites

18. (1) A provincial licensing authority may—

(a) license a person as a site operator to operate limited pay-out machines in or on specific named premises; and

(b) determine the hours of operation for that site which may be the same as, different from or outside the normal hours of operation of the primary, business conducted at that site.

(2) The operation of limited pay-out machines must be incidental to and not be the primary business conducted in any premises licensed as a site, if that site falls within an incidental use category determined by the Minister in terms of section 26(1)(b).

(3) A site operator may be linked to a particular route operator or may be independent, if provided for in terms of applicable provincial laws.

(4) A site operator who is linked to a route operator may-

(a) keep limited pay-out machines owned by the route operator on the site, and

(b) make those machines available to be played by members of the public.

(5) An independent site operator has the same rights, powers and duties as-

(a) a route operator in terms of section 26; and

(b) a site operator in terms of subsection (4)(b).

(6) Only a juristic person may be licensed to own or operate more than five limited pay-out machines as an independent site operator.

(7) A licensed site operator or independent site operator must–

(a) prominently display at the entrance to the designated area-

(i) the licence issued to that operator;

(ii) a copy of the licence issued to the relevant route operator, if applicable; and

(b) maintain adequate control and supervision of all limited pay-out machines at the site during the licensed hours of operation.

Part D

Registration and certification of machines and devices

Gambling machines or gambling devices

19. (1) Every gambling machine or gambling device must be registered in accordance with this Act unless it is of a category exempted in terms of subsection (3).

(2) Every gambling machine or gambling device made available for play by the public in the Republic of South Africa must be certified in accordance with the requirements of this Act as complying with the relevant standards for such a device, as determined in terms of the Standards Act, 1993 (Act No. 29 of 1993).

(3) The Minister, by regulation made in accordance with section 87, may exempt categories of gambling machines or gambling devices from the application of any or all of the provisions of this Part.

Identification of gambling machines and devices

20.(1) A manufacturer must keep a record in the prescribed manner and form of every gambling machine or gambling device that the manufacturer acquires, manufactures, sells or otherwise distributes.

(2) A manufacturer of a gambling machine or gambling device manufactured in, or imported into, the Republic must incorporate into the design of that machine or device a mechanism that permanently identifies-

(a) the name of the manufacturer;

(b) a unique serial number of the machine or device; and

(c) the date of manufacture of the machine or device.

(3) A person must not remove, alter, disfigure, obscure or destroy an identification mechanism that is required in terms of this section.

National register of gambling machines and devices

21. (1) The board must–

(a) establish and maintain, in the prescribed manner and form, a national registry of every gambling machine or gambling device manufactured within or imported into the Republic;

(b) assign a permanent and unique registration number for each such machine or device, which number is co-related to-

(i) the name of the manufacturer or importer of that machine or device;

(ii) the date of manufacture of that machine or device; and

(iii) the unique serial number assigned to that machine or device by the manufacturer;

(c) for each such machine or device, record the name, licence number and other prescribed particulars of-

(i) the registered owner; and

(ii) any other person who has leased that machine or device, or to whom registered possession of the machine or device has been transferred; and

(d) provide the information in its registry under this section to all the provincial licensing authorities in the prescribed manner and form.

(2) if a gambling machine is networked with other machines or systems of machines, each machine in that network is deemed to be a separate gambling machine for the purpose of this Act.

Gambling machines and devices to be registered

22. (1) A person who imports a gambling machine or gambling device into the Republic, or who manufactures such a machine or device within the Republic, must register that machine or device by providing the information required in terms of section 20(2) in the prescribed manner and form to the board.

(2) The board must not register a gambling machine or gambling device unless that type of machine or device has been certified in accordance with the requirements of this

Act as complying with the relevant standards for such a machine or device, as determined in terms of the Standards Act, 1993 (Act No. 29 of 1993).

(3) The person who registers a machine or device in accordance with subsection (1) is deemed to be the registered owner of that machine or device, subject to any transfer of registered ownership in terms of this Part.

(4) The registered owner of a gambling machine or gambling device must ensure that the possession, use, maintenance and certification of that machine or device complies with this Act, subject to any registered transfer of possession in terms of this Part.

Transfer of registered ownership or possession

23. (1) A person who proposes to transfer registered ownership of a gambling machine or gambling device to another person must apply in the prescribed manner and form to a provincial licensing authority for approval to transfer registered ownership of that machine or device.

(2) Subject to subsections (3) and (4), a person who proposes to lease, or transfer possession of a gambling machine or gambling device to another person, while retaining legal title to that machine or device, must apply in the prescribed manner and form to a provincial licensing authority for approval to lease or transfer possession of that machine or device.

(3) A registered owner of a gambling machine or gambling device who repossesses that machine or device from a lessee or other person to whom possession had been transferred in terms of this section is not required to apply for approval in terms of this section, but must notify the licensing authority who approved the lease or transfer of possession that the machine or device has been repossessed.

(4) A person is not required to apply for approval in terms of this section before transferring a gambling machine or gambling device to another person solely for purpose of–

(a) transporting it from one place to another; or

(b) performing essential maintenance work on, or repairing, that gambling machine or device.

(5) An application in terms of subsection (1) or (2)-

(a) for a transfer or lease to a person who has a provincial licence, must be made to the provincial licensing authority that issued that licence; or

(b) for a transfer to a person who has a national licence, must be made to the provincial licensing authority of the province in which the proposed transferee intends to locate or use that gambling machine or device.

(6) A provincial licensing authority may approve a transfer of ownership, a lease or transfer of possession of a gambling machine or gambling device only if–

(a) the proposed transferor is the registered owner of that machine or device;

(b) the machine or device has been certified in terms of this Act and the certification has not expired; and

(c) the proposed transferee–

(i) holds a valid licence of a manufacturer, supplier or maintenance provider permitting that person to possess that category of gambling machine or gambling device, or has concurrently applied for such a licence;

(ii) holds a valid licence, issued by the applicable licensing authority in terms of a provincial law to engage in or conduct gambling or to make available gambling activities that include the operation of that category of gambling machine or gambling device, or has concurrently applied for such a licence; or

(iii) is otherwise authorised to possess that category of prescribed gambling machine or device in terms of a provincial licence, or applicable provincial law.

(7) A provincial licensing authority–

(a) may approve a lease, a transfer of ownership or possession of a gambling machine or gambling device concurrently with the issuing of a licence to the transferee;

(b) must not refuse a lease or a transfer of ownership or possession of a gambling machine or gambling device on any grounds other than those set out in subsection (6); and

(c) must advise the board in the prescribed manner and form when it has-

(i) approved a lease or a transfer of ownership or possession of a gambling machine or gambling device; or

(ii) been notified of the repossession of a prescribed gambling machine or device by a registered owner.

Criteria for issuing testing agent licence

24. A person may be licensed as a testing agent only if the provincial licensing authority considering the application has determined that the applicant meets the requirements of this Act, and-

(a) satisfies the minimum norms and standards for testing agents prescribed in terms of this Act;

(b) is currently accredited for technical competency by the South African National Accreditation System, in terms of ISO / IEC 17025 and ISO 9000;

(c) is able to conduct tests and perform calibrations to ensure compliance with standards established by the South African Bureau of Standards in terms of the Standards Act, 1993 (Act No. 29 of 1993);

(d) is able to conduct tests and perform calibrations in an objective and impartial manner; and

(e) is independent of-

(i) any other licensee in the gambling industry;

(ii) any regulatory authority; and

(iii) the South African Bureau of Standards.

Calibration and certification of gambling machines or gambling devices

25. (1) When called upon to test a gambling machine or gambling device in terms of this Part, a licensed testing agent must–

(a) test that gambling machine or device for compliance with the applicable standard;

(b) record all test results; and

(c) issue a report of the test results to-

(i) the person requesting the certification;

(ii) the applicable provincial licensing authority;

(iii) the board; and

(iv) the South African Bureau of Standards.

(2) Upon receiving a test report in terms of this section, the South African Bureau of Standards must analyse the test results relative to the standards referred to in section 24(c), and applicable standards for the machine or device concerned, and if the machine or device complies with the applicable standards, issue a letter of certification in respect of the machine or device to-

(a) the person requesting the certification;

(b) the applicable provincial licensing authority: and

(c) the board.

(3) A contravention of subsection (1) is a breach of licence, subject to administrative sanctions in terms of this Act, or applicable provincial law.

Limited pay-out machines

26. (1) Cognisant of the potentially detrimental socio-economic impact of a proliferation of limited pay-out machines, the Minister must regulate the limited pay-out machine industry in accordance with this section.

(2) The Minister, by regulation made in accordance with section 87, must–

(a) establish a program for the gradual introduction of limited pay-out machines in the Republic, in clearly defined and delineated phases;

(b) establish a mechanism for ongoing socio-economic impact assessment of the use of limited pay-out machines in the Republic;

(c) establish criteria which, on the basis of the assessments contemplated in paragraph (b), must be satisfied before the commencement of each successive phase of the program to introduce limited pay-out machines in the Republic;

(d) prescribe a limit on the maximum number of licensed limited pay-out machines that may be introduced in each phase-

(i) within the Republic;

(ii) within any particular province; and

(iii) at any one site, and may prescribe different site maximums applicable in different circumstances;

(e) after consulting the Board, determine the circumstances in which a site maybe licensed, and for that purpose, may establish different categories of sites, and different requirements with respect to each such category; and

(f) prescribe a limit on the maximum–

(i) aggregate stake permitted to commence and complete a limited pay-out gambling game;

(ii) single pay-outs allowed from a limited pay-out machine; and

(iii) aggregate pay-out in respect of each game played.

(3) In addition to the requirements of subsection (2), the Minister, by regulation made in accordance with section 87, may prescribe minimum standards concerning applications for licences with regard to limited pay-out gambling machines, including-

(a) standard information to be required from applicants;

(b) minimum evaluation criteria to be applied by licensing authorities;

(c) evaluation procedures to be followed by licensing authorities;

(d) compliance standards for limited pay-out machines, including the maximum number of single game cycles over a particular period of time;

(e) the methods by which a prize won on a limited pay-out machine may be paid;

(f) any essential or defining elements of a limited pay-out gambling game;

(g) the procedures that constitute the start and end of a single game on a limited pay-out machine;

(h) the accounting standards that must be met, and accounting records that must be kept, by route operators, site operators and independent site operators;

(i) minimum information to be provided by licensees concerning the sourcing, distribution, movements, conversions and disposal of limited pay-out machines; or

(j) measures to limit the potentially negative socio-economic consequences of access to gambling opportunities, including public notices at licensed premises.

(4) A person must not–

(a) distribute a limited pay-out machine to a site operator or independent site operator, or allow such a machine to be made available for play unless that machine has been registered in accordance with this Part; or

(b) move a limited pay-out machine from one site to another without the prior approval of, and subject to monitoring and control by, the provincial licensing authority that registered that machine.

(5) A route operator-

(a) must not make available for play-

(i) more limited pay-out machines than the maximum number for which the operator is licensed; or

(ii) on any particular site, more limited pay-out machines than that site is licensed to accommodate;

(b) must maintain the limited pay-out machines owned and operated by that route operator; and

(c) must collect money from those machines and pay any applicable provincial taxes or levies in respect of those machines.

(6) In any province, provincial law may provide for a smaller number of limited pay-out machines to be licensed–

(a) in that province, than the number prescribed by the Minister in terms of subsection (2)(d)(ii); or

(b) at any one site in that province, than the number prescribed by the Minister in terms of subsection (2)(d(iii).

National central electronic monitoring system

27. (1) The board must establish and maintain a national central electronic monitoring system capable of-

(a) detecting and monitoring significant events associated with any limited pay-out machine that is made available for play in the Republic; and

(b) analysing and reporting that data in accordance with the prescribed requirements.

(2) The board may contract with any person to supply any or all of the products or services required to fulfil its obligations in terms of subsection (1), but any such contractor must not be a person who, or firm that, is disqualified as a licensee in terms of section 50.

(3) The Minister may, in consultation with the Council and by regulation made in accordance with section 87, prescribe-

(a) standards for-

(i) the operation of the national electronic monitoring system; and

(ii) the collection and analysis of data through that system;

(b) the frequency and nature of reports to be produced by the board in respect of the operation of the system; and

(c) other matters related to the functioning of the national central electronic monitoring system.

(4) Every limited pay-out machine that is made available for play must be electronically linked to the national central electronic monitoring system, and the licensee of that machine must pay the prescribed monitoring fees in relation to that machine.

(5) The national central electronic monitoring system must allow –

(a) the provincial licensing authority of each province access to all data on the system that originated in that province, without charge by the board; and

(b) the licensee of each limited pay-out machine linked to the system access to prescribed data on the system that originated from that machine.

(6) A contravention of subsection (4) is a breach of licence, subject to administrative sanctions in terms of this Act or the applicable provincial law.

Part E

Licensing of persons employed in gambling industry

Gambling industry employees to be licensed

28. (1) A person must not engage in any work within the gambling industry in terms of this Act or applicable provincial law unless that person has a valid-

(a) national employment licence permitting that work; or

(b) provincial employment licence permitting that work issued by the provincial licensing authority in the province in which the person proposes to work, or works.

(2) A licensee must not employ a person. or permit an existing employee to engage in any work within the gambling industry unless that employee has satisfied the requirements of subsection (1).

(3) An employer of a person who is licensed in terms of this section must within the prescribed time disclose to the applicable licensing authority any prescribed information that concerns a licensed employee or agent of the employer.

(4) The Minister may, by regulation made in accordance with section 87, determine any specific category of work to be subject to the requirements of this section.

Conditions of employment licensing

29. A licence granted, and the license certificate issued, to a person in terms of section 28 is not transferable to another person.

CHAPTER 3

JURISDICTION AND LICENSING

Part A

Jurisdiction

Jurisdiction of provincial licensing authorities

30. (1) Each provincial licensing authority has exclusive jurisdiction within its province, to the extent provided in provincial law, to-

(a) investigate and consider applications for, and issue-

(i) provincial licences in respect of casinos, racing, gambling or wagering, other than for an activity or purpose for which a national licence is required in terms of this Act; and

(ii) subject to Part B of this Chapter, national licences for any activity or purpose for which a national licence is required or optional in terms of this Act;

(b) conduct inspections to ensure compliance with–

(i) this Act;

(ii) applicable provincial law; and

(iii) the conditions of–

(aa) national licences, subject to sections 33 and 34; or

(bb) provincial licences issued by it;

(c) impose on licensees administrative sanctions in accordance with this Act or applicable provincial law; and

(d) issue offence notices in respect of offences in terms of this Act or applicable provincial law.

(2) Each provincial licensing authority has jurisdiction within its province to the extent provided in provincial law to-

(a) monitor the functions of each gambling machine that is required to be connected to the national central electronic monitoring system in terms of section 27; and

(b) ensure compliance with, conduct investigations and issue offence notices under the Financial Intelligence Centre Act to the extent required by that legislation, in so far as it applies to the gambling industry.

Responsibilities of provincial licensing authorities

31. (1) Within its jurisdiction, each provincial licensing authority is responsible-

(a) to ensure–

(i) that unlawful activities related to casinos, racing, gambling and wagering and unlicensed gambling activities are prevented or detected and prosecuted;

(ii) that undertakings made by licensees holding a provincial licence issued by it are carried out;

(iii) that undertakings made by national licensees are carried out to the extent that those licensees are operating within that province;

(iv) that employees within the gambling industry are licensed to the extent required by this Act or applicable provincial law;

(v) that each gambling machine or gambling device being used, or made available for use, by a licensee is registered and certified in terms of this Act; and

(vi) complete and timely collection and remittance of taxes, levies and fees;

(b) to inspect premises within the relevant province-

(i) that are operated in terms of a provincial licence issued by that licensing authority;

(ii) that are operated in terms of a national licence; or

(iii) in or on which any activity takes place that is permitted in terms of –
(aa) a provincial licence issued by that licensing authority;
(bb) applicable provincial law, without being licensed; or
(cc) a national licence;

(c) to inspect gambling machines or gambling devices used for any activity that is permitted in terms of–
(i) a provincial licence issued by that licensing authority; or
(ii) a national licence to the extent that the licensee is operating within that province;

(d) to enforce this Act and applicable provincial law in respect of-
(i) premises, activities or prescribed devices-
(aa) licensed by that licensing authority; or
(bb) within the jurisdiction of that licensing authority; and
(ii) offences in terms of this Act or applicable provincial law;

(e) to supervise and enforce compliance by licensees with the obligations of accountable institutions in terms of the Financial Intelligence Centre Act, to the extent required by that law, in so far as it applies to the gambling industry;

(f) to review licences and the activities of licensees in accordance with this Act and applicable provincial law; and

(g) to suspend or revoke any-
(i) provincial licence issued by that licensing authority; or
(ii) national licence-
(aa) for a cause arising within that province; or
(bb) otherwise, as set out in section 43(1)(a) and (b).

(2) Subject to any requirements set out in applicable provincial law, a provincial licensing authority may, by agreement with the board or with another provincial licensing authority, delegate to the board or to that other provincial licensing authority any power or duty that is to be exercised or performed by the provincial licensing authority in terms of this Act or applicable provincial law, in the manner contemplated in section 238 of the Constitution.

Jurisdiction of board

32. In accordance with this Act and subject to the direction of the Council provided for in Chapter 4, the board may exercise the powers and perform the duties assigned to it in terms of this Act.

Responsibilities of board

33. The board is responsible to–

(a) evaluate–
(i) the issuing of national licences by provincial licensing authorities; and
(ii) the compliance monitoring of licensees by provincial licensing authorities;

(b) conduct oversight evaluations of the performance of provincial licensing authorities in the manner envisaged in section 34, so as to ensure that the national norms and standards established by this Act are applied uniformly and consistently throughout the Republic; and

(c) assist provincial licensing authorities to ensure that unlicensed gambling activities are detected in the manner envisaged in section 66(2) and (3),

as provided for in Part B of this Chapter.

Oversight function of board

34. (1) The board must ensure that its functions and those of the Chief Executive Officer set out in this section are exercised in a manner consistent with the requirements of section 41(1)(e), (g) and (h) of the Constitution.

(2) The board may direct the Chief Executive Officer to carry out an oversight evaluation of the exercise by a provincial licensing authority of its responsibilities and functions in terms of this Act.

(3) Before conducting an evaluation in terms of subsection (2), the Chief Executive Officer must notify the relevant provincial licensing authority, in writing, of –

(a) a direction given by the board; and

(b) generally, the scope and methodology of the proposed evaluation.

(4) The Chief Executive Officer must–

(a) provide a copy of an evaluation report to the relevant provincial licensing authority; and

(b) invite the provincial licensing authority to submit a written response in respect of that evaluation within the prescribed time.

(5) If, as a result of an evaluation conducted in terms of subsection (2), the Chief Executive Officer has reason to believe that a provincial licensing authority has failed to comply with any provision of this Act, the Chief Executive Officer-

(a) may issue a deficiency report to the provincial licensing authority setting out any matters in respect of which the authority has failed to comply with any provision of this Act; and

(b) must at the same time invite the provincial licensing authority to propose a basis for an agreement that would ensure compliance with all applicable provisions of this Act.

(6) If an agreement contemplated in subsection (5)(b) is reached between the provincial licensing authority and the board, the Chief Executive Officer must monitor progress achieved in terms of that agreement, and–

(i) report to the board at intervals determined by it; and

(ii) issue a further deficiency report and invitation contemplated in subsection (5), if the provincial licensing authority significantly fails to meet any of its commitments in terms of that agreement.

(7) A provincial licensing authority may request the board to set aside all or part of a deficiency report issued by the Chief Executive Officer in terms of subsection (5) or (6).

(8) The board may refer the matter to the Council for consideration in terms of section 62(2)(c), if-

(a) a provincial licensing authority does not respond to a deficiency report issued by the Chief Executive Officer in terms of subsection (5) or (6);

(b) the provincial licensing authority and the board fail to reach an agreement contemplated in either subsection; or

(c) the provincial licensing authority is persistently in default in terms of that agreement.

Information sharing

35. (1) A provincial licensing authority must keep a register of each person to whom it grants a national licence, or a provincial licence: including-

(a) the activities permitted under each such licence;

(b) the address of any premises in, on or from which licensed activities may be engaged in, conducted or made available under licences issued by it; and

(c) the name and identifying information of each person who is known to hold 5% or more of the total financial interest in a licensee.

(2) Each provincial licensing authority must report to the board, at the prescribed intervals, on the prescribed information kept by that licensing authority in terms of subsection (1).

(3) The board must submit upon request to a provincial licensing authority any prescribed information reported to it in terms of subsection (2).

(4) A regulatory authority must, on request from another regulatory authority, provide a copy of all prescribed information in its possession concerning a licencee, registrant or applicant for a licence.

Conflicting exercise of concurrent jurisdiction

36. (1) The Council may, as contemplated in section 41(2) of the Constitution, facilitate the settlement of any dispute between the board and one or more provincial licensing authorities concerning the powers and duties to be exercised and performed by them relating to casinos, racing, gambling and wagering.

(2) If this Act requires several provincial licensing authorities to perform a particular duty within their respective provinces, and-

(a) within a particular province, no provincial licensing authority has been established; or

(b) the Council concludes that the provincial licensing authority within a particular province is unable to perform that function effectively,

the Council may make a recommendation to the Minister advising that steps be taken pursuant to section 100 of the Constitution to ensure the fulfilment of that statutory obligation.

Part B

National licences

Authority of national licence

37. (1) A national licence issued in terms of this Act applies throughout the Republic and authorises the licensee to conduct, engage in, or make available the licensed activities at any place within the Republic.

(2) It is a condition of every national licence that the licensee must comply with every applicable provision of-

(a) this Act;

(b) the Financial Intelligence Centre Act; and

(c) applicable provincial law within any province in which the licensee conducts, engages in, or makes available the licensed activities.

Applicants for national licence

38. (1) An applicant must apply to a provincial licensing authority for a national licence as a testing agent, to test and calibrate gambling machines or gambling devices.

(2) An applicant may apply to a provincial licensing authority for either a provincial licence in terms of applicable provincial law or a national licence, if the applicant seeks-

(a) a licence as a manufacturer, supplier or maintenance provider; or

(b) to work within the gambling industry, to the extent required in terms of section 28.

(3) An applicant for a national licence must apply in the prescribed manner and form, and pay the prescribed application fee, to the provincial licensing authority within the province in which–

(a) the applicant ordinarily resides, or in which the applicant intends to take up employment under the licence, if the applicant is an individual; or

(b) the applicant's principal place of business is or will be located, in any other case.

Authority to issue national licence

39. A provincial licensing authority may issue a national licence to an applicant who meets the requirements of this Act.

National licence procedures

40. (1) Upon receiving an application for a national licence, a provincial licensing authority must–

(a) notify each other regulatory authority of the application;

(b) conduct the investigations prescribed by this Act with respect to probity, technical competence, industry competitiveness or any other prescribed matters; and

(c) conduct any prescribed hearings or other proceedings in respect of the application.

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

(a) notify the applicant in writing that it refuses to grant the licence applied for; or

(b) notify the applicant and each other regulatory authority in the prescribed manner that it proposes to issue the licence as applied for, and specify any conditions of the proposed licence.

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

Review of refusal to issue national licence

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

Review of proposal to issue national licence

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

(a) must direct an inspector to conduct an oversight evaluation of the application, investigative report and recommendations of the provincial licensing authority, if two or more provincial licensing authorities have so requested in terms of section 40(3); or

(b) in any other case, may direct an inspector to conduct such an oversight evaluation, if there are good grounds to believe that the requirements of this Act have not been satisfied.

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

(i) the applicant;

(ii) the provincial licensing authority; and

(iii) any provincial licensing authority that made a request for the oversight evaluation, in terms of subsection (1)(a).

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

(a) without referring the application to the board, advise the provincial licensing authority in the prescribed manner that there are no objections to the issue of the national licence as proposed;

(b) request that the provincial licensing authority consider-

(i) imposing particular or additional conditions before issuing the licence; or

(ii) altering any proposed conditions before issuing the licence; or

(c) issue a deficiency report to the provincial licensing authority–

(i) requesting the provincial licensing authority to consider the application afresh; and

(ii) setting out any matters in respect of which the authority failed to comply with national norms and standards for consideration of the application.

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

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

(b) issues a notice in terms of subsection (3)(a).

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

(a) issue the licence with the altered conditions as requested by the Chief Executive Officer; or

(b) request the board to set aside the request of the Chief Executive Officer, and permit the issuing of the licence as initially proposed.

(6) If the Chief Executive Officer issues a deficiency report in terms of subsection (3)(c), the provincial licensing authority must either–

(a) consider the application afresh; or

(b) request the board to set aside the deficiency report and permit the issuing of the licence as initially proposed.

(7) If a matter is referred to the board in terms of subsection (5) or (6), the board may–

(a) confirm the request or deficiency report of the Chief Executive Officer;

(b) set aside all or part of the request or the deficiency report; or

(c) permit the issuing of the licence with or without conditions.

Suspension and revocation of national licence

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

(a) the licence was obtained by a materially false or misleading representation;

(b) the licensee has become disqualified to hold a licence in terms of section 49 or 50; or

(c) within that province–

(i) the licensee has violated this Act, or applicable provincial law;

(ii) the licensee has contravened or failed to comply with an obligation of accountable institutions in terms of the Financial Intelligence Centre Act in so far as it applies to the gambling industry;

(iii) the licensee or any person managing or directing the licensee has contravened or failed to comply with a provision of Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);

(iv) the licensee has contravened a condition of the licence; or

(v) the licensee has failed to discharge financial commitments for the licensee's operations.

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

Part C

Provincial licences

Licensing by provinces to comply with national norms and standards

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

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

Maximum numbers of casino licences

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

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

(a) The number and geographic distribution of–

(i) existing licensed casinos and interactive providers operating within the Republic, and the duration of the licences under which they operate; and

(ii) additional casino licences available in terms of the maximum numbers then in force; and

(b) whether it is desirable to alter the maximum numbers of casino licences, in the Republic as a whole, or within any particular province or provinces, in order to–

(i) address the incidence and social consequences of compulsive and addictive gambling;

(ii) promote black economic empowerment; or

(iii) promote–

(aa) new entrants to the gambling industry;

(bb) job creation within the gambling industry;

(cc) diversity of ownership within the gambling industry;

(dd) efficiency of operation of the gambling industry; or

(ee) competition within the gambling industry.

(3) If the Minister establishes a maximum number of casino licences, in the Republic as a whole or within a particular province, that is lower than the number of licensed casinos then operating in the Republic or that province, the licensed casinos then operating may continue to operate, subject to the conditions of their respective licences, but no additional licences may be granted in the Republic or the particular province, as the case may be, until the number of operating casinos is lower than the prescribed maximum number of casino licences.

Limitation of rights applicable to licence

46. (1) Subject to subsection (2), only a juristic person may be licensed–

(a) to operate a casino;

(b) as a route operator;

(c) as a manufacturer;

(d) as a testing agent;

(e) as a totalisator operator; or

(f) under any other category of licence, to the extent that applicable provincial law so requires.

(2) Applicable provincial law may require a licensee contemplated in subsection (1) to be a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973).

Amusement games and machines

47. (1) A provincial law may permit the provincial licensing authority to license and regulate–

(a) amusement machines, subject to the requirements of subsection (2); and

(b) amusement games, subject to the requirements of subsection (3) and any regulations promulgated in terms of subsection (4).

(2) An amusement machine must not be derived or converted from a gambling machine of the type ordinarily found in a casino.

(3) An amusement game must not–

(a) be similar to, or derived from, a gambling game other than bingo;

(b) offer a cash prize or a combination of a cash prize with any other prize; or

(c) offer a prize that exceeds the prescribed maximum value for such games.

(4) The Minister may, by regulation made in accordance with section 87, prescribe the maximum value of the prize, and the type of prizes, that may be offered for an amusement game.

Part D

Licensing norms and standards

Licence criteria, categories and conditions

48. (1) A national licence or a provincial licence must specify-

(a) the identity of the licensee;

(b) the activities that the licence permits the licensee to engage in, conduct or make available to the public; and

(c) other than an employment licence, the premises at, in or from which the licensee is permitted to operate.

(2) A provincial licensing authority issuing a national licence or a provincial licence may issue it only as-

(a) a permanent licence:

(b) a temporary licence, subject to the fulfilment of certain conditions within a specified period, with the intention that upon fulfilment of those conditions, a permanent licence will be issued in substitution of the temporary licence;

(c) a provisional or other interim licence provided for in applicable provincial law; or

(d) subject to subsection (3), a special event licence which permits the licensed activity on specified dates only in a particular location set out in the licence.

(3) A special event licence may not be issued in respect of the operation of a casino or a gambling machine.

(4) A provincial licensing authority issuing a national licence must issue a licence certificate in the prescribed form to the licensee.

(5) A provincial licensing authority issuing a national licence or a provincial licence–

(a) may issue it with or without conditions; and

(b) must set out in the licence certificate-

(i) the duration of the licence;

(ii) the specific activities permitted in terms of the licence or a reference to the applicable law that describes such activities; and

(iii) the name or description of the specific premises in, on or from which the licensed activity may take place, unless it is an employment licence.

Disqualifications for employment licences

49. (1) A person must not hold an employment licence issued in terms of this Act or applicable provincial law, if that person-

(a) is under the age of 18 years;

(b) is a public servant or political office bearer:

(c) is listed on the register of excluded persons;

(d) is subject to an order of a competent court holding that person to be mentally unfit or deranged;

(e) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or

(f) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992). or an offence in terms of this Act or applicable provincial law, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence.

(2) A licensing authority may not issue an employment licence to a person if the applicant falls within any of the enumerated disqualifications set out in subsection (1).

(3) An employment licence issued in terms of this Act is deemed to have been cancelled if the licensee becomes disqualified in terms of subsection (1) at any time after the licence was granted.

Disqualifications and restrictions for other licenses

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

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

(a) is under the age of 18 years;

(b) is a public servant or political office bearer;

(c) is listed on the register of excluded persons;

(d) is a family member, other than a brother or sister, of a person who is a member or employee of a regulatory authority exercising oversight over that licensee;

(e) is an unrehabilitated insolvent;

(f) is not a fit and proper person to be involved in the business concerned;

(g) is subject to an order of a competent court holding that person to be mentally unfit or deranged;

(h) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or

(i) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or an offence in terms of this Act or applicable provincial law, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence.

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

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

(a) a family member, other than a brother or sister, of a person who is a member of that licensing authority; or

(b) disqualified from holding an interest in a licence, licensee, or the business to which a licence relates, in terms of subsection (1).

Disqualification after licence issued

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

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

(a) that person must advise the licensee and the licensing authority in the prescribed manner and form; and

(b) if that person–

(i) holds an interest in the licensee, that person must dispose of that interest within a period of not more than 3 years, determined by the licensing authority after considering the circumstances, and the nature of the disqualification; or

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

Acquisition of interest by disqualified person

52. (1) This section does not apply to an employment licence.

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

Part E

Additional norms and standards concerning non-employment licences

Economic and social development issues to be considered

53. (1) When considering an application for a licence, other than an employment licence, or when considering an application for the transfer of a licence, a provincial licensing authority–

(a) must consider the commitments, if any, made by the applicant or proposed transferee in relation to–

(i) black economic empowerment; or

(ii) combating the incidence of addictive and compulsive gambling;

(b) must consider the potential socio-economic impact on the community of the proposed licence; and

(c) may impose reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in paragraphs (a) and (b).

(2) At least once every year after the issuance of a licence other than an employment licence, the provincial licensing authority that issued that licence–

(a) must review the commitments considered in terms of subsection (1)(a) and the achievements of the licensee in relation to those commitments; and

(b) may impose further or different reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in subsection (l)(a) and (b).

Competition issues to be considered

54. (1) When considering an application for a licence, other than an employment licence, or when considering an application for the transfer of a licence, a provincial licensing authority must consider whether approving the application is likely to substantially affect competition in the gambling industry generally, or in respect of the proposed activity -

(a) within that province, in the case of a provincial licence; or

(b) within the Republic, in the case of a national licence.

(2) After considering the matters contemplated in subsection (1). the provincial licensing authority must refuse the application unless there are overriding public interest reasons for approving it, if it appears that approving the application would result in the applicant, alone or in conjunction with a related person, achieving market power.

(3) For the purposes of subsection (2)-

"market power" has the meaning set out in section 1 of the Competition Act, 1998 (Act No. 89 of 1998);

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

"a related person" means a person–

(i) who has direct or indirect control over the applicant;

(ii) over whom the applicant has direct or indirect control; or

(iii) who is directly or indirectly controlled by a person referred to in sub-paragraph (i) or (ii).

State interests

55. (1) In this section-

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

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

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

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

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

(3) A public body may-

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

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

(i) in the proximity of premises used for a gambling activity; or

(ii) intended to provide socio-economic, infrastructure, or other support necessary for, or ancillary to, such premises or gambling activities; or

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

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

(a) it is an arm's -length commercial transaction; and

(b) any payment in terms of the arrangement to the public body is not directly or indirectly determined by reference to the turnover of, or profit from, the gambling activity.

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

Licence requirements, acquisitions and transfers

56. A licensing authority–

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

(i) the proposed activity would be inconsistent with this Act or applicable provincial law; or

(ii) the use of the proposed premises for the proposed activity would be contrary to existing zoning laws or rights; and

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

(i) is an unsuitable location for the proposed activity, having regard to this Act and applicable provincial law; or

(ii) does not satisfy the requirements in terms of section 17.

Part F

Licence investigations, decisions, transfer and surrender

External probity reports

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

(a) additional information from the applicant;

(b) written authorisation from the applicant permitting the licensing authority to procure information directly from third parties and authorising such third parties to provide that information; or

(c) a report from-

(i) any other regulatory authority;

(ii) the Financial Intelligence Centre;

(iii) the National Director of Public Prosecutions; or

(iv) the South African Police Service.

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

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

Decisions

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

(a) grant the licence, or approve the transfer, as the case may be with or without conditions; or

(b) issue a written refusal to the applicant, with reasons for the decision.

Licence transfers

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

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

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

Surrender of licence

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

(2) The surrender takes effect–

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

CHAPTER 4

NATIONAL STRUCTURES

Part A

National Gambling Policy Council

Establishment of National Gambling Policy Council

61. (1) The National Gambling Policy Council is established by this Act.

(2) The Council consists of–

(a) the following regular members-
  (i) the Minister; and
  (ii) from each province, the Member of the Executive Council responsible for casinos, racing, gambling and wagering in that province; and
(b) the following supplementary non-voting members–
  (i) the chairperson of the National Gambling Board; and
  (ii) from each province, the chairperson of the provincial licensing authority.

(3) The Minister is the chairperson of the Council.

Functions of National Gambling Policy Council

62. (1) The Council is a body in which the national government and the provincial governments consult on-

(a) the determination and establishment of national gambling policy;
(b) gambling laws, including the promotion of uniform national and provincial laws in respect of gambling norms and standards;
(c) any matter concerning gambling within the national or provincial sphere of government:
(d) any matter concerning the management or monitoring of gambling in the Republic or in any specific province or provinces;
(e) the resolution of any dispute that may arise among provincial licensing authorities, or between a provincial licensing authority and the board, regarding the regulation and control of gambling activities; and
(f) other matters that may be referred to it by a member of the Council.

(2) The Council–

(a) may provide oversight and direction to the board in the exercise of its powers and the performance of its duties;
(b) may refer any matter within its authority to the board or any provincial licensing authority, with a request for a report or recommendation; and
(c) may make a finding that a provincial licensing authority has failed to comply with this Act and, if it does so, may direct that provincial licensing authority to enter into an agreement with the board in respect of the steps to be taken by the provincial licensing authority to ensure compliance with this Act.

Council meetings

63. (1) The Minister may convene a meeting of the Council at any time, but must convene at least two meetings in each financial year.

(2) The Minister may designate any meeting of the Council to be a meeting of all members, or only of regular members, but must designate at least one meeting in each financial year to be a meeting of all members.

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

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

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

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

(a) the Minister; and

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

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

Part B

National Gambling Board

Continuation of National Gambling Board

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

(2) The board is a juristic person.

Objects and functions of board

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

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

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

(c) establishing and maintaining–

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

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

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

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

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

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

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

(ii) addictive or compulsive gambling;

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

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

(2) The board may-

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

(b) advise the Council on matters of national policy relating to casinos, racing, gambling and wagering and on the determination of national norms and standards regarding any matter in terms of this Act that should apply generally throughout the Republic;

(c) recommend to the Council changes to bring about uniformity in the laws of the various provinces in relation to casinos, racing, gambling and wagering;

(d) advise the Council, through the Minister, in respect of any matter referred to it by the Council;

(e) monitor market share and market conduct in the gambling industry and refer any concerns regarding market share or possible prohibited practices to the Competition Commission in terms of the Competition Act, 1998 (Act No. 89 of 1998); and

(f) provide a broad-based public education programme about the risks and socio-economic impact of gambling.

(3) The board may liaise with any foreign or international authorities having any objects similar to the objects of the board.

(4) In exercising its powers and performing its duties set out in this Act, the board-

(a) must comply with directions issued to it by the Council relating to casinos, racing, gambling and wagering;

(b) may have regard to international developments in the field of casinos, racing, gambling and wagering; and

(c) may consult any person, organisation or institution with regard to any matter deemed necessary by the board.

Relations with provincial licensing authorities

66. (1) At the request of the relevant Member of the Executive Council of a province, or the provincial licensing authority, the board-

(a) may engage with that authority in co-operative activities of research, publication, education, staff development and training; and

(b) in consultation with the Minister, may-

(i) engage with that authority in staff exchanges or secondments; or

(ii) provide technical assistance or expertise to that authority.

(2) At the request of the Member of the Executive Council or provincial licensing authority, the board may engage with that authority in co-operative activities to detect and suppress illegal gambling activities if there are good grounds to believe that those activities may be occurring across provincial boundaries.

(3) At the direction of the Council, the board must engage with any relevant provincial licensing authority in co-operative activities to detect and suppress illegal gambling activities occurring

(a) across provincial boundaries: or

(b) entirely within a particular province, if, in the opinion of the Council, the provincial licensing authority is unable to suppress that activity on its own.

(4) The board may liaise with provincial licensing authorities on matters of common interest.

(5) The board may request any provincial licensing authority to submit any report or information related to the activities of that licensing authority to the board.

Composition of board

67. (1) The board consists of–

(a) the following members appointed by the Minister for a term of no more than five years, as determined by the Minister at the time of appointment:

(i) a Chairperson and a Deputy Chairperson; and

(ii) not more than three other members,

each of whom, in the opinion of the Minister, has applicable knowledge or experience in matters connected with the objects of the board; and

(b) four other members, of whom one each is designated by the -

(i) Minister;

(ii) Minister of Finance;

(iii) Minister of Safety and Security; and

(iv) Minister of Social Development,

respectively, to serve until substituted by that Minister who designated that member.

(2) To be eligible for appointment or designation as a member of the board, and to continue to hold that office, a person must–

(a) be a fit and proper person;

(b) not be subject to any disqualification set out in subsection (3); and

(c) have submitted to the Minister a written declaration stating that –

(i) the person is not disqualified in terms of subsection (3); and

(ii) the person does not have any interests referred to in subsection (3)(c).

(3) A person may not be a member of the board if that person-

(a) is a political office bearer:

(b) is listed in the register of excluded persons by order of a court;

(c) personally or through a spouse, partner or associate–

(i) has or acquires a direct or indirect financial interest in a licence issued in terms of this Act, or in premises used for an activity that must be licensed in terms of this Act; or

(ii) has or acquires an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of a member of the board;

(d) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;

(e) has ever been, or is, removed from an office of trust on account of misconduct;

(f) is subject to an order of a competent court holding that person to be mentally deranged;

(g) within the previous ten years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992). an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, or an offence involving dishonesty; or

(h) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993). took effect, and sentenced to imprisonment without the option of a fine.

(4) The Chief Executive Officer is an ex officio member of the board, but may not vote at meetings of the board.

(5) For the purpose of subsection (3)(c), a financial interest does not include an indirect interest held in any fund or investment if the person contemplated in that subsection has no control over the investment decisions of that fund or investment.

Conflicting interests

68. (1) A member of the board must promptly inform the Minister in writing after acquiring an interest that is, or is likely to become, an interest contemplated in section 67(3)(c)(ii).

(2) A member of the board must not–

(a) engage in any activity that may undermine the integrity of the board;

(b) attend, participate in or influence the proceedings during a meeting of the board, if, in relation to the matter before the board, that member has an interest–

(i) contemplated in section 67(3)(c)(ii); or

(ii) that precludes the member from performing the duties of a member of the board in a fair, unbiased and proper manner;

(c) vote at any meeting of the board in connection with a matter contemplated in paragraph (b);

(d) make private use of, or profit from, any confidential information obtained as a result of performing that person's duties as a member of the board; or

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

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

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

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

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

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

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

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

Resignation, removal from office, and vacancies

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

(a) one month written notice; or

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

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

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

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

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

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

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

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

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

Meetings of board

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

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

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

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

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

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

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

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

Committees of board

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

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

(3) The board–

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

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

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

Remuneration and allowances of members of board and committees

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

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

Staff of board and remuneration

73. (1) The board–

(a) in consultation with the Minister, must appoint a suitably qualified and experienced person as Chief Executive Officer who-
  (i) subject to the direction and control of the board, is responsible for all financial administrative responsibilities pertaining to the functions of the board; and
  (ii) is accountable to the board; and
(b) may appoint any other staff as may be necessary to enable the board to perform its duties.

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

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

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

Finances

74. (1) The board is financed from–

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

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

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

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

(a) any money received by the board must be deposited to that account; and

(b) every payment on behalf of the board must be made from that account.

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

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

(a) on a call or short-term fixed deposit with any registered bank or financial institution in the Republic; or

(b) in an investment account with the Corporation for Public Deposits established in terms of section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).

Accountability, audits and reports

75. (1) The board is responsible to–

(a) account for State and other money received by, or paid for or on account of, the board: and

(b) cause the necessary accounting and related records to be kept,

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

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

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

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

(a) transmit a copy of the report to the Premier of each province; and

(b) table it in Parliament.

CHAPTER 5

ENFORCEMENT AND OFFENCES

National inspectorate

76. (1) The board–

(a) may appoint any suitably qualified person as an inspector and assign the inspector to monitor, investigate or evaluate any matter on behalf of the board, subject to the control and direction of the board; and

(b) must provide each inspector with a certificate signed on behalf of the board and stating–

(i) that the inspector has been appointed under this Act; and

(ii) any limitation on the authority of that inspector.

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

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

Powers and duties of inspector

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

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

(a) enter any licensed premises, or other premises in which licensed activities are engaged in, conducted or made available, or in which records of any of those activities are prepared or maintained;

(b) enter any unlicensed premises in, on or from which it is suspected-

(i) that any gambling activity is being engaged in, conducted or made available; or

(ii) that any gambling machine or any equipment, device, object, book, record, note, recording or other document used or capable of being used in connection with the conducting of a casino or any other gambling activity may be found;

(c) in any premises referred to in paragraph (a) or (b)-

(i) conduct any enquiry that the inspector believes to be necessary, after having informed the person who appears to be in charge of the premises of the purpose of the inspector's visit;

(ii) require the person in control of such premises to produce any licence or written permission or authorisation required under this Act or any provincial law;

(iii) question any person who is on or in those premises;

(iv) examine any prescribed gambling equipment, device, object, book, record, note, recording or other document in, about, upon or around the premises referred to in paragraph (a) or (b); and

(v) seize and remove from those premises, and impound-

(aa) any such equipment for the purposes of examination and inspection; or

(bb) any book, record, ledger, game device, cash box and its contents, counting room or its equipment or gambling operations;

(d) require any person who appears to be in charge of any premises referred to in paragraph (a) or (b)-

(i) to point out any equipment, device or object referred to in those paragraphs that the person has possession or custody of, or control over;

(ii) to produce for the purpose of examination or of making copies or extracts, any book, record, note, recording or other document referred to in paragraph (a) or (b) that the person has possession or custody of, or control over; and

(iii) to provide any information in connection with anything that has been pointed out or produced in terms of subparagraph (i) or (ii).

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

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

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

Breach of confidence

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

(a) in carrying out any function in terms of this Act; or

(b) as a result of making an application or participating in any proceedings in terms of this Act.

(2) Subsection (I) does not apply to information disclosed-

(a) for the purposes of the proper administration or enforcement of this Act;

(b) for the purposes of the administration of justice; or

(c) at the request of an inspector or other person entitled to receive the information.

Obstructing administration of Act

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

Self-incrimination

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

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

Failure to comply with Act

81. In addition to any other provision in this Act, a person commits an offence who–

(a) does anything calculated to improperly influence the board concerning any matter connected with an investigation;

(b) does anything in connection with an investigation that would have been contempt of court if the proceedings had occurred in a court of law;

(c) knowingly provides false information to the board;

(d) wilfully interrupts any proceedings or misbehaves in the place where a hearing is being conducted;

(e) falsely claims to be–

(i) an inspector;

(ii) a regulatory authority; or

(iii) a person authorised to act on behalf of a regulatory authority; or

(f) refuses or fails to comply to the best of his or her ability with any request of an inspector under section 77.

Offences and breach of licence condition

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

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

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

Penalties

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

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

Magistrate's court jurisdiction to impose penalties

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

(c) impose any penalty for an offence or breach of a licence condition in terms of this Act; or

(d) make an order contemplated in section 14.

Serving documents

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

(a) delivered to that person;

(b) sent to that person by fax;

(c) sent by registered post to that person's last known address; or

(d) published in the *Gazette*.

Proof of facts

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

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

CHAPTER 6

GENERAL PROVISIONS

Regulations

87. (1) The Minister may make regulations regarding

(a) any forms required to be used for the purposes of this Act;

(b) the maximum number of any kind of licence, relating to gambling to be granted in the Republic or in each province, subject to section 45;

(c) the determination of norms and standards that will apply generally throughout the Republic relating to any matter in terms of this Act;

(d) the exercise by the board of its monitoring, investigative and evaluation functions in terms of sections 33 and 34;

(c) the periods, manner and form, and content of information to be provided in terms of section 35;

(f) minimum standards for the design, use and maintenance of premises that are, or are intended to be, licensed premises, which minimum standards must include-

(i) provisions to guard against the over-stimulation of gambling; and

(ii) provisions to protect minors from exposure to gambling activities; and

(g) matters contemplated in section 13, 15 or 17, any other matters to be prescribed in terms of this Act, and in general, any incidental matter that may

be considered necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) After consulting the Council the Minister may make regulations concerning-

(a) norms and standards for the manner and nature of the regulation and control of-

(i) casinos, racing, gambling and wagering activities in general; or

(ii) any specific such activity;

(b) the regulation of betting across provincial boundaries;

(c) the types of games that may not be played in a casino;

(d) the control and restriction of bingo or any similar game; and

(e) minimum standards in respect of licensing procedures by provincial licensing authorities, including-

(i) the granting, issuing, suspension, withdrawal, reviewing and amendment of gambling licences;

(ii) procedures for the consideration of applications, including the investigations that must be conducted and the circumstances under which hearings in respect of licence applications must be conducted;

(iii) the criteria to be complied with before any licence is granted in terms of this Act or applicable provincial law;

(iv) the nature and manner of the auditing of the businesses of licensees and the documents and records which they must keep and submit to the relevant licensing authority; and

(v) the types, minimum standards and qualities of gambling equipment that may be used by any licensee.

(3) The Minister may make regulations determining, in respect of applications for national licences under this Act–

(a) the manner and form in which applications for licences are to be submitted;

(b) the fees payable, and the manner of payment, in respect of various types of licences, including fees in respect of–

(i) applications,

(ii) probity investigations; or

(iii) licences;

(c) procedures for the consideration of applications, including the investigations that must he conducted and the circumstances under which hearings in respect of licence applications must be conducted;

(d) the period of duration of a licence and the procedures and fees for the renewal of licences;

(e) conditions that may be attached to a licence, in terms of section 48(5): and

(f) conditions and requirements for the transfer of a licence, or an interest in a licence.

(4) Before making any regulations in terms of this Act, other than regulations contemplated in subsection (l)(a) and (d), the Minister–

(a) must–

(i) consult the Council, and

(ii) publish the proposed regulations for comment for a minimum of 45 days: and

(b) may consult the board and provincial licensing authorities.

Repeal of laws

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

Short title and commencement

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

SCHEDULE

TRANSITIONAL PROVISIONS

Definition

1. (1) In this Schedule–

"effective date" means the date on which this Act, or any relevant provision of it, came into operation in terms of section 89;

"previous Act" means the National Gambling Act, 1996 (Act No. 33 of 1996).

(2) A reference in this Schedule–

(a) to a section by number, is a reference to the corresponding section of-

(i) the previous Act, if the number is followed by the words "of the previous Act"; or

(ii) this Act, in any other case.

(b) to an item or a sub-item by number is a reference to the corresponding item or sub-item of this Schedule.

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

2. (1) Despite the repeal of the previous Act, Regulation No. R 1425 promulgated under section 17 of the previous Act on 21 December 2000 continues in force as if it had been promulgated in terms of section 87, with the following exceptions:

(a) The definition of "site" in Regulation 1 is repealed; and

(b) Regulations 4, 8, 10, 11, 12, 16, 28, 29, 39, 40, 41(1), 42, 62, 63 and 64 are repealed.

(2) A licence that had been issued in terms of applicable provincial law by a provincial licensing authority, and in force immediately before the effective date, continues in force, subject to the provisions of this Act, and applicable provincial law.

(3) In respect of a licence contemplated in sub-item (2)–

(a) regulations made in terms of section 87(1)(f) do not apply until the first anniversary of the date on which such regulations are promulgated: and

(b) section 46 does not apply until the third anniversary of the effective date.

(4) Any other right or entitlement enjoyed by, or obligation imposed on, any person in terms of any provision of the previous Act, that had not been spent or fulfilled immediately before the effective date must be considered to be a valid right or entitlement of, or obligation imposed on, that person in terms of any comparable provision of this Act, as from the date that the right, entitlement or obligation first arose, subject to the provisions of this Act.

(5) A notice given by any person to another person in terms of any provision of the previous Act must be considered as notice given in terms of any comparable provision of this Act, as from the date that the notice was given under the previous Act.

(6) A document that, before the effective date, had been served in accordance with the previous Act must be regarded as having been satisfactorily served for the purposes of this Act.

(7) An order given by an inspector, in terms of any provision of the previous Act, and in effect immediately before the effective date, continues in effect, subject to the provisions of this Act.

National Gambling Board

3. (1) A person who was a member of the board immediately before the effective date–

(a) ceases to be a member of the board upon the coming into operation of this Act, if that person is not entitled to be a member of the board in terms of section 67; and

(b) otherwise, continues to be a member of the board, holding the same position the person held immediately before the effective date, until the expiry of the term to which the person was appointed in terms of the previous Act.

(2) A person who held an appointment as an inspector under the previous Act immediately before the effective date is an inspector in terms of this Act as of the effective date, subject to further direction of the board.

(3) An inspector's certificate issued in terms of the previous Act and valid immediately before the effective date continues to be valid as a certificate of appointment as an inspector, as if it had been issued in terms of this Act, until it expires or is cancelled by the board.

National licences

4. (1) A person who, immediately before the effective date, held a licence of a type that, in terms of this Act, is required to be issued as a national licence, may apply to the provincial licensing authority that issued the licence for conversion of that licence, and the provincial licensing authority must issue a national licence in substitution for the former licence, on substantially similar terms and conditions.

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

Development of interactive gambling policy and law

5. (1) The board must establish a committee to consider and report on national policy to regulate interactive gambling within the Republic, and may include with its report any draft national law that the committee may consider advisable.

(2) Despite section 71(2), the committee constituted in terms of this item may include–

(a) representatives of provincial licensing authorities; and

(b) other persons, whether or not those persons are members of the board.

(3) Section 71(3) and (4) apply to the committee constituted in terms of this item.

(4) The committee constituted in terms of this item must report jointly to the board and the Council within one year after the effective date.

(5) Within two years after the effective date, the Minister, after considering the report of the committee and any recommendations of the board or the Council, must introduce legislation in Parliament to regulate interactive gambling within the Republic.

Transitional maximum numbers of casino licences

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

Excluded persons

7. Despite the coming into operation of section 14-

(a) subsections (1) to (6) of that section remain inoperative until a date declared by the Minister by notice in the *Gazette* after the board has established the national register of excluded persons as required by section 14(7); and

(b) subsections (10) to (12) of that section remain inoperative–

(i) with respect to any gambling activity other than the use of limited pay-out machines, until the date declared in terms of paragrap (a); or

(ii) with respect to the use of limited pay-out machines, until a date declared by the Minister by notice in the *Gazette* after the board advises the Minister that reasonable and effective means exist to preclude the use of such a machine by an excluded person.

Regulations

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