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[English text signed by the Premier]

**KWAZULU-NATAL
GAMING AND BETTING ACT, 2010**
(Act No. 08 of 2010)

Assented to on 15-12-2010

ACT

To provide for the regulation of gaming, horse racing and betting in the Province of KwaZulu-Natal; restrictions on gaming and betting; the establishment of a provincial Gaming and Betting Board; the licensing of persons conducting casinos and bingo games; the licensing of gaming machine operators, racecourse operators, totalisators and bookmakers; the registration of certain persons; the imposition of fees, taxes, levies and penalties on the various gambling activities; the appointment and authorisation of inspectors and their powers and duties; the establishment of a Horse Racing and Betting Transformation Fund; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

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CHAPTER 1 INTERPRETATION, APPLICATION OF ACT AND RESTRICTIONS ON GAMBLING

Definitions

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

"bet" or **"a bet"** means an agreement between two persons whereby one person stakes money or a valuable thing with the other person on the outcome of a horse race, sporting event or other event or contingency, or on the cumulative outcome of a combination of horse races, sporting events or other events or contingencies and that outcome or cumulative outcome determines the financial benefit, if any, which accrues to either of those persons, and **"to bet"** and **"betting"** have a corresponding meaning;

"bettor" means any person who makes a bet;

"bingo" means a game organised as a group activity, in which multiple players compete against each other, 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 accordance with section 6(4)(b) of the National Gambling Act, 2004 (Act No. 7 of 2004);

"bingo hall" means any premises on which the game of bingo is played under authority of a licence issued in terms of this Act;

"bingo licence" means a licence issued by the Board in terms of this Act, which authorises the holder thereof to conduct games of bingo, in accordance with this Act;

"Board" means the KwaZulu-Natal Gaming and Betting Board established in terms of section 5;

"bookmaker" means a person who is licensed in terms of section 94, to accept offers or stakes in the process of transacting bets on horse races, sports, sporting events or any other events or contingencies, or on a combination of such horse races, sports, sporting events, other events or contingencies;

"bookmaker premises" means the physical outlet, physical structure, space or place from which a bookmaking business operates;

"bookmaker's licence" means a licence issued, in terms of section 94, to a person that owns one or more bookmaking rights and which licence authorizes the holder thereof to operate a bookmaking business;

"bookmaking business" means a natural person or a corporate body that owns one or more bookmaking rights and that trades as a bookmaker;

"bookmaking right" means a transferable right determined by the Board in terms of section 7(2)(d) or a non-transferable right granted, in terms of section 89(7), by the Board and which allows the owner thereof, under the authority of a bookmaker's licence, to operate a bookmaking business from a single bookmaker premises or from a single racecourse;

"casino" means premises where casino games, bingo and gaming machines are played, or are available to be played, but does not include premises in which –

- (a) only bingo is played or available to be played;
- (b) only limited payout machines are available to be played; or
- (c) only limited payout machines and bingo are played or available to be played;

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

- (a) playing-cards or dice; or
- (b) any other machine or device used to determine win or loss;

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

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

"chairperson" means the chairperson of the Board or of a committee of the Board, as the case may be, and includes a person who is acting as chairperson;

"Chief Executive Officer" means the person appointed to this position in terms of section 23(1);

"committee" means a committee established by the Board in accordance with section 18;

"computerised record keeping system" means a record keeping system which –

- (a) utilises electronic computer equipment;
- (b) is utilised by a person licensed or registered in terms of section 89, 94, 103, 110 or 111 for the purpose of recording details of all bets laid or taken by that person, including, where applicable, details of all take-back bets; and
- (c) automatically generates the records, returns or statements prescribed in terms of section 7(2);

"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,
- unless the context indicates a contrary intention;

"corporate body" means a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), or which was formed in pursuance of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), or a close corporation registered in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984);

"defined area" means a geographic area with specific boundaries, defined by the Board in terms of section 7(2)(c), within which a specified maximum number of bookmaking rights may be granted;

"Department" means the department in the Provincial Government of KwaZulu-Natal responsible for gaming and betting;

"deputy chairperson" means the deputy chairperson of the Board;

"electronic bingo terminal" means a gaming machine which is designed to render or to make available to the players of such a gaming machine, only the game of bingo as defined in this Act;

"electronic monitoring system" means a computerised system designed to receive and send data to and from gaming machines and limited payout machines;

"Executive Council" means the Executive Council of the Province of KwaZulu-Natal;

"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;

"gambling" means engaging in any activity whereby money or any other thing of value is staked on the unknown result of a future event at the risk of losing all or a portion of the money or valuable thing so staked for the sake of a return and is the generic term encompassing all forms of "gaming" and "betting" as defined in this section, but excludes –

- (a) any lawful lottery; and
- (b) any recognised investment activity undertaken with a recognised financial institution,

and **"gamble"** and **"gambling activity"** have a corresponding meaning;";

"gambling area" –

- (a) in relation to a site, means an area at that site in which any limited payout machine is authorised to be placed;
- (b) in any other case, means an area within licensed premises where any gambling takes place in terms of a licence issued by the Board; and
- (c) includes any area designated as such by the Board in the conditions of any

licence issued by it;

"gambling jurisdiction" means any territory in which gambling is conducted according to legislation enacted by that territory's competent authority;

"gaming" means playing any casino game, bingo or any gaming machine or limited payout machine;

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

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

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

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

(ii) the opportunity to play no more than 10 further games immediately without the insertion of another coin or token; and

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

"Gazette" means the official *Provincial Gazette* of KwaZulu-Natal;

"horse race" means any horse, pony or galloway race over a defined or agreed course

held for the entertainment of the public: Provided that the term does not include –

- (a) a horse race in the nature of a public trial gallop at which no betting takes place, held under the management and control of a racecourse operator; or
- (b) a horse race or contest of a private nature at which no betting takes place,

and **"horse racing"** has a corresponding meaning;

"Horse Racing and Betting Transformation Fund" means the fund established by section 137 for the purposes of promoting opportunities for historically disadvantaged persons to participate in the horse racing and betting industries in the capacity of any of the persons required to be licensed or registered in terms of section 89, 94, 103, 110 or 111, to increase the ownership stakes of historically disadvantaged persons in the said industries and to develop appreciation for and knowledge of horse racing amongst all communities, particularly those comprising of historically disadvantaged persons;

"independent site operator" means a site operator who is not linked to a route operator and is licensed to own and operate limited payout machines on a single site and is responsible for maintaining the machines, effecting the collection of money and paying the applicable taxes and levies;

"independent site operator licence" means an independent site operator licence issued by the Board in terms of this Act;

"inspector" means any person –

- (a) appointed as an inspector by the responsible Member of the Executive Council; or
- (b) specially authorised by the Board to exercise any authority or perform any duty conferred on an inspector in terms of any provision of this Act;

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

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

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

"limited payout machine" means a gaming machine outside a casino in respect of the playing of which the stakes and prizes are limited as prescribed by regulations made in terms of the National Gambling Act, 2004 (Act No. 7 of 2004);

"manager" means a person employed by a bookmaker in any managerial capacity or in a position where such person carries on the business of a bookmaker on behalf of such bookmaker and who is registered by the Board in terms of section 103;

"Member of the Executive Council responsible for finance" means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

"municipality" means a municipality contemplated in section 155 of the Constitution of the Republic of South Africa, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

"multiple bet" means a bet comprising more than one selection, in which all selections must be correctly chosen by the bettor, in order that the bet be won by the bettor;

"National Gambling Act" means the National Gambling Act, 2004 (Act No. 7 of 2004);

"National Horseracing Authority" means the professional body that controls the sport of horseracing in the Republic of South Africa;

"other event or contingency" means any event or contingency, other than a horse race or a sporting event, determined by the responsible Member of the Executive Council by notice in the *Gazette* to be an event or contingency on which a bet may be taken or laid in accordance with the provisions of this Act;

"person" means a natural or juristic person, a group of such persons or a corporate body unless the context indicates a contrary intention;

"person-to-person gambling" means a form of gambling in which natural persons gamble

against each other, rather than against the "house" or against a bank and involves gambling by the participants on, *inter alia*, equal chance gambling games such as poker, or sports betting;

"person-to-person remote gambling" means person-to-person gambling conducted by means of remote communication;

"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 or of the Executive Council of a province;
- (c) a municipal councillor;
- (d) a diplomatic representative of the Republic who is not a member of the public service;
- (e) a member of a house of traditional leaders; or
- (f) a national or provincial office bearer of a political party, organisation, body, alliance or movement registered in terms of section 15 or 15A of the Electoral Commission Act, 1996 (Act No. 51 of 1996);

"Portfolio Committee" means the Portfolio Committee appointed by the Provincial Legislature, in accordance with its standing rules, for the purposes of dealing with matters which fall under the portfolio of the responsible Member of the Executive Council;

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

"prescribed" means prescribed in terms of this Act, the regulations or the rules made by the Board in terms of section 7(1)(m) or 7(2)(e), and the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and **"prescribe"** has a corresponding meaning;

"Province" means the Province of KwaZulu-Natal;

"Provincial Legislature" means the Legislature of the Province of KwaZulu-Natal;

"Provincial Revenue Fund" means the fund established for the Province of KwaZulu-Natal by section 226 of the Constitution of the Republic of South Africa, 1996;

"provincial treasury" means the treasury established for the Province of KwaZulu-Natal in terms of section 17 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"publish" includes to exhibit, circulate, announce or cause to be exhibited or circulated or announced in any manner whatsoever;

"racecourse operator" means a corporate body licensed in terms of section 89 to hold race meetings at one or more racecourses;

"racecourse operator's licence" means a licence issued, in terms of section 89, to a corporate body and which authorizes the licence holder to hold race meetings at one or more racecourses;

"race meeting" means any gathering of the public to watch a horse race or horse races;

"registrant" means a person who holds a valid registration certificate or temporary registration certificate issued in terms of this Act;

"regulations" means the regulations made by the responsible Member of the Executive Council under this Act;

"relative" means –

- (a) a person who is party to a civil union, a marriage, including a customary marriage, or party to a permanent relationship which calls for cohabitation and mutual financial and emotional support; or
- (b) a person's child, parent, brother or sister, whether such relationship results from birth, marriage or adoption;

"responsible Member of the Executive Council" means the Premier of the Province of KwaZulu-Natal or that member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of this Act;

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

"route operator licence" means a route operator licence issued by the Board in terms of section 56;

"rules" means the rules made by the Board in terms of section 7(1)(m) or 7(2)(e);

"SABS" means the South African Bureau of Standards, a national institution for the promotion and maintenance of standards referred to in section 2(1) of the Standards Act, 2008 (Act No. 8 of 2008);

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

"site operator licence" means a site operator licence issued by the Board in terms of this Act;

"special employee" means a person who is registered as a special employee in accordance with section 65 or as prescribed category of employee of a person associated with the provision of gaming equipment in accordance with this Act;

"sports" or **"sporting event"** means any football, rugby, cricket, golf, hockey, tennis or baseball match; any boxing, wrestling, shooting or swimming contest; any foot, cycle, motor, boat or dog race; or any other sporting or athletic contest, competition, tournament or game other than a horse race, usually attended by the public, and **"sport"** has a corresponding meaning;

"sports bet" means a bet on the result of any sporting event wherever held and includes betting on the individual performance of any person competing in any sporting event or on the performance of team members or on the number of goals, tries, points, birdies or eagles to be scored by a team or individual players or on such other measure connected with determining the result of any sporting event, and **"sports betting"** has a corresponding meaning;

"take-back bet" means any bet taken by a bookmaker or manager with any other bookmaker, other bookmaker's manager or with a totalisator;

"this Act" includes the Schedules thereto, the regulations and the rules made by the Board in terms of sections 7(1)(m) and 7(2)(e);

"totalisator" means any electronic or mechanical device commonly known by that name and used in connection with betting on horse races, sporting events and any other event or contingency for registering or indicating or registering and indicating the number or value or number and value of –

- (a) bets on horses in any horse race or any combination of horse races;
- (b) bets on any sporting event;
- (c) bets on any other event or contingency; or
- (d) bets on any combination of horse races, sporting events and other events or contingencies,

and which is operated in accordance with a system of betting in which the aggregate amount staked on any one of the aforementioned categories of bets after deduction from such aggregate of any amounts which may lawfully be deducted therefrom in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, is divided amongst those persons who have taken winning bets on such categories of bets in terms of the relevant totalisator rules, and includes any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles;

"totalisator agent" means a person who is appointed, in terms of section 111(1)(b)(ii), by a totalisator licensee to operate an agency of the relevant totalisator;

"totalisator licence" means a licence issued to a person in terms of section 110 and which authorizes the licence holder to conduct a totalisator on a horse race, sporting event or other event or contingency;

"totalisator licensee" means a person licensed by the Board, in terms of section 110, to conduct a totalisator on a horse race, sporting event or other event or contingency;

"totalisator manager" means a natural person who is appointed, in terms of section 111(1)(b)(i), by a totalisator licensee to manage and operate a branch of the relevant

totalisator;

"totalisator operator" means a natural person appointed by a totalisator licensee in terms of section 111(1)(a) and who is in charge of and responsible for the day to day conduct and operation of the relevant totalisator: Provided that, for the purposes of this definition, "person" can include a board, committee or other similar group of persons; and

"totalisator premises" means the physical outlet, physical structure, space or place from which a totalisator, totalisator branch or totalisator agency operates.

Application of Act and other laws

2.(1) This Act must be read together with the KwaZulu-Natal Gaming and Betting Tax Act, 2010, in relation to the payment of tax by persons licensed in terms of this Act.

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

(3) The granting of any application in terms of this Act does not relieve the person granted the application from complying with any other law or legal requirement in relation to the business in question.

(4) A person who complies with the provisions of this Act is not exempted from complying with any relevant provisions of the National Gambling Act.

(5) This Act does not apply to the licensing and regulation of person-to-person remote gambling.

Restrictions on gambling

3.(1) No person may perform any act pertaining to gambling or assist any persons in such activity except in accordance with the provisions of this Act.

(2) No person may gamble in premises which are not licensed or approved in terms of this Act or gamble on any gaming machine, limited payout machine or gaming equipment which has not

been registered by the Board in terms of this Act.

(3)(a) The owner or lawful occupier of any building, dwelling, structure or premises of any other nature may not use such building, dwelling, structure or premises for gambling purposes or allow any other person to conduct any gambling activity therein or thereon unless he or she or the person conducting the gambling activity in or on such building, dwelling, structure or premises, is in possession of a licence issued in terms of this Act.

(b) The owner of any building, dwelling, structure or premises of any other nature must take reasonable steps to ensure that such building, dwelling, structure or premises is not used for any gambling activity by persons who are not in possession of a licence issued in terms of this Act.

(4) No person may –

(a) accept any employment in any gambling activity with any person without taking all reasonable precautions to establish that such person is the holder of a valid licence issued in terms of this Act; or

(b) employ or offer employment to any person in any gambling activity, unless he or she is the holder of a valid licence issued in terms of this Act.

(5) No person who is under the age of 18 years is permitted to gamble.

(6) A licensee under this Act or a licensee's manager or any person authorised by the licensee to take charge of gambling activities authorised in or by the licensee's licence must take all reasonable steps to ensure that persons under the age of 18 years do not gamble in the licensed or approved premises concerned and, for the purposes of this subsection, reasonable steps include requesting any person suspected of being under the age of 18 years to produce identification and proof of age.

(7) A person may not possess a gaming machine, limited payout machine or gaming equipment, excluding playing cards or dice, unless he or she is in possession of a licence or certificate of registration issued in terms of this Act or any applicable national law authorising such possession.

(8) Any person who contravenes the provisions of this section is guilty of an offence.

Restriction on use of word "casino"

4.(1) Subject to the provisions of subsection (2), any person who, within the Province –

- (a) trades or carries on a business; or
- (b) advertises the carrying on of such trade or business,

under the name or title in which the word "casino" appears and who is not the holder of a valid licence under this Act, is guilty of an offence.

(2) The Board may, in its discretion, grant written permission, which permission must not be unreasonably withheld, to a person who is not the holder of a valid licence to use the word "casino" in the manner contemplated in subsection (1).

CHAPTER 2
KWAZULU-NATAL GAMING AND BETTING BOARD

Establishment of KwaZulu-Natal Gaming and Betting Board

5.(1) A juristic person to be known as the KwaZulu-Natal Gaming and Betting Board is hereby established.

(2) The Board is a provincial public entity subject to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Objects of Board

6.(1) The objects of the Board are to –

- (a) ensure that all gambling authorised under this Act is conducted in a manner which promotes the integrity of the gambling industry and does not cause harm to the public interest;
- (b) ensure that all gaming authorised under this Act promotes the Province's objectives for developing a gaming industry which objectives are the promotion of tourism, employment and economic and social development in the Province;
- (c) promote opportunities for historically disadvantaged persons to participate in the horse racing and betting industries in the capacity of any of the persons required to be licensed or registered in terms of section 89, 94, 103, 110 or 111;
- (d) increase the ownership stakes of historically disadvantaged persons in the horse racing

and betting industries;

(e) develop appreciation for and knowledge of horse racing amongst all communities, particularly those comprised of historically disadvantaged persons; and

(f) limit restrictive practices, the abuse of dominant market position and mergers in the betting industry, as contemplated in the Competition Act, 1998 (Act No. 89 of 1998), and the Board is, for the purposes of the said Act, a regulatory authority as defined in section 1 of that Act.

(2) For purposes of this section, a person is historically disadvantaged if that person is –

(a) a natural person, who before the Constitution of the Republic of South Africa Act, 1993 (Act 200 of 1993), came into operation, was disadvantaged by unfair discrimination on the basis of race, gender, disability, sexual orientation or religion; or

(b) a juristic person or association, and individuals referred to in paragraph (a) own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes.

(3) The responsible Member of the Executive Council may issue directives to the Board relating to the objects of the Board contemplated in subsection (1)(c), (d), (e) and (f).

Powers and functions of Board

7.(1) In addition to any other powers, functions and obligations that the Board has in terms of this Act, the Board's powers and functions, in respect of gaming, are to –

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

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

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

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

(c) licence, regulate and control gambling activities in the Province;

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

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

- (f) undertake or engage any person, law enforcement agency, gambling regulatory agency or company to undertake any investigation or inspection necessary to determine the suitability of an applicant for a licence;
- (g) authorise the Chief Executive Officer to renew a licence upon its expiry, unless it has been cancelled or surrendered;
- (h) grant or refuse any application by a licensee to relocate his or her licensed premises to other premises within the Province;
- (i) impose conditions, if any, under which a casino licence may be surrendered;
- (j) authorise an inspector, officer or other person appointed by any organ of State at any level of government or any other board, committee, body or agency to conduct an inspection or investigation into any gambling operation in the Province: Provided that an officer of the South African Police Service and an inspector appointed by the responsible Member of the Executive Council does not require such authorisation in order to perform his or her duties;
- (k) conduct an enquiry into any alleged contravention of this Act or the rules and take appropriate action against any licensee or any person registered in accordance with the provisions of sections 65 and 66, which may include –
 - (i) instituting legal action against such licensee or person;
 - (ii) suspending the relevant licence or certificate of registration in accordance with the provisions of section 40 or 71, respectively;
 - (iii) cancelling a licence, which is not a casino licence, or a certificate of registration in accordance with the provisions of section 41 or 71, respectively; or
 - (iv) levying a fine or penalty on such licensee or person: Provided that the amount of such fine or penalty does not exceed the prescribed amount;
- (l) conduct hearings, call for the attendance of witnesses at such hearings and demand the production of any books, records and any other documents which, in the opinion of the Board, have been used in connection with or will reveal a contravention of this Act or of the rules;
- (m) make rules –
 - (i) governing the accounting and audit systems to be used in a casino, a bingo hall and by a route operator for the purpose of verifying the taxes to be paid in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and any levies to be paid in terms of this Act;
 - (ii) for any casino games played in a casino and the rules under which such games are played;
 - (iii) governing the operation of gaming machines or limited payout machines in premises other than casino premises;

- (iv) for the payment of gratuities to persons employed in a casino and bingo hall;
 - (v) for bingo games, the devices which may be used for bingo games where cards are not used and the rules under which bingo games are played;
 - (vi) for the exclusion of persons from licensed premises;
 - (vii) governing the manner in which the Board will deal with complaints by patrons and any disputes between players and licensees; and
 - (viii) which, in the discretion of the Board, are necessary to ensure compliance with this Act or to protect or enhance the credibility and integrity of gambling operations authorised under this Act;
- (n) monitor constantly all matters connected with –
- (i) casinos and the activities of casino operators, persons associated with casino operators and persons who are in a position to exercise direct or indirect control over casino operators or persons associated with such operators;
 - (ii) bingo halls and the activities of the operators of bingo halls, persons associated with such operators and persons who are in a position to exercise direct or indirect control over the operators of bingo halls or persons associated with such operators; and
 - (iii) gaming machine or limited payout machine premises and the activities of any gaming machine or limited payout machine operator, persons associated with gaming machine or limited payout machine operators and persons who are in a position to exercise direct or indirect control over gaming machine or limited payout machine operators or persons associated with such operators;
- (o) conduct, or hire private persons or companies or universities to conduct, research into any matter connected with gambling and report the findings of such research to the responsible Member of the Executive Council;
- (p) determine norms and standards for gaming equipment, gaming machines and limited payout machines whenever there are no national norms and standards;
- (q) make recommendations to the responsible Member of the Executive Council on any matter, including matters which have a direct bearing on the objects of the Board and its powers and functions;
- (r) perform any other function or exercise any other power which the responsible Member of the Executive Council may, by regulation, empower the Board to do;
- (s) report to the relevant portfolio committee of the Provincial Legislature on its activities, powers and functions, in the manner prescribed; and
- (t) ensure that all fees payable under this Act and all taxes payable under the KwaZulu-Natal Gaming and Betting Tax Act, 2010, are paid timeously and correctly.

- (2) The Board's powers and functions, in respect of horse racing and betting, are to –
- (a) undertake any investigation or inspection necessary to determine the suitability of an applicant for the granting of a licence or registration contemplated in section 89, 94, 103, 110 or 111;
 - (b) grant and issue, refuse to grant or issue, renew or refuse to renew a licence or registration contemplated in section 89, 94, 103, 110 or 111;
 - (c) determine, define and periodically review the boundaries of an area or areas within which a specified maximum number of bookmaking rights may be granted: Provided that the Board must publish the details of such determination, definition or review by notice in the *Gazette*;
 - (d) determine and periodically review the maximum number of bookmaking rights which may operate at any one time in a specified defined area or areas: Provided that where the Board determines the establishment of a new bookmaking right in a defined area, such right must be disposed of as prescribed by the responsible Member of the Executive Council: Provided, further, that the Board must publish the details of such determination or review by notice in the *Gazette*;
 - (e) make and publish, by notice in the *Gazette*, rules for the following –
 - (i) the control of persons licensed or registered in terms of section 89, 94, 103, 110 or 111;
 - (ii) application for the approval of premises intended to be used for the purpose of a bookmaking business, a totalisator or a totalisator branch or agency;
 - (iii) the making, acceptance and cancellation of bets;
 - (iv) the use, safe-keeping and disposal of records of betting transactions;
 - (v) the declaration of defaulters and the cancellation of such declaration; and
 - (vi) any other matter which, in terms of Chapter 13, 14, 15, 16, 17 or 18, the Board is required or permitted to regulate or prescribe;
 - (f) investigate allegations of improper conduct on the part of any person licensed or registered in terms of section 89, 94, 103, 110 or 111, and must, if necessary, hold an enquiry in respect of such improper conduct and in the event of it being found that such person has contravened or failed to comply with this Act –
 - (i) issue a verbal or written reprimand;
 - (ii) suspend for a specified period any licence issued in terms of section 89, 94, 103, 110 or 111;
 - (iii) cancel or suspend for a specified period the registration of any person who is licensed

- or registered in terms of section 89, 94, 103, 110 or 111;
- (iv) impose a fine not exceeding R50 000,00 in respect of each offence for which the offender is found guilty;
- (v) suspend in whole or in part and conditionally or unconditionally any fine imposed in terms of subparagraph (iv); or
- (vi) declare a bettor or any person who is licensed or registered in terms of section 89, 94, 103, 110 or 111 to be a defaulter or cancel any such declaration;
- (g) conduct hearings, call for the attendance of witnesses at such hearings, and demand the production of any books, records or any other documents which, in the opinion of the Board, have been used in connection with or will reveal a contravention of this Act, the regulations or the rules contemplated in paragraph (e);
- (h) hear and decide an appeal contemplated by section 140(1) and (2)(a);
- (i) hear and decide upon any betting dispute between persons licensed in terms of section 89, 94 or 110 or between a person licensed in terms of section 89, 94 or 110 and a bettor;
- (j) determine and periodically review the nature and extent of security provided by or on behalf of –
 - (i) a bookmaker, against such bookmaker's failure to discharge his or her liability to bettors or other bookmaking businesses arising from betting transactions; and
 - (ii) any person licensed in terms of section 89, 94 or 110, against such person's failure to discharge his or her liability to the beneficiaries of payments arising from the imposition of a tax on betting transactions;
- (k) determine and review the form of returns and statements to be completed by persons licensed in terms of section 89, 94 or 110;
- (l) monitor and verify the returns and statements submitted by licensees in terms of section 89, 94 or 110, receive taxes and other deductions from bettor's winnings, and distribute the taxes and deductions to the beneficiaries specified in the Schedule to the KwaZulu-Natal Gaming and Betting Tax Act, 2010;
- (m) undertake periodic inspections of the records and business operations of any person licensed in terms of section 89, 94 or 110 for the purposes of determining whether or not there has been compliance with this Act, and institute proceedings against any person or persons who are believed to have contravened or failed to comply with this Act;
- (n) take action against persons licensed in terms of section 89, 94 or 110 who are vicariously responsible for any act, omission, failure or neglect by an employee of such person where such act, omission, neglect or failure constitutes a contravention of or a failure to comply with this Act, or against a totalisator agent for any act, omission, failure or neglect that

constitutes a contravention of or a failure to comply with this Act;

(o) investigate reports of illegal betting transactions and take such action as may be necessary to ensure compliance with this Act;

(p) undertake an investigation to –

(i) determine whether or not any computerised record keeping system to be used by a person licensed in terms of section 89, 94 or 110 complies with this Act and with the relevant standard issued by the SABS; and

(ii) determine the suitability of the developer, supplier or manufacturer of any computerised record keeping system to be used by a person licensed in terms of section 89, 94 or 110;

(q) authorise a person licensed in terms of section 89, 94 or 110, in accordance with section 121, to undertake betting transactions, for a fixed period, at the venue of a sporting or other event;

(r) inspect premises intended to be used as the venue for the operation of a bookmaking business, a totalisator branch, a totalisator agency or an on-course totalisator, and approve, conditionally or otherwise, or refuse to approve such premises being used for those purposes;

(s) administer the Horse Racing and Betting Transformation Fund;

(t) approve the types of bets which may be offered by a bookmaker, manager, totalisator operator, totalisator manager or totalisator agent; and

(u) perform any other function or exercise any other power contemplated in Chapter 13, 14, 15, 16, 17 or 18 or which the responsible Member of the Executive Council may, by regulation, empower the Board to do.

(3) In addition to the powers and functions contemplated in subsections (1) and (2), the Board has the power to –

(a) investigate and consider applications for, and issue, subject to Part B of Chapter 3 of the National Gambling Act, national licences for any activity or purpose for which a national licence is required or optional in terms of the National Gambling Act;

(b) conduct inspections to ensure compliance with –

(i) the National Gambling Act; and

(ii) the conditions of national licences, subject to sections 33 and 34 of the National Gambling Act;

(c) impose on licensees administrative sanctions in accordance with the National Gambling Act;

- (d) issue offence notices in respect of offences in terms of the National Gambling Act;
- (e) monitor the functions of each gaming machine or limited payout machine that is required to be connected to the national central electronic monitoring system in terms of section 27 of the National Gambling Act;
- (f) ensure compliance with, conduct investigations and issue offence notices under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), to the extent required by that legislation, insofar as it applies to the gambling industry;
- (g) ensure that –
 - (i) undertakings made by, and licence conditions of, national licensees are carried out to the extent that those licensees are operating within the Province;
 - (ii) employees within the gambling industry are licensed to the extent required by the National Gambling Act;
 - (iii) all gaming equipment or each gaming machine or limited payout machine being used, or made available for use, by a licensee is registered and certified in terms of the National Gambling Act;
- (h) inspect premises within the Province –
 - (i) that are operated in terms of a national licence; or
 - (ii) in or on which any activity takes place that is permitted in terms of a national licence;
- (i) inspect gaming equipment, gaming machines or limited payout machines used for any activity that is permitted in terms of a national licence to the extent that the licensee is operating within the Province;
- (j) enforce the National Gambling Act in respect of –
 - (i) premises, activities or prescribed devices –
 - (aa) licensed by the Board; or
 - (bb) within the jurisdiction of the Board; and
 - (ii) offences in terms of the National Gambling Act;
- (k) supervise and enforce compliance by licensees with the obligations of accountable institutions in terms of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), to the extent required by that law, insofar as it applies to the gambling industry;
- (l) review licences and the activities of licensees in accordance with the National Gambling Act; and
- (m) suspend or revoke any national licence for a cause set out in section 43(1)(a) and (b) of the National Gambling Act.

Composition of Board

8.(1) The Board consists of nine members who are fit and proper persons to serve the best interests of the Province, plus the Chief Executive Officer, *ex officio*, as contemplated in section 23(6).

(2) The Board must be appointed by the responsible Member of the Executive Council, after consultation with the Executive Council, and must consist of persons who cumulatively have appropriate knowledge or experience in –

- (a) legal matters, including the application or administration of law;
- (b) accounting and financial management;
- (c) community welfare and socio-economic development;
- (d) tourism and entertainment;
- (e) business and commerce, including the promotion of small and medium sized business enterprises;
- (f) organised local government; and
- (g) casinos, gaming, betting and horse racing and the regulation thereof:

Provided that appointments to the Board must be made with sensitivity to race and gender.

(3) The responsible Member of the Executive Council must, subject to the provisions of section 10(5), designate –

- (a) one of the members of the Board as the chairperson of the Board; and
- (b) one of the members of the Board as the deputy chairperson of the Board.

(4) The responsible Member of the Executive Council may appoint an official within the Department as his or her representative who –

- (a) must facilitate liaison between the responsible Member of the Executive Council and the Board;
- (b) must report to the responsible Member of the Executive Council from time to time regarding matters which are considered relevant; and
- (c) may attend meetings of the Board and participate in discussions, but does not have the right to vote when a decision of the Board is being taken.

Disqualification from being appointed to Board

9.(1) A person is disqualified from being appointed to the Board or from remaining on the Board,

by reason that –

- (a) he or she is not a South African citizen;
- (b) he or she is not ordinarily resident in the Province;
- (c) he or she is, at the time of the appointment, or during the preceding 12 months was –
 - (i) a person contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994); or
 - (ii) a political office bearer;
- (d) his or her relative is a person contemplated in paragraph (c)(ii);
- (e) he or she is a member of a board of directors of any gambling activity, has a controlling interest or any financial interest or other interest in any gambling activity or acquires a direct or indirect financial interest in any gambling activity or is employed by any person, company, organisation or other body, whether corporate or unincorporated, which has an interest contemplated in this paragraph;
- (f) his or her relative is a member of a board of directors of any gambling activity or has any direct or controlling interest in such activity;
- (g) he or she is an unrehabilitated insolvent;
- (h) he or she –
 - (i) is a person under curatorship;
 - (ii) is certified under section 9 of the Mental Health Act, 1973 (Act No. 18 of 1973), and has not been discharged from an institution contemplated under such Act; or
 - (iii) can be conclusively shown to be of unsound mind or suffering from infirmity of body which prevents him or her from the proper execution of his or her duties;
- (i) he or she has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (j) within the previous ten years has been, or is convicted in the Republic or elsewhere of theft, fraud, forgery or uttering of 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
- (k) he or she 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.
- (l) he or she fails to disclose an interest in accordance with section 15(1) or attended or participated in the proceedings of the Board while having an interest contemplated in the said section;

(m) he or she is an owner or part-owner of a totalisator licensee or totalisator operator, a totalisator agent or an employee of such licensee, operator or agent, as contemplated in this Act;

(n) he or she or his or her relative has a controlling interest or any financial or other interest in any bookmaker licensee, totalisator licensee, totalisator agent or holder of a racecourse operator's licence, as contemplated in this Act;

(o) he or she or his or her relative is an employee or agent of a licensee, contemplated in this Act, in any capacity whatsoever;

(p) he or she or his or her relative is a director or member of a corporate body that acquires a controlling interest or any financial or other interest in any bookmaker licensee, totalisator licensee, totalisator agent or holder of a racecourse operator's licence, as contemplated in this Act;

(q) he or she or his or her relative has a controlling interest or any financial or other interest in any undertaking, including a corporate body, which is an owner, breeder or trainer of race horses; or

(r) he or she is listed in the register of excluded persons, contemplated by section 14(7) of the National Gambling Act by order of court.

(2) If any member of the Board becomes disqualified during his or her term of office in terms of subsection (1) or acquires, or whose relative acquires, an interest which is likely to be an interest contemplated in subsections (1)(e), (f), (n), (p) and (q), he or she must immediately upon such disqualification, or after the acquisition of such interest, or after he or she has become aware of such information, in writing declare such information to the chairperson, who must immediately inform the responsible Member of the Executive Council to enable the responsible Member of the Executive Council to take steps to fill the vacancy so caused.

(3) For the purposes of this section, a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment.

Appointment of members to Board

10.(1) The responsible Member of the Executive Council must, by notice in the *Gazette* and in at least two newspapers circulating in the Province, invite any interested parties within the Province to nominate candidates for appointment to the Board.

(2) Any nominations made in response to the notice referred to in subsection (1) must be made within 21 days of the date of publication of the said notices, calculated from the date following the publication of the notices to the twenty-first day thereafter: Provided that if the twenty-first day falls on a Sunday or a public holiday it is deemed to be the day following such Sunday or public holiday.

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

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

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

(4) Within 14 days after expiry of the period of 21 days referred to in subsection (2), the responsible Member of the Executive Council must publish for general information, in the *Gazette* and in the same newspapers circulating in the Province in which the notices referred to in subsection (1) were published, the names of all persons nominated in accordance with this section.

(5) The responsible Member of the Executive Council must, after consultation with the Executive Council, and after taking the necessary steps to ensure that the persons to be appointed are not disqualified in terms of section 9, appoint the chairperson, deputy chairperson and members to the Board.

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

(7) This section applies, with the necessary changes, to the filling of a vacancy on the Board.

(8) A member of the Board must, before assuming duty, make and subscribe an oath or solemn affirmation in the prescribed form before the responsible Member of the Executive Council.

Declaration of financial or other interests

11.(1) A person who has been appointed as a member of the Board must –

- (a) within 10 days of being appointed, submit to the responsible Member of the Executive Council, a written declaration of all direct and indirect financial or other interests, which declaration must include relevant information about any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
- (b) in the declaration referred to in paragraph (a) include financial and other interests of relatives or close associates, which could be in conflict with an appointment as a member;

(2) Where a member of the Board experiences a change in financial or any other circumstances and acquires an interest, the member must, within 10 days of the date of the changed circumstances, submit a written declaration of change of financial or other interests to the responsible Member of the Executive Council.

(3) Where a relative or close associate of a member of the Board experiences a change in financial or any other circumstances and acquires an interest, which could be in conflict with an appointment as member, the member must, within 10 days of the date of the changed circumstances, submit a written declaration of change of financial or other interests to the responsible Member of the Executive Council.

(4) The responsible Member of the Executive Council must keep an updated register of the interests of members of the Board disclosed in terms of this section.

Failure to declare financial or other interests

12. A member of the Board who fails to make a declaration envisaged in section 11 commits an offence.

Term of office and reappointment

13. The persons appointed to the Board hold office for a term of three years and are, subject to

section 9, eligible for reappointment at the expiration of such term: Provided that no person may be reappointed after having served on the Board for two terms: Provided, further, that when a person is appointed to fill a vacancy on the Board for the remainder of a three year term, such period of service on the Board is not regarded as a term for the purposes of determining eligibility for re-appointment.

Vacancies, removal and resignation from office and filling of vacancies

14.(1) A member of the Board must vacate office if he or she becomes subject to a disqualification contemplated in section 9.

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

(3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the Board, from two consecutive meetings of the Board for which reasonable notice was given to that member personally or by post.

(4) A member may resign from office in writing to the responsible Member of the Executive Council.

(5) Whenever a vacancy occurs on the Board, the responsible Member of the Executive Council must, subject to section 10, appoint a person to fill such vacancy for the unexpired portion of the term of office of the member in whose place such person is appointed.

Recusal of member from meetings and proceedings of Board

15.(1) A member must, prior to the commencement of the proceedings of the Board, fully disclose the nature of any interest whatsoever, including a pecuniary interest, which –

(a) he or she; or

(b) his or her relative, whether as an employee or as a director, member or partner, may have in the business of any applicant for a licence or registration under this Act or may derive from the granting of a licence or registration under this Act to an applicant whose application is before the Board for consideration.

(2) Upon making the disclosure referred to in subsection (1), the member must leave the meeting to enable the Board to discuss the matter so as to determine whether or not the member is precluded from participating in the proceedings at such meeting by virtue of a conflict of interests.

(3) Any disclosure in terms of this section and the decision of the Board as regards the determination referred to in subsection (2), must be recorded in the minutes of the meeting concerned.

(4) In the event that a member fails to make a disclosure as contemplated in subsection (1) and is present at a meeting in which an application for a licence or registration under this Act is considered, the decision of the Board will be invalid.

(5) A member of the Board must not take part in the proceedings of the Board where any application for a licence or registration under this Act is under consideration and such member or his or her relative, business partner or associate is associated with any person objecting to the application.

Meetings and procedures at meetings

16.(1) The first meeting of the Board must be held on a date and at a time and venue determined by the chairperson whereafter all future meetings must be as determined by the Board.

(2) The *quorum* for a meeting of the Board is the majority of the members of the Board.

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson.

(4) The chairperson must preside at all meetings of the Board: Provided that in his or her absence the deputy chairperson must preside and in the event that neither the chairperson nor the deputy chairperson are present at a meeting of the Board, the members then present may elect, from their own number, a person to act as chairperson for the duration of that particular meeting.

(5) A decision of the Board must be taken by a majority of the votes of the members present at a

meeting and, in the event of an equality of votes on any matter, the chairperson has a casting vote in addition to his or her deliberative vote.

(6) Notwithstanding section 21, the Board must arrange for minutes of its meetings to be kept and such minutes must, subject to section 34, be open to public inspection in the manner prescribed.

(7) No decision of the Board is invalid merely by reason of a vacancy in the Board: Provided that the decision is taken by the required majority of the members of the Board.

(8) The chairperson, or a majority of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.

Remuneration of members of Board

17. A member of the Board must be paid such remuneration and allowances out of the funds of the Board as may be determined by the responsible Member of the Executive Council in consultation with the Member of the Executive Council responsible for finance.

Establishment of committees to assist Board

18.(1) The Board may establish committees consisting of one or more of its members to –

- (a) which specific matters or classes of matter relating to the powers and functions of the Board contemplated in section 7 may be referred for investigation and report to the Board;
- (b) assist it in the performance of any of the powers or functions of the Board contemplated in section 7; or
- (c) enquire or conduct research into any matter falling under the Board's jurisdiction in terms of this Act.

(2) When establishing a committee contemplated in subsection (1), the Board must –

- (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board; and
- (b) appoint a chairperson of such committee who must be a member of the Board.

(3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.

(4) The *quorum* for a committee is a simple majority of the persons appointed to such committee.

(5) Decisions of a committee must be taken by a majority of the members present at a meeting and, in the event of an equality of votes, the chairperson of the committee has a casting vote in addition to a deliberative vote.

(6) The committee must arrange for minutes of its meetings to be kept and such minutes will, subject to section 34, be open to public inspection in the manner prescribed.

Consultation and assistance

19.(1) The Board may, whenever necessary, appoint or call to its assistance any person for purposes of assisting the Board with any investigation contemplated in section 35 or advising the Board on any manner pertaining to the exercise of its powers, functions and duties under this Act.

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

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

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

Co-opting of persons

20. The Board or a committee may not co-opt any person to serve on either the Board or on a committee.

Confidentiality

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

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

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

Delegation of powers, duties and functions

22.(1) The Board may, subject to such conditions it deems appropriate –

- (a) delegate to the Chief Executive Officer, the following powers and functions:
 - (i) to grant a site operator or independent site operator licence, to impose conditions on the issue of such a licence and to amend, substitute or rescind any condition;
 - (ii) to grant or refuse an application by a site operator or independent site operator to relocate his or her licensed premises to other premises within the Province;
 - (iii) to appoint persons to assist the Board and the Chief Executive Officer;
 - (iv) to register or refuse to register a special employee in terms of section 65, to impose conditions on such registration and to amend, substitute or rescind any such condition;
 - (v) to register or refuse to register a manager in terms of sections 102, 103 or 104, to impose conditions on such registration and to amend, substitute or rescind any such condition;

- (vi) to register or refuse to register a totalisator manager in terms of sections 111, to impose conditions on such registration and to amend, substitute or rescind any such condition;
 - (vii) to register or refuse to register a totalisator agent in terms of sections 111, to impose conditions on such registration and to amend, substitute or rescind any such condition;
 - (viii) to approve premises or temporary venues for the operation of a bookmaking business, totalisator, totalisator branch or totalisator agency; and
 - (ix) to approve conditionally or unconditionally, or to reject, an amendment to a computerised record keeping system contemplated in section 123; and
- (b) delegate to a committee established in terms of section 18, an employee, or any other person or body, the powers, functions and obligations of the Board contemplated in section 7(1)(f), (1)(h), (1)(j), (1)(k), (1)(l), (1)(n), (2)(a), (2)(f), (2)(g), (2)(j), (2)(l), (2)(m), (2)(n), (2)(o), (2)(p), (2)(q), (2)(r) and (2)(s).

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

CHAPTER 3 CHIEF EXECUTIVE OFFICER AND STAFF OF BOARD

Chief Executive Officer of Board

23.(1) The Board must appoint a suitably qualified, skilled and experienced person as Chief Executive Officer of the Board.

(2)(a) The Chief Executive Officer is appointed for a period not exceeding five years.

(b) The Chief Executive Officer may be reappointed.

(3)(a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board.

(b) The Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(4) The Board may terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

(5) For purposes of the declaration of financial or other interests, the provisions of section 11 apply with the necessary changes to the Chief Executive Officer.

(6) The Chief Executive Officer is an *ex officio* member of the Board but does not have the right to vote at its meetings.

Functions of Chief Executive Officer

24.(1) The Chief Executive Officer is the chief administrative authority of the Board and is responsible for –

- (a) the administrative and financial management of the Board in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the direction of the responsible Member of the Executive Council;
- (b) the appointment of members of staff of the Board contemplated in section 25(1);
- (c) in consultation with the Board, the determination of a code of conduct, applicable to the Chief Executive Officer, all staff of the Board and justiciable for purposes of disciplinary proceedings, to ensure –
 - (i) compliance with applicable law, including this Act;
 - (ii) the effective, efficient and economical use of the Board's funds and resources;
 - (iii) the promotion and maintenance of a high standard of professional ethics;
 - (iv) the prevention of conflicts of interest;
 - (v) the protection of confidential information held by the Board; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service;
- (d) the maintenance of discipline over the staff appointed in terms of paragraph (b) and must, for those purposes, be accountable to the Board; and
- (e) ensuring compliance by the Board with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and any other applicable legislation.

(2) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must, in writing, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

Staff of Board

25.(1) The Chief Executive Officer must, subject to subsection (2), employ members of staff of

the Board as may be reasonably necessary –

- (a) to assist him or her in fulfilling his or her functions in terms of this Act; and
- (b) to assist the Board with the work incidental to the performance by the Board of its functions.

(2) No person may be appointed as Chief Executive Officer or to the staff of the Board or continue to be so appointed if he or she -

- (a) is a political office bearer;
- (b) or his or her relative, whether as a director, member, partner or employee –
 - (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 staff of the Board;
- (c) is an unrehabilitated insolvent;
- (d) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (e)(i) is a person under curatorship;
- (ii) is certified under section 9 of the Mental Health Act, 1973 (Act No. 18 of 1973), and has not been discharged from an institution contemplated under such Act; or
- (iii) can be conclusively shown to be of unsound mind or suffering from infirmity of body which prevents him or her from the proper execution of his or her duties; or
- (f) within the previous 10 years has been, or is, convicted in the Republic of South Africa or elsewhere of theft, fraud, forgery and uttering, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), 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, 2001 (Act No. 38 of 2001), an offence under this Act or the National Gambling Act or an offence involving dishonesty.

(3) For purposes of the declaration of financial or other interests, the provisions of section 11 apply with the necessary changes to staff members of the Board specified by the Board as being subject to the provisions of section 11, except that it is the Chief Executive Officer who must keep and update a register of financial or other interests declared by staff members of the Board.

(4) The Board must determine a human resources policy for staff members of the Board.

(5) The Chief Executive Officer and members of the staff of the Board must, before assuming duty, make and subscribe an oath or solemn affirmation in the prescribed form before the chairperson.

(6) For the purposes of this section, a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment.

Position of public trust

26.(1) No member of the Board, or his or her relative and no member of staff of the Board, or his or her relative, may accept any donation, reward or other similar benefit directly or indirectly from any applicant for a licence or registration under this Act, or from any licensee or registrant under this Act.

(2) No member of the Board, or member of staff of the Board, may, unless doing so in the course and scope of his or her employment, or through performance of his or her duties in terms of this Act –

(a) gamble in the Province; or

(b) gamble elsewhere in South Africa through any licensee licensed in the Province:

Provided that participation in the National Lottery is not considered to be gambling for the purposes of this section.

(3) No member of the Board, or member of staff of the Board, may solicit or accept employment from a licensee, registrant or from an applicant for a licence or registration in terms of this Act: Provided that this prohibition remains in force for one year following the date of termination of the term of office of such Board member, or of the date of termination of employment of such member of staff of the Board, as the case may be.

(4) A licensee, registrant or an applicant for a licence or registration in terms of this Act is disqualified from remaining a licensee or registrant or from obtaining a licence or registration, as the case may be, if such licensee, registrant or applicant employs any person contrary to subsection (3), without first having taken reasonable steps to ensure that the person to be employed was not disqualified from such employment by virtue of subsection (3).

(5) No relative of a member of the Board, or relative of a member of staff of the Board may be employed by a licensee or registrant in terms of this Act, or by an applicant for a licence or registration in terms of this Act.

(6) Any person who contravenes a provision of subsection (1) or (5) is guilty of an offence.

CHAPTER 4 FUNDING AND FINANCIAL MANAGEMENT OF BOARD

Funds of Board

27.(1) The funds of the Board consist of –

- (a) money appropriated by the Provincial Legislature;
- (b) monies accruing to the Board in terms of this Act;
- (c) the fees specified in Schedule 2;
- (d) interest on investments of the Board; and
- (e) income lawfully derived from any other source.

(2) The Board must utilise its funds –

(a) for the payment of remuneration, allowances and subsistence and travelling expenses of –

- (i) the members;
- (ii) the Chief Executive Officer; and
- (iii) the members of staff,

of the Board; and

(b) to cover costs in connection with –

- (i) the day to day operation and administration of the Board; and
- (ii) the performance of the duties and functions of the Board and the exercise of its powers in terms of this Act.

(3) The Chief Executive Officer must, with the concurrence of the Board –

- (a) open an account in the name of the Board with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
- (b) deposit therein all money received in terms of subsection (1).

(4) The Board, in consultation with the responsible Member of the Executive Council, must

determine –

- (a) the remuneration and conditions of service; and
 - (b) the pension and retirement benefits,
- of the Chief Executive Officer and the other members of staff of the Board.

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

(6) Any surplus monies and investments standing to the credit of the Board at the close of the Board's financial year must be paid into the Provincial Revenue Fund, unless the National Treasury in terms of section 53(3) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), has authorised the Board to retain such funds to finance specific projects of the Board: Provided that this provision does not apply to any special funds established and administered by the Board in accordance with section 28 or the fund established by section 137.

Establishment and administration of special funds

28. The Board may establish and maintain special funds, including a fund for the treatment and rehabilitation of pathological gamblers, as the Executive Council may authorise and the Board must administer such funds in the manner prescribed.

Financial management and reporting

29.(1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.

(2) The Chief Executive Officer must ensure that the Board's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3) The Board must be audited and must report in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999): Provided that the auditing of the financial statements of the Board must be performed by the Auditor-General.

CHAPTER 5 LICENCES IN GENERAL

Application for licence

30.(1) Any person who wishes to obtain a licence in terms of this Act may apply to the Board for such licence in the manner prescribed and must pay the application fee prescribed in Schedule

2: Provided that –

(a) any person whose licence application has been refused or whose licence has been cancelled, may not apply for a licence for a period of 12 months from the date of such refusal or cancellation and any person who has a direct or indirect interest of five percent or more in the business or premises of such applicant or licensee may not apply for a licence within 12 months from the date of such refusal or cancellation if such person was the direct or effective cause of such refusal or cancellation; and

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

(2) For the purpose of subsection (1) the word “refused” means an application which has been refused because the applicant is disqualified in terms of section 32 or because an investigation contemplated in section 35 has revealed that the applicant is not a fit a proper person to be granted a licence under this Act.

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

(4) On receipt of an application for a licence, the Chief Executive Officer must, subject to section 31, institute the prescribed procedures for the processing of such applications forthwith.

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

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

(b) must show cause as to why the Board should rule that such particulars, document and

information should not be open to public inspection:

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

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

(7) When considering an application made in terms of subsection (1), the Board must consider the economic, social development and competition issues contemplated in sections 53 and 54 of the National Gambling Act.

Grounds for refusal of licence

31.(1) The Board, without derogating from its powers to grant or refuse a licence application, has the power to refuse a licence application under the following circumstances, without the provisions of sections 30(4), 33, 34, 35, 36 and 37 being applied –

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

(i) where the application relates to a casino for which the responsible Member of the Executive Council has not issued a directive in accordance with the provisions of section 47; or

(ii) where the maximum permissible number of casino licences has already been issued in accordance with a directive issued by the responsible Member of the Executive Council in terms of section 47(1)(a);

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

(c) where the application is for a site operator or independent site operator licence and the premises on which the site operator or independent site operator intends to make limited payout machines available for play do not conform with the prescribed premises for such site operators.

(2) The Board must refuse to issue a licence to an applicant –

(a) who is disqualified from holding an interest in a licence, licence holder, licensed premises or the business to which a licence relates in terms of this Act or section 50(2) of the National Gambling Act; or

(b) if, after conducting the prescribed investigations, it 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 –

- (i) a relative of a person who is a member of the Board; or
- (ii) disqualified from holding an interest in a licence, licence holder or the business to which a licence relates, in terms of this Act or section 50(2) of the National Gambling Act.

Disqualification for licence or registration

32.(1) Subject to the provisions of subsection (2), a person is disqualified from being granted a licence or registration in terms of this Act and from retaining or holding any such licence or registration already granted, if he or she or any person acting as his or her principal –

(a) is –

- (i) a person contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994) or charged with any decision-making or criminal enforcement function pertaining to gambling or the regulation thereof; or
- (ii) a political office bearer;

(b) is under the age of 18 years on the date of the application being considered by the Board;

(c) is an unrehabilitated insolvent or is subject to any legal disability;

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

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

(f) has been convicted during the previous 10 years, in the Republic of South Africa or elsewhere, of the offence of theft, fraud, forgery and uttering, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), or the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), or an offence in terms of this Act or the National Gambling Act, or has been convicted of any other offence and has been sentenced to imprisonment without the option of a fine, unless the person has received a grant of amnesty or free pardon for the offence;

(g) is the husband or wife, or is a partner in a customary marriage, or is a partner in a permanent relationship which calls for cohabitation and mutual financial and emotional

- support, of a person referred to in paragraph (a);
- (h) is a relative of a member of the Board;
- (i) is or was, during the preceding 12 months, a member or employee of the Board or an inspector;
- (j) is a member or employee of the board established by the National Gambling Act or is a relative of a member or employee of such board;
- (k) is listed on the register of excluded persons contemplated by section 14(7) of the National Gambling Act; or
- (l) is not a fit and proper person, in that such person's character, integrity, honesty, prior conduct, regard for the law, reputation, habits and associations may reasonably pose a threat to the health, safety, morals, good order and general welfare of the inhabitants of the Republic of South Africa or the Province and to the provisions and policy of this Act or the National Gambling Act.

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

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

Provided that –

- (i) the applicant, licensee or registrant so disqualified must be given a reasonable opportunity to rectify the disqualifying circumstances, prior to the disqualification, and in

the event that the disqualification has been rectified in accordance with the provisions of this section, there may be no disqualification; and

(ii) the Board may condone a disqualification in the case of a person contemplated in subsection (1)(g) who is disqualified by virtue of his or her relationship with a person contemplated in subsection (1)(a)(i), upon the applicant, licensee or registrant disclosing in his or her application full details of such relationship: Provided that the Board is satisfied that the person contemplated in subsection (1)(a)(i) is not in a position to influence the application process.

(3) A person is disqualified from being granted a licence or registration in terms of this Act if he or she, or any person acting as his or her principal, does not have access to financial resources that are, in the opinion of the Board, adequate to ensure the financial viability of the proposed business and the services of persons who have sufficient experience in the management and operation of the proposed form of gambling business.

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

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

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

Representations by municipalities and interested persons, and response by applicant to representations

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

(2) The Chief Executive Officer must furnish any written representations received to the applicant for a response in the manner prescribed.

Application and representations open to public inspection, and confidential information

34.(1) Subject to subsection (2) and to section 30(5) –

- (a) any application, representation, response and further information lodged with the Board must be open to public inspection by interested persons during the normal office hours of the Board for the prescribed period; and
- (b) the Board must, at the request of any interested person and on payment of the prescribed fee, furnish such person with a copy of or extract from any such application, representation, response or further information.

(2) The Board may determine that any document or information relating to –

- (a) the financial capacity of any person participating in an application;
- (b) the names of prospective employees of the applicant concerned; or
- (c) the business plans of an applicant,

must not be open to public inspection.

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

- (a) the person concerned has requested the Board to make such a ruling and has shown cause as to why such ruling should be made; and
- (b) the representations must not be used as a basis for refusing an application for a licence or as grounds for the suspension or cancellation of a licence, unless the substance of the representations have been communicated to the applicant or licensee and the applicant or licensee has been given the opportunity to respond to the representations.

Investigation of application by Board and inspection of premises

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

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

concerned –

- (a) is of good repute, having regard to character, honesty and integrity;
- (b) has any business association with any person or body who or any association which, in the opinion of the Board, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
- (c) has at any time, whether in the Republic of South Africa or elsewhere, been convicted of an offence which, in the opinion of the Board, should be taken into account for purposes of achieving the objects of the Board;
- (d) has been directly or indirectly involved or associated with any practice which is improper, dishonest or discreditable, whether unlawful or not;
- (e) is of sound and stable financial standing; and
- (f) has appropriate knowledge or experience, or is able to acquire the necessary knowledge or experience, to conduct the activities for which the application is being made.

(3) Subject to the provisions of section 31(1)(a), whenever the Board receives an application for a casino licence, it must consult with the municipality in whose area of jurisdiction the casino is or may be situated as to the suitability of the proposed site for the casino.

(4) The Board may request the KwaZulu-Natal Provincial Commissioner of the South African Police Service or his or her delegate to assist in undertaking background investigations into an applicant for a licence, his or her principal, any manager of the business concerned, or any person who has a controlling interest or any financial interest whatsoever in the business concerned.

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

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

Obtaining of further information in connection with application

36. The Board may, by notice in writing, require an applicant for a licence and any relative of an applicant or any person whose business association with the applicant is, in the opinion of the

Board, relevant to the application, to provide such additional information as the Board may require to enable it to consider an application.

Hearing of application, investigation and summoning of witnesses

37.(1) The Board or a committee appointed by the Board for the purpose of this section must, except where –

- (a) the Board has refused to consider an application in terms of section 30(3);
- (b) the Board has refused an application in the manner contemplated in section 31; or
- (c) no written representations were received from a municipality, person or other body in response to the licence application, in accordance with section 33, in respect of an application for a site operator or independent site operator licence relating to a site contemplated in regulation 3(1) of the Regulations on Limited Payout Machines published under Government Notice No. R. 1425 dated 21 December 2000,

hold a hearing in respect of every application for a licence received by it and such hearing must be accessible to the public.

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

(3) At such hearing –

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

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

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

- (a) any person whose presence is not conducive to the good order or conduct of the hearing, must leave the hearing and may not attend a hearing which resumes after an adjournment; and
- (b) the hearing must continue in private if the Board, or the committee contemplated in subsection (1), is considering a matter which is affected by its ruling in terms of section 30(5)

or section 34(2) in relation to particulars, documents and information not accessible to the public or if it is otherwise in the interest of the matter under consideration.

(6) The Board or the committee contemplated in subsection (1) may, for the purposes of a hearing or an investigation contemplated in section 35 –

(a) summon any person who may be able to give material information concerning the application under consideration or who is believed to have in his or her possession or custody or under his or her control any book, document or thing which has any bearing on such application, to appear before it or the said committee at a time specified in the summons, which must not be less than seven days after service thereof, and at a place so specified, to be questioned or to produce the book, document or thing concerned, and may retain for examination any book, document or thing so produced: Provided that the person concerned is entitled to make a copy of such book, document or thing, if practicable, before it is retained by the Board; and

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

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

(8) Any person –

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

(b) called under subsection (6)(b) who refuses to be sworn or to make an affirmation as a witness, or fails without sufficient cause to answer fully and satisfactorily to the best of his or her knowledge and belief all questions lawfully put to him or her concerning the application or to produce any book, document or thing in his or her possession or custody or under his or her control, which he or she has been required to produce,

is guilty of an offence.

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

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

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

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

Communication of decision

38. The Chief Executive Officer must, within 10 days after the Board or a committee has taken a decision on an application, communicate such decision and the reasons for the decision, in writing, to –

- (a) the applicant, where the application has been granted or has been refused; or
- (b) any person who made representations in the manner prescribed, where the application has been granted.

Renewal of licence

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

(2) It is the responsibility of the licensee to apply to the Board for the renewal of a licence and to pay licence fee prescribed in Schedule 2, at least 60 days prior to the date on which the licence

becomes renewable.

(3) If a licensee fails to renew his or her licence by the date of renewal, the licence lapses and the licensee must –

- (a) cease the activities authorised by the licence; and
- (b) if he or she so wishes, apply to the Board for a new licence in accordance with the provisions of section 30, in which event all the provisions of this Act relating to an application for a licence apply, with the necessary changes.

Suspension of licence

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

- (a) any information given to the Board during an investigation contemplated in section 35 or any information contained in any application made by the licensee for the purpose of obtaining a licence, a variation to any specification or condition attached to a licence, the renewal or transfer of a licence or for the removal of the business concerned to other licensed premises, was at the time of being furnished false in any material respect or was subject to any material omission with the intention to mislead the Board;
- (b) the licensee is disqualified from holding a licence in terms of section 32;
- (c) the licensee, an employee of such licensee or any other person acting on his or her behalf has failed to comply with any term or condition of the licence or any provision of this Act or of the rules or has not complied with such term, condition or provision within 30 days, or such further period as the Board may in writing allow, after delivery of a written notice by the Board to the licensee requiring such failure to be remedied;
- (d) the licensee has, without the prior written consent of the Board, failed to conduct the gambling activities authorised by his or her licence for a period of three consecutive months;
- (e) the licensee fails to pay any amount prescribed in terms of this Act or in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, within the prescribed period;
- (f) the licensee fails to pay out forthwith any prize legitimately won in a gambling game conducted under the licence;
- (g) the licensee or his or her manager uses any gaming machine, limited payout machine or gaming equipment or permits any game to be played on a gaming machine or limited payout machine or with gaming equipment which –
 - (i) has been supplied by a person who is not registered in accordance with section 66; or

- (ii) does not comply in all material respects with a national norm or standard or with a norm or standard determined by the Board; or
- (h) the licensee fails to comply with any other provision of this Act or the rules which the Board, in its discretion, deems to be of such a nature as to warrant the suspension of the licence concerned.

(2) The Board may, pending an enquiry contemplated in section 87, immediately suspend the licence of any licensee for a material contravention of any provision of this Act, a condition of a licence or of the rules.

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

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

- (a) the Chief Executive Officer must immediately inform the licensee in writing of such suspension and of the reasons for the suspension; and
- (b) the licensee has no claim to a refund of any licence fee paid or any portion thereof.

(5) The Board may delegate its powers to suspend a licence to the Chief Executive Officer or to a committee, in which event the Chief Executive Officer or the committee –

- (a) may suspend the licence for a temporary period of not more than seven days; and
- (b) must immediately notify the Board of such temporary suspension to enable it to take a decision as to whether or not the period of suspension should be extended for such further period as the Board may determine or whether or not the suspension should be lifted forthwith.

Cancellation of licence

41.(1) Where the Board considers that sufficient grounds exist for the cancellation of a licence, it must serve a written notice on the licensee which must –

- (a) notify the licensee that the Board proposes to consider the cancellation of the licence concerned;
- (b) state clearly the ground or grounds for cancellation;
- (c) invite the licensee to, within 30 days after the date of the written notice –
 - (i) make written representations to the Board; or

- (ii) notify the Board in writing that he or she intends making oral representations to the Board; and
 - (d) state clearly that, should the licensee fail to respond to the written notice in the manner contemplated in paragraph (c), the Board will take a decision as to whether or not the licence concerned should be cancelled.
- (2) The Board may, when taking the action referred to in subsection (1), suspend the relevant licence in the manner contemplated in section 40 for such period as it may determine: Provided that the duration of such period may be varied by the Board.
- (3) Where written representations are made to the Board by the holder of –
 - (a) a casino licence, the Board must on such representation consider whether or not the licence should be cancelled; or
 - (b) any other licence, the Board must take such decision as may be justified by the information at its disposal and the written representations received.
- (4) When a licensee notifies the Board that he or she intends making oral representations to it, the Board must set a date, time and place for the hearing and the Chief Executive Officer must notify the licensee concerned in writing.
- (5) The licensee may be assisted or represented at a hearing by any person of his or her choice.
- (6) The Board must –
 - (a) at the hearing, request the Chief Executive Officer to present evidence justifying cancellation of the licence and thereafter give the licensee an opportunity to respond to the evidence presented and to state his or her case; and
 - (b) after the hearing, in the case of any licence, take a decision as to whether or not the licence concerned should be cancelled.
- (7) The Chief Executive Officer must convey to the licensee, in writing –
 - (a) the relevant decision of the Board; and
 - (b) the reasons for the said decision, upon being requested to do so by the licensee.
- (8) A licence must be cancelled forthwith if the licensee or any person in control of the licensee has been convicted of an offence in terms of this Act.

(9) When a licence is cancelled, any guarantee paid by the licensee must be used to settle any unpaid fees or penalties prescribed in this Act or any unpaid taxes determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010: Provided that any monies remaining thereafter must be used toward the settlement of any gambling debts payable by the former licensee.

(10) Any monies remaining after the settlement contemplated in subsection (9) has been finalised, must be paid to the former licensee.

Surrender of licence and conditions imposed thereon

42. The Board may, in its discretion and subject to this Act, impose any conditions on the surrender of a licence.

Transfer of licence

43.(1) A licensee may at any time make application to the Board for his or her licence to be transferred to another person and, in such event, the provisions of sections 30, 31, 32, 33, 34, 35, 36, 37 and 38 apply, with the necessary changes.

(2) When considering an application made in terms of subsection (1), the Board must consider the economic, social development and competition issues contemplated in sections 53 and 54 of the National Gambling Act.

(3) When an application is granted, the Chief Executive Officer must cause the name of the licensee to be altered appropriately on the licence.

Removal of business to other premises

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

(2) The Board may –

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

(b) refuse the application.

(3) When an application is granted, the Chief Executive Officer must cause the licence to be altered appropriately.

Death or placing under curatorship of licensee

45.(1) In the event of –

- (a) a licensee being placed under curatorship; or
- (b) the death of a licensee,

any licence which was held and operated by a person placed under curatorship or by a now deceased licensee, must be dealt with in terms of the provisions of the Administration of Estates Act, 1965 (Act No. 66 of 1965), or the Insolvency Act, 1936 (Act No. 24 of 1936), as the case may be and his or her husband or wife, next-of-kin, authorised representative or the executor of the deceased person's estate must immediately notify the Board of such placing under curatorship or death.

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

(3) In circumstances where the interest held in a licensed business by a person who is under curatorship or is deceased passes, by operation of law or otherwise, to his or her estate or to any person or persons other than a co-licensee, at least one such person must, within 90 days after the date of such death or curatorship, make application to the Board for a licence.

(4) The Board may issue to the applicant the relevant licence for such period as it may deem necessary and subject to any conditions appropriate to the licence concerned

(5) A licence granted in accordance with subsection (4) entitles the licensee to take part in the operation of the gambling activity authorised by the licence and to receive profits therefrom as successor of the person who is under curatorship or is deceased.

(6) The Chief Executive Officer must cause a licence to be issued to the applicant in the

prescribed form setting out the conditions subject to which the licence was issued.

(7) Notwithstanding anything to the contrary in this Act, a licensee in terms of subsection (4), may pass to another person who is not a licensee, but who is a successor of the person who is under curatorship or deceased, any part of the profits of the licensed gambling business which accrue after the date of death or placing under curatorship of the former licensee and may continue to pass such profits until the date upon which all processes contemplated in the Administration of Estates Act, 1965 (Act No. 66 of 1965), or the Insolvency Act, 1936 (Act No. 24 of 1936), have run their course, whereafter, the unlicensed successor or successors must, within 90 days, apply for the relevant licence: Provided that where no application is made within 90 days, or if the Board fails or refuses to grant the licence, any successor so affected must, within a time period stipulated by the Board, cease to receive any portion of the profits and must immediately upon the expiration of the period stipulated by the Board, transfer or surrender the licence.

Suitability of third parties

46. The Board may, in the manner prescribed –

- (a) require a licensee to disclose the detail of any contract or agreement with any supplier of gaming equipment, goods and services and with any lender, borrower, lessee or lessor, and direct such licensee to amend or terminate such contract or agreement; and
- (b) require any supplier for the purchase, hire or lease of gaming equipment, goods and services and any lender, borrower, lessee or lessor to make application to the Board, in the manner prescribed, for a certificate of suitability prior to contracting with a licensee.

CHAPTER 6 CASINOS

Directives by responsible Member of Executive Council

47.(1) The responsible Member of the Executive Council may, subject to subsection (2) and as and when necessary, issue to the Board directives relating to –

- (a) the maximum permissible number of casino licenses to be issued in the Province;
- (b) the permissible locations for casinos in the Province;
- (c) the required size, type and style of casinos generally or of any particular casino;
- (d) the granting of exclusive rights, for a specified period to a person to whom a casino license is issued, which will prevent the Board from granting another casino license for a

location within a specified area of the said licensee's casino during the period so specified;
and

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

(2) The responsible Member of the Executive Council must, when issuing a directive in terms of subsection (1), do so in consultation with the Executive Council and after consultation with the Board, the Portfolio Committee and any portfolio committee appointed by the Provincial Legislature which is responsible for the oversight of departments administering matters involving tourism and economic affairs.

(3) The responsible Member of the Executive Council may, in consultation with the Executive Council and after consultation with the Board, the portfolio committees referred to in subsection (2) and any holder of a casino licence issued in terms of section 51 who will be affected by the responsible Member of the Executive Council's decision in terms of this subsection, vary or withdraw any directive issued in terms of this section.

Licence required to operate casino

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

Consideration of applications by Board

49. The Board must, subject to section 31, give due consideration to all applications for casino licences made to it in terms of this Act and, in doing so, must take into consideration –

- (a) any directive issued in terms of section 47;
- (b) whether the proposed casino operation will satisfy the objects of the Board;
- (c) any representations made to it in connection with the application as well as any responses received to the representations;
- (d) any further information obtained in connection with the application as a result of a request or an investigation by the Board or by a person assisting the Board;
- (e) the extent to which a proposed casino and any resort attached to such casino promotes the attainment of the objectives referred to in section 6(1)(a) and (b);
- (f) the applicant's commitment to the promotion of tourism, sustainable employment and

economic and social development in the Province;

(g) the extent to which the applicant intends to provide for participation in ownership or profits of the casino by persons, groups or categories of persons disadvantaged by unfair discrimination; and

(h) the economic, social development and competition issues contemplated in sections 53 and 54 of the National Gambling Act.

Decision-making in casino licensing

50. After having considered all applications made to it in the prescribed manner, the Board may grant an application, subject to any conditions it may in its discretion impose, or may refuse an application.

Issue of casino licence and temporary casino licence

51.(1) Within one month of the granting of a casino licence and upon the payment, by the applicant, of the licence fee prescribed in Schedule 2, the Chief Executive Officer must cause a licence to be issued to the applicant in the prescribed form setting out the conditions subject to which the application was granted.

(2) The licence must, in addition to the conditions imposed –

(a) specify the full names of the licensee;

(b) specify the premises to which it relates; and

(c) specify the date on which the licence is issued and the date by which it must be renewed or, if it is a temporary licence, the date on which it expires.

Temporary casino licence

52.(1) The Chief Executive Officer must issue a temporary casino licence in accordance with the provisions of section 51 in a case where a licence is granted and the casino premises are not ready or suitable for occupation or where the Board considers that circumstances justify the issue of a temporary licence.

(2) A temporary casino licence binds the licensee to all the provisions of this Act and any reference to a licence or a licensee is deemed to be a reference to a temporary casino licence or

the holder thereof, respectively.

- (3) The Board may, on application to it by the holder of a temporary casino licence—
- (a) amend, substitute or rescind any condition attached to the licence; and
 - (b) extend the period specified in terms of section 51(2)(c), subject to the payment of any prescribed fee or penalty: Provided that the period by which the licence is extended must not exceed 24 months from the date of the extension being granted: Provided, further, that in all cases in which the amendment, substitution or rescinding of any condition attached to a licence has the potential to affect the attainment or promotion of the Board's objects as per section 6 of the Act, the Board may only amend, substitute or rescind such condition, in consultation with the responsible Member of the Executive Council.
- (4) Where an application referred to in subsection (3) has been granted, the Chief Executive Officer must cause the amendment, substitution or rescission to be endorsed on the licence.
- (5) When the Board is satisfied that the casino premises contemplated in subsection (1) have been completed substantially in accordance with the plan thereof approved by the Board or that the circumstances which justified the issue of a temporary casino licence no longer exist; the conditions and requirements determined by the Board have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, the Board must authorise the Chief Executive Officer to issue the licence to the applicant in accordance with section 51.
- (6) A temporary casino licence lapses 30 days after the date on which the licence contemplated in subsection (5) was issued.

Conditions of casino licence

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

- (a) the payment of a guarantee as security for any fees or penalties prescribed in this Act, any taxes determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, or any gambling debts payable by the licensee;
- (b) the payment of a guarantee as security for the completion, by a date determined by the Board, of the casino, any project associated with the casino and any premises connected to

or associated with the casino, including the installation of any gaming equipment, gaming machines and any other furnishings, fixtures and fittings;

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

(d) the erection, alteration, addition or reconstruction of any casino premises or premises connected to or associated with the casino;

(e) standards and requirements in relation to the gaming equipment and gaming machines placed, used and operated in a casino;

(f) the total number of casino games which may be placed and played on the premises concerned;

(g) the days on which and the hours during which gambling may take place;

(h) the keeping of books, accounts, records and other information relating to the operation of gambling; and

(i) the submission to the Board of any reports and returns relating to the operation of gambling as the Board may from time to time require.

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

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

(4) A licensee may at any time apply to the Board for any condition to be amended, substituted or rescinded, whereupon the Board may grant or refuse the application: Provided that a guarantee contemplated in subsection (1)(a) and (b) may only be returned to the licensee in the manner prescribed: Provided, further, that in all cases in which the amendment, substitution or rescinding of any condition attached to a licence has the potential to affect the attainment or promotion of the Board's objects as per section 6 of the Act, the Board may only amend, substitute or rescind such condition, in consultation with the responsible Member of the Executive Council.

(5) Where the application has been granted, the Chief Executive Officer must cause the amendment, substitution or rescission to be endorsed on the licence.

Financial and controlling interests

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

(2) When a licensee applies to the Board for its consent as contemplated by subsection (1), the provisions of sections 32, 33, 34, 35, 36, 37 and 38 apply, with the necessary changes, to the person who proposes to acquire a controlling interest or a financial interest of five percent or more in the business concerned.

CHAPTER 7
GAMING MACHINES, LIMITED PAYOUT MACHINES AND LICENCES

Licences required for gaming machines and limited payout machines

55.(1) No person may keep premises where gaming machines or limited payout machines are played unless he or she is in possession of a valid casino licence, independent site operator licence or site operator licence issued in terms of this Act.

(2) No person may –

- (a) make gaming machines or limited payout machines available for use in any licensed premises;
- (b) undertake the regular maintenance or repair, replacement or upgrading of gaming machines or limited payout machines in such premises; or
- (c) conduct any other prescribed activities of a route operator,

unless he or she is in possession of a casino licence, route operator licence, site operator licence or independent site operator licence issued in terms of this Act.

Application for, site operator, independent site operator and route operator licence

56.(1) Any person who wishes to obtain a site operator or independent site operator licence must apply to the Board for such a licence in the manner prescribed and must pay the application fee prescribed in Schedule 2.

(2) Any person who wishes to obtain a route operator licence to make limited payout machines available for use in premises of site operators, may apply to the Board for such a licence in the manner prescribed and must pay the application fee prescribed in Schedule 2.

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

(4) On receipt of an application for a licence, the Chief Executive Officer must initiate the prescribed application procedures forthwith.

(5) When considering an application made in terms of subsection (1) or (2), the Board must consider the economic, social development and competition issues contemplated in sections 53 and 54 of the National Gambling Act.

Issue of site operator, independent site operator and route operator licence and conditions

57.(1) The Board may authorise the Chief Executive Officer to issue a site operator, independent site operator or route operator licence subject to any conditions the Board, in its discretion, wishes to impose, including –

- (a) the premises or area within such premises in which limited payout machines may be placed for use by players;
- (b) the maximum number of limited payout machines allowed in the licensed premises: Provided that the number of limited payout machines does not exceed the prescribed maximum;
- (c) the maximum amount that may be staked by a player per game: Provided that the amount does not exceed the prescribed maximum amount;
- (d) the maximum amount that may be won by a player: Provided that the amount does not exceed the prescribed maximum amount;
- (e) the minimum standards with which limited payout machines must comply;
- (f) the days on which and hours during which limited payout machines may be made available for use by players;
- (g) the payment of a guarantee as security for any fees or penalties prescribed in this Act, any taxes determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, or any gambling debts payable by the licensee;
- (h) standards in relation to the premises on which gaming is to take place;

- (i) the keeping of books, accounts, records and other information relating to the operation of limited payout machines; and
- (j) the submission to the Board of any reports and returns relating to the operation of limited payout machines as the Board may from time to time require.

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

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

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

(5) Where the application has been granted, the Chief Executive Officer must cause the amendment, substitution or rescission to be endorsed on the licence.

Electronic monitoring system

58. Every gaming machine or limited payout machine that is authorised by the Board for use on licensed premises must be connected to the prescribed electronic monitoring system.

Gaming machines, limited payout machines and gaming equipment

59. A licensee may not use a gaming machine, limited payout machine or gaming equipment or allow any game to be played on a gaming machine or limited payout machine or on or with gaming equipment which –

- (a) is of a type and model that does not conform with a national norm or standard or, where there is no national norm or standard, does not conform with a norm and standard determined by the Board;
- (b) has been supplied by a manufacturer or supplier who has not been registered by the Board in terms of section 66; or

(c) has not been separately registered by the Board.

CHAPTER 8 BINGO

Licence required to conduct bingo games

60.(1) No person may maintain premises where the gambling game of bingo is played, without –

- (a) a casino licence; or
- (b) a bingo licence,

whether or not any such game is linked as contemplated in subsection (2).

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

(3) A bingo licence must specify the number of electronic bingo terminals authorised for use in terms of the licence.

(4) The number of electronic bingo terminals authorised for use in terms of a bingo licence must not exceed the maximum number prescribed in terms of this Act or in terms of the National Gambling Act.

(5) Maximum stake limits and maximum prize limits may be prescribed for bingo and may be prescribed for electronic bingo terminals, in terms of this Act.

(6) Electronic bingo terminals operated under the authority of a bingo licence, must not render a bingo game which exceeds the prescribed stake limits, or the prescribed prize limits, for the game of bingo, or for electronic bingo terminals.

Application for licence to conduct bingo games

61.(1) Any person who wishes to obtain a licence to conduct bingo games must apply to the Board for such a licence in the manner contemplated in section 30 and pay the application fee prescribed in Schedule 2.

(2) When considering an application made in terms of subsection (1), the Board must consider the economic, social development and competition issues contemplated in sections 53 and 54 of the National Gambling Act.

Issue of bingo licence and conditions

62.(1) The Board may authorise the Chief Executive Officer to issue a bingo licence subject to any conditions the Board, in its discretion, wishes to impose, including –

- (a) the erection, alteration, addition or reconstruction of any premises which are to be used as a bingo hall, including any premises connected to or associated with the bingo hall;
- (b) the payment of a guarantee as security for the completion, by a date determined by the Board, of any project associated with the bingo hall, any premises on which it is situated or any premises connected to or associated with the bingo hall, including the installation of any gaming equipment, or other furnishings, fixtures and fittings;
- (c) standards in relation to the premises on which gambling is to take place;
- (d) standards and requirements in relation to the gaming equipment placed, used and operated in a bingo hall;
- (e) any devices or electronic bingo terminals which may be used to play bingo;
- (f) the maximum amount that may be staked by a player per game: Provided that the amount does not exceed the prescribed maximum amount;
- (g) the maximum amount that may be won by a player: Provided that the amount does not exceed the prescribed maximum amount;
- (h) the days on which and hours during which bingo games may be played
- (i) the payment of a guarantee as security for any fees or penalties prescribed in this Act, any taxes determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, or any gambling debts payable by the licensee;
- (j) the keeping of books, accounts, records and other information relating to the bingo games authorised; and
- (k) the submission to the Board of any reports and returns relating to the bingo games authorised as the Board may from time to time require.

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

the relevant rules.

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

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

(5) Where the application has been granted, the Chief Executive Officer must cause the amendment, substitution or rescission to be endorsed on the licence.

CHAPTER 9 NATIONAL LICENCES AND NATIONAL REGULATORY REQUIREMENTS

National licences

63.(1) The Board may issue national licences where it is authorised to do so in terms of the National Gambling Act.

(2) Except as otherwise provided in the National Gambling Act, the provisions of this Act apply in respect of any national licence issued in terms of the National Gambling Act.

(3) Notwithstanding the provisions of this Act, the holder of a national licence is entitled to conduct the activities authorised thereby in the Province as if such licence had been issued in terms of this Act.

Handbook of national regulatory requirements

64.(1) The Board must compile and issue to all current and prospective licensees, a handbook, detailing –

- (a) all national regulatory requirements, norms and standards relating to gambling matters that are not prescribed in this Act; and
- (b) all powers, functions and duties conferred or imposed upon the Board by national gambling legislation that are not prescribed in this Act.

(2) The Board must review and, when necessary, amend and reissue the handbook within three months of any changes having been effected to any national regulatory requirements, norms or standards.

(3) The Board must publish the handbook and all amendments made thereto in the *Gazette*.

(4) The Board may provide for the levying of a fee against the issuing of the handbook, in an amount calculated by the Board to cover the expenditure incurred in printing the handbook.

CHAPTER 10 REGISTRATION OF CERTAIN PERSONS

Registration of special employees

65. Subject to the provisions of section 68(8), no person may be employed by or work for a route operator, an independent site operator, or the holder of a casino or bingo licence in –

- (a) a managerial capacity or in a position where such person is authorised by the licensee to make decisions that regulate a route operator's operations, an independent site operator's operations, or operations in a casino or a bingo hall; or
- (b) any capacity relating to the following activities:
 - (i) the conduct of gaming;
 - (ii) the movement of money, chips or other items of value;
 - (iii) the exchange of money, chips or other items of value to patrons;
 - (iv) the counting or custody of money, chips or other items of value;
 - (v) the construction, purchase, operation, maintenance, service, repair of or access to gaming equipment;
 - (vi) any supervision of the above activities; or
 - (vii) any other activity relating to the operations of a route operator, an independent site operator, or to the operations in a casino or a bingo hall which the Board may, from time to time, specify in its rules,

unless such person has been registered as a special employee and has been issued with a certificate of registration by the Board.

Registration of persons associated with provision of gaming equipment

66. No person may manufacture, sell, make available, lease, distribute, import, market, maintain, service or repair any gaming equipment unless such person has been registered by the Board and such gaming equipment has been separately registered by the Board in accordance with the provisions of section 59(c).

Disqualification for registration

67. An application for registration must not be granted if the applicant is subject to any disqualification contemplated in section 32.

Registration

68.(1) Any person who wishes to be registered in accordance with the provisions of this Chapter, must apply to the Board in the manner prescribed together with the registration fee prescribed in Schedule 2.

(2) On receipt of an application for registration, the Board must undertake or cause the investigation contemplated in section 35 to be undertaken.

(3) The Board must make rules for the procedures to be applied by it in regard to processing and considering an application for registration in terms of this Chapter.

(4) The Board may grant an application with or without conditions and may refuse an application: Provided that –

- (a) it may not refuse an application for registration without giving the applicant the opportunity of being heard; and
- (b) the Chief Executive Officer must, on being requested to do so by the applicant, convey to him or her, in writing, the reasons for a decision of the Board not to grant his or her application for registration.

(5) Where the Board grants an application for registration, the Chief Executive Officer must, within 10 days of the granting of the application, cause a certificate of registration to be issued to the applicant in the prescribed form setting out any conditions subject to which the application was granted.

(6) A person who has been registered subject to any condition may at any time apply to the Board for such condition to be amended, substituted or rescinded, whereupon the Board may, in its discretion, grant or refuse such application and, in either event, the Board's decision is final.

(7) Where an application contemplated in subsection (6) is granted, the Chief Executive Officer must cause the amendment, substitution or rescission to be endorsed on the certificate of registration.

(8) The Board may, in writing, authorise a person who has applied for registration as a special employee to commence employment prior to the granting of a certificate of registration by the Board, if the Board is of opinion that –

- (a) it will not be in a position to make a decision on the application for some time;
- (b) the delay in issuing a certificate of registration to the applicant will seriously prejudice or disadvantage the operation of the relevant licensee's business; and
- (c) permitting the applicant to be employed prior to the grant and issue of a certificate of registration contemplated in subsection (5), will not prejudice or compromise the objects of the Board.

(9) A person to whom the Board has given written permission to commence employment in the manner contemplated in subsection (8) and whose application for registration as a special employee is thereafter refused by the Board, must immediately cease employment in the capacity contemplated in section 65 and has no claim whatsoever upon the Board for the refund of the registration fee or for any other form of compensation.

(10) The Board's decision as to whether to grant or refuse an application for registration is final.

Duration of registration

69. A person's registration remains valid from the date of issue until –

- (a) the date on which the person registered surrenders his or her registration, in writing together with the certificate of registration, to the Chief Executive Officer;
- (b) a continuous period of 12 months has elapsed from the date on which the person registered ceased to be employed in the capacity for which he or she was registered;
- (c) a person registered is subject to a disqualification contemplated in section 32; or
- (d) the registration is cancelled by the Board in terms of section 71.

Operator's responsibilities

70.(1) A casino licensee, licensee of a bingo hall, an independent site operator, or a route operator may not employ, engage the services of or enter into any contract or agreement with any of the persons contemplated in sections 65 and 66, unless such person is the holder of a valid certificate of registration or written authorisation by the Board contemplated in section 68(8).

(2) A casino licensee, licensee of a bingo hall, an independent site operator, or a route operator who employs, engages the services of or enters into any contract or agreement with any person who is required to be registered in accordance with the provisions of this Chapter, must inform the Board in writing of such employment and of any cessation or termination thereof.

Suspension or cancellation of registration

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

- (a) any information given to the Board during an investigation contemplated in section 35 or any information contained in the application for registration or for the variation of a condition attached to the granting of registration was, at the time of being furnished by the applicant, false in any material respect or was subject to any material omission with the intention of misleading the Board;
- (b) the person registered is subject to a disqualification contemplated in section 32; or
- (c) the person registered has contravened a term or condition of his or her registration or a provision of this Act.

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

Employees of licensees not permitted to gamble

72. A person who is employed by a person licensed in terms of this Act may not, as a player, participate in any gambling activity in the premises at which he or she is employed.

CHAPTER 11 FEES, TAXES AND LEVIES

Application and investigation fees

73. Any person who submits an application to the Board for a licence, for the amendment, substitution or rescission of a condition attached to a licence, for the transfer of a licence or for the removal of his or her business from the premises specified in the licence to other premises, must pay to the Board –

- (a) the application fee prescribed in Schedule 2; and
- (b) all direct expenses incurred by the Board in respect of any investigations undertaken by it in terms of sections 35 and 37: Provided that the Board may require an applicant to lodge with it such security, as it may determine, before conducting any investigation contemplated in the said sections.

Registration fees

74. Any person who applies for registration as a special employee in terms of section 65 or to perform the activities contemplated in section 66, must pay the registration fee prescribed in Schedule 2.

Fees in respect of casino licence

75.(1) Any person who is required to –

- (a) pay a fee for the granting of exclusive rights as directed by the responsible Member of the Executive Council in accordance with section 47; or
- (b) pay the licence fee prescribed in Schedule 2,

must, within 30 days of the granting of a casino licence, pay the applicable amount into the Provincial Revenue Fund prior to the casino licence being issued by the Chief Executive Officer.

(2) In the event that the applicant fails to pay the fees referred to in subsection (1) within 30 days of the granting of such licence, the licence lapses.

(3) The licensee must pay to the Board the licence renewal fee prescribed in Schedule 2.

Fees in respect of other licences

76.(1) The licence fees prescribed in Schedule 2, other than a casino licence fee, or casino exclusivity fee, are payable to the Board and are payable separately from and in addition to any other amounts or levies payable under this Act.

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

(3) Any licence holder who fails to pay any licence fees referred to in subsection (1) on or before the date on which he or she becomes liable to pay such licence fees, must in addition to such licence fees pay the prescribed penalty.

Taxes payable

77.(1) All persons licensed in terms of this Act must, subject to section 129, pay the taxes imposed in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, into the Provincial Revenue Fund.

(2) It is an offence in terms of this Act to fail to pay the taxes imposed in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010.

Penalty for late payment

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

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

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

Recovery of fees or taxes

79. All fees and taxes due and payable in accordance with the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and any remaining unpaid fees and taxes may be recovered by action as for a debt in any court of law.

CHAPTER 12
INSPECTIONS, INVESTIGATIONS AND ENQUIRIES

Restriction on operating as inspector

80. No person may operate as an inspector in the Province for the purpose of exercising any power, function or duty relating to a casino, gaming, horse racing or betting, unless such person

—

- (a) has been appointed as an inspector by the responsible Member of the Executive Council;
- (b) has been specially authorised by the Board to exercise any authority or perform any duty conferred on an inspector by this Act, in which event such person is regarded as having been appointed as an inspector; or
- (c) is a member of the South African Police Service.

Appointment of inspectors

81.(1) The responsible Member of the Executive Council may, from time to time, appoint any employee in his or her department, or any other natural person, as an inspector for the purposes of —

- (a) generally ensuring that the gambling industry operating in the Province is being regulated efficiently and effectively by the Board, in terms of all of the applicable laws; or
- (b) undertaking an audit of a gambling operation or an investigation into any particular aspect of the operations of the gambling industry in the Province.

(2) The Board may appoint any employee of the Board, or any other natural person, as an inspector.

(3) A natural person who is appointed by the Board as an inspector must be appointed on such conditions and be paid such remuneration as may be determined by the Board.

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

(5) An inspector must, on appointment, be provided with an identity card in the prescribed form signed by the responsible Member of the Executive Council or the chairperson, or by their delegate, as the case may be.

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

(7) No person may be appointed as an inspector if he or she is subject to any disqualification contemplated in section 82.

Disqualification from being appointed as inspector

82.(1) A person is disqualified from being appointed as an inspector if he or she –

- (a) is a political office bearer;
- (b) is under the age of 18 years on the date of appointment;
- (c) is an unrehabilitated insolvent;
- (d)(i) is a person under curatorship;
 - (ii) is certified under section 9 of the Mental Health Act, 1973 (Act No. 18 of 1973), and has not been discharged from an institution contemplated under such Act; or
 - (iii) can be conclusively shown to be of unsound mind or suffering from infirmity of body which prevents him or her from the proper execution of his or her duties;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (f) within the previous ten years has been, or is convicted in the Republic or elsewhere of theft, fraud, forgery or uttering of 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
- (g) he or she 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;

(h) his or her relative, whether as a director, member, partner or employee -

(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 an inspector; or

(i) is listed on the register of excluded persons contemplated by section 14(7) of the National Gambling Act.

(2) For the purposes of this section, a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment.

Removal of inspector

83. The responsible Member of the Executive Council may forthwith remove an inspector from his or her duties and take appropriate steps to terminate the services of such inspector, and the Board has similar powers in respect of any person who is specially authorised by it to exercise any authority or perform any duty conferred on an inspector by this Act, if such inspector –

(a) is subject to a disqualification contemplated in section 82;

(b) violates his or her position of public trust;

(c) exceeds his or her powers in terms of this Act;

(d) is convicted of an offence in terms of this Act; or

(e) conducts himself or herself, during the course of exercising the functions and powers under this Act, in a manner which discredits the position of an inspector.

Position of public trust

84.(1) No inspector, or his or her relative, may accept any donation, reward or other similar benefit directly or indirectly from any applicant for a licence or registration under this Act, or from any licensee or registrant under this Act.

(2) No inspector, may, unless doing so in the course and scope of his or her employment, or through performance of his or her duties in terms of this Act –

(a) gamble in the Province;

(b) gamble elsewhere in South Africa through any licensee licensed in the Province:

Provided that participation in the National Lottery is not considered to be gambling for the purposes of this section.

(3) No inspector, may solicit or accept employment from a licensee, registrant or from an applicant for a licence or registration in terms of this Act: Provided that this prohibition remains in force for one year following the date of termination of the period of appointment of such inspector.

(4) A licensee, registrant or an applicant for a licence or registration in terms of this Act is disqualified from remaining a licensee or registrant or from obtaining a licence or registration, as the case may be, if such licensee, registrant or applicant employs any person contrary to subsection (3), without first having taken reasonable steps to ensure that the person to be employed was not disqualified from such employment by virtue of subsection (3).

(5) No relative of an inspector may be employed by a licensee or registrant in terms of this Act, or by an applicant for a licence or registration in terms of this Act.

(6) Any person who contravenes a provision of subsection (1) or (5) is guilty of an offence.

Functions and powers of inspectors

85.(1) An inspector may at any time and without previous notice or permission enter, be and remain upon any licensed premises and may –

(a) inspect the said premises;

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

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

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

(e) request from the person deemed by the inspector to be in charge of the premises the immediate production of any licence, certificate, registration, permission, authority or any

information required under this Act, or any gaming equipment, chips, money, books, accounts, records, documents and any other objects capable of being used in connection with gambling, for the purpose of verifying compliance with any provision of this Act or the rules of the horseracing authority licensed in terms of the National Gambling Act;

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

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

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

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

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

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

(j) demand from any person licensed or registered in terms of section 89, 94, 103, 110 or 111, the production of any books, tickets, documents and records of any kind, statements or returns made under Chapter 18 and any accounts, including such banking or other financial accounts as are suspected of being used in connection with the operation of any bookmaking business or totalisator;

(k) demand from any race horse training establishment, spelling farm for race horses or horse breeding establishment, or any person or body involved with horse racing or betting, the production of any books, documents or records or statements or returns made under Chapter 18 or the rules of the horseracing authority licensed in terms of the National Gambling Act or for the purpose of any information required by such person in the exercise of his or her powers or the performance of his or her duties; and

(l) remove any of the items contemplated in paragraphs (j) and (k) for a reasonable period for the purpose of inspecting and making copies of any information contained therein.

(2) Subject to the provisions of subsection (3), an inspector may, in the company of a member of the South African Police Service –

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

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

(ii) persons are being allowed to gamble or bet or to participate in any gambling activity, and, after having informed the person deemed by the inspector to be in charge of the premises of the purpose of his or her visit, perform any of the functions referred to in subsection (1);

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

(c) enter upon and inspect any premises and the contents thereof for the purpose of ascertaining whether the provisions of this Act, the KwaZulu-Natal Gaming and Betting Tax Act, 2010, or the rules of the horseracing authority licensed in terms of the National Gambling Act are being complied with or contravened, as the case may be; and

(d) seize any vehicle, container, movable structure, horse or specimen taken therefrom, book, register, invoice, record, document or any other article which, in his or her opinion, could provide proof of contravention of any provision of this Act, the KwaZulu-Natal Gaming and Betting Tax Act, 2010, or the rules of the horseracing authority licensed in terms of the National Gambling Act:

Provided that the inspector complies with the relevant provisions of Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(3) An inspector whose identity card has been endorsed in accordance with the provisions of section 81(4) to include the powers of a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), may perform any of the functions and powers referred to in subsection (2).

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

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

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

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

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

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

(6) When performing any function in terms of this section, an inspector may be accompanied by and may utilise the services of an assistant, an interpreter or any member of the South African Police Service.

(7) Where an inspector has reason to believe that a provision of this Act or the KwaZulu-Natal Gaming and Betting Tax Act, 2010, the conditions attached to a licence or a certificate of registration, the rules or the rules of the horseracing authority licensed in terms of the National Gambling Act have been contravened, he or she must investigate the matter in the manner contemplated in this section and must forthwith furnish the Board with a report on the findings of such investigation.

(8) A person is guilty of an offence if he or she —

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

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

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

Resistance against entry

86. If an inspector encounters resistance when entering any premises in accordance with section 85, such inspector must immediately request the assistance of a member of the South African Police Service.

Enquiries by Board

87.(1) The Board may conduct an enquiry into any matter falling within the scope of its powers and functions, in which case the provisions of section 37 apply, with the necessary changes, to such enquiry.

(2) The Board may, after any enquiry, find a licensee or person registered in accordance with the provisions of sections 65 and 66 guilty of not complying with any of the provisions of this Act, the KwaZulu-Natal Gaming and Betting Tax Act, 2010, or the rules and may –

- (a) institute legal action against such licensee or person;
- (b) suspend the relevant licence or certificate of registration in accordance with the provisions of section 40 or 71, respectively;
- (c) cancel a licence or certificate of registration in accordance with the provisions of section 41 or 71, respectively; or
- (d) levy a fine or penalty on such licensee or person: Provided that the amount of such fine or penalty does not exceed the prescribed amount.

CHAPTER 13
RACECOURSE OPERATORS

Prohibition of unauthorised race meetings

88. No person may hold a race meeting unless that person holds a racecourse operator's licence and such race meeting is held on one or more racecourses specified in the licence.

Racecourse operator's licence

89.(1) The Board may, on application in the manner prescribed by the Board and subject to the provisions of subsection (3), approve the issue of a racecourse operator's licence to any corporate body to hold race meetings on one or more racecourses specified in the licence, which approval may be conditional or unconditional: Provided that, when considering such application,

the Board must consider the economic, social development and competition issues contemplated in sections 53 and 54 of the National Gambling Act.

(2) The corporate body in subsection (1) must have as one of its objects the promotion and conduct of horse racing.

(3) The licence approved in terms of subsection (1), may not be issued –

(a) unless the Board is satisfied that due provision will be made for the conduct and control of horse racing and betting on the said racecourse or racecourses in a manner which will facilitate the realisation of the objects of the Board contemplated in section 6(1)(a), (c), (d), (e) and (f);

(b) if, subject to the provisions of section 133, any director, member or any shareholder with an interest, including a financial interest, of five percent or more in the corporate body is or becomes subject to a disqualification contemplated in section 32; and

(c) unless the Board has consulted with the National Horseracing Authority and has obtained from it written evidence that the racecourse or racecourses to be specified in the licence comply with the rules and any other requirements of the said authority.

(4) The application contemplated in subsection (1) must be accompanied by the applicant's articles of association, the application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.

(5) The licence issued in terms of subsection (1) 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;

(c) the racecourses at or from which the licensee is permitted to operate; and

(d) the duration of the licence.

(6) The Board may cancel or suspend, for a specified period, a racecourse operator's licence if any of the operator's office-holders or employees have contravened or are on reasonable grounds suspected of having contravened this Act, the KwaZulu-Natal Gaming and Betting Tax Act, 2010, the regulations, or the conditions of such licence.

(7) The Board may grant a non-transferable right to a bookmaker to operate a bookmaking

business from any single racecourse specified in a racecourse operator's licence, subject to the consent of the relevant racecourse operator, which consent may not be unreasonably withheld.

(8) All race meetings held on a racecourse or racecourses specified in a racecourse operator's licence must be conducted under and in terms of the constitution, rules and regulations of the National Horseracing Authority.

(9) A racecourse operator must annually, not later than six months after the end of its financial year, provide the Board with a copy of the audited financial statement of such racecourse operator, in respect of the activities of such racecourse operator for the financial year in question, in which audited financial statements the distributions referred to in section 132(b) are separately identified together with the expenditure related thereto: Provided that the Board may, on application to it by a racecourse operator, extend the period by no more than six months.

Change in interest of racecourse operator licensee

90. Any person who, directly or indirectly, procures an interest, including a financial interest, of five percent or more in the business to which the licence, issued in terms section 89(1), relates must within the period prescribed by the Board and in the manner prescribed or determined by the Board, apply for the consent of the Board for the holding of such interest: Provided that the consent of the Board is subject to the provisions of section 89.

Renewal of racecourse operator's licence

91.(1) Unless renewed in terms of subsection (2), the licence issued in terms of section 89(1) expires on the thirty-first day of December of the year in respect of which it was issued or renewed.

(2) Application for the renewal of a licence issued in terms of section 89(1) for a further 12 month period must be made in the manner prescribed by the Board and be accompanied by the relevant fee specified in Schedule 2: Provided that the Board may only grant an application if it is satisfied that the racecourse operator has made adequate progress in facilitating the realisation of the objects of the Board contemplated in section 6(1)(a), (c), (d), (e) and (f).

Disposal of assets on dissolution or liquidation of racecourse operator

92. If, on dissolution or liquidation of any racecourse operator and after satisfaction of all the debts and liabilities of such operator, there remains any asset whatsoever, such operator must, notwithstanding anything to the contrary in its articles of association, by resolution determine that such asset be paid or transferred to –

- (a) any other corporate body contemplated in section 89(1), of its choice;
- (b) the Provincial Revenue Fund; or
- (c) the Horse Racing and Betting Transformation Fund.

CHAPTER 14 BOOKMAKERS

Licence required to conduct business of bookmaker

93.(1) A person is not permitted to conduct the business of a bookmaker without holding a bookmaker's licence.

(2) A bookmaker's licence authorizes the holder to operate as a bookmaker in the process of transacting bets: Provided that the said licence does not authorise the licence holder to transact bets with the licence holder's employees: Provided, further, that nothing prevents a bookmaker from transacting take-back bets.

Application for, granting and renewal of, bookmaker's licence

94.(1) An application for a bookmaker's licence must be made to the Board in the manner prescribed by the Board and must be accompanied by the relevant application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.

(2) The Board may, after it has satisfied itself that the applicant is not disqualified from holding such licence –

- (a) grant such licence with or without conditions;
- (b) refuse such licence; or
- (c) refer the application back to the applicant for the submission of additional information.

(3) Where an application is refused, the Board must furnish the unsuccessful applicant with

or her principal does not have access to financial resources that are, in the opinion of the Board, adequate to ensure the financial viability of the business to which the licence relates and either sufficient experience in the management and operation of such business or access to the services of persons with such experience.

(3) The provisions of this section apply, with the necessary changes, to the natural person nominated by a corporate body in terms of section 94(5).

Disqualification of corporate body

96.(1) Subject to the provisions of section 133, a bookmaker's licence must not be issued to or be held by a corporate body if any director, member or any shareholder with an interest, including a financial interest, of five percent or more in the corporate body is or becomes subject to a disqualification contemplated in section 32.

(2) Where a director, member or shareholder becomes subject to disqualification after the issue of a bookmaker's licence, the relevant corporate body must immediately notify the Board of the details of such disqualification, whereupon the Board must conditionally or unconditionally suspend the relevant bookmaker's licence until the disqualification has been rectified, failing which the licence will lapse.

Change in natural persons owning bookmaker's licence

97.(1) A bookmaker's licence issued to a natural person lapses whenever there is a change in the identity of the owner of the bookmaking business to which the licence relates, unless the Board has authorised the change in ownership or has granted and issued a licence to the new owner in the manner contemplated in subsection (2).

(2) The Board may, on application to it by the prospective owner of a bookmaking business –

- (a) authorise conditionally or unconditionally the change in ownership or refuse to authorise the change in ownership, subject to the provisions of sections 95 and 96;
- (b) grant and issue a bookmaker's licence to the prospective owner of the bookmaking business or refuse to grant such licence, subject to the provisions of sections 95 and 96; or
- (c) refer the application back to the applicant for the submission of such further information as the Board may require.

(3) When considering an application made in terms of subsection (2), the Board must consider the economic, social development and competition issues contemplated in sections 53 and 54 of the National Gambling Act.

Change in directors or members of corporate body, person nominated by corporate body and shareholding

98.(1) Where a bookmaking business is owned by a corporate body and the shares in such body which are held by its members are varied without there being any change in the identity of the members, the licensee must, within seven working days of such change, provide the Board in writing with full particulars of such change to the shareholding.

(2) Where a bookmaking business is owned by a corporate body and there is a change in the identity of –

- (a) the directors or members, as the case may be, of such corporate body; or
- (b) the person nominated in terms of section 94(5),

the licence lapses unless the Board –

- (i) within seven working days of such change, receives a written application by the licensee for approval of such change; and
- (ii) subject to the provisions of sections 95 and 96, approves the change in identity of such directors, members or person and endorses the bookmaker's licence accordingly.

(3) Where a bookmaking business is owned by a corporate body and –

- (a) any person, directly or indirectly, procures a controlling interest or a financial interest of five percent or more in such corporate body; or
- (b) a shareholder varies his or her shareholding in such corporate body which results in the shareholder acquiring a controlling or financial interest of five percent or more in the corporate body,

the licensee must within the period prescribed by the Board and in the manner prescribed or determined by the Board, apply for the consent of the Board for the holding of such interest: Provided that the consent of the Board is subject to the provisions of sections 95 and 96.

(4) In considering an application contemplated in subsection (2) or (3), the Board must take into account the objects of the Board contemplated in section 6(1)(c), (d), (e) and (f).

Suspension, cancellation or lapsing of bookmaker's licence

99.(1) If, after investigation and report by a member, committee established in terms of section 18 or employee of the Board, it appears to the Board that a bookmaker has failed to settle any debts in respect of any betting transactions which are due and payable, or is guilty of having contravened this Act or of disgraceful conduct, the Board must hold an open hearing at which the bookmaker is given every reasonable opportunity of answering the allegations and bringing evidence in his or her favour.

(2) Prior to holding the hearing contemplated in subsection (1), the Board must deliver to the bookmaker concerned a written notice –

- (a) notifying the bookmaker that the Board proposes to consider the suspension or the cancellation of the licence or licences concerned;
- (b) clearly setting out the ground or grounds for the proposed suspension or cancellation;
- (c) inviting the bookmaker, within such period as the Board may determine, to –
 - (i) make written representations to the Board; and
 - (ii) notify the Board in writing whether he or she intends to make oral representations to the Board; and
- (d) specifying the place, date and time at which the hearing will commence.

(3) The bookmaker may be assisted or represented at a hearing by any person of the bookmaker's choice.

(4)(a) Where a bookmaker, having been given written notice to appear before the Board in connection with allegations of conduct contemplated in subsection (1), fails to appear before the Board at the specified time, the Board, notwithstanding the fact that the allegations have not been tested at a hearing, may forthwith suspend the relevant licence for a fixed period, in which event this suspension must not be regarded as being a part of the penalty, if any, imposed by the Board in respect of the alleged conduct.

(b) The suspension contemplated in paragraph (a) terminates on –

- (i) the expiry of the period fixed by the Board;
- (ii) the appearance before the Board of the bookmaker to answer the allegations contemplated in subsection (1); or
- (iii) the Board lifting such suspension,

whichever is the sooner.

(5) Having considered the evidence and representations made, the Board may dismiss the allegation or cancel or suspend for a stated period the relevant licence, in which event the Board is not liable to refund part or all of the licence fee paid or for any actual or alleged loss of income or profits arising directly or indirectly from such cancellation or suspension.

(6) The Board must convey its decision and the reasons therefor to the bookmaker in writing.

(7) If a bookmaker is convicted by a competent court of any offence against any provision of this Act, or is convicted of any serious offence involving dishonesty and is sentenced to a term of imprisonment without the option of a fine, or to a fine exceeding the amount prescribed in terms of the National Gambling Act, the bookmaker is disqualified from holding a licence and the Board must accordingly cancel the relevant licence, in which event the Board is not liable to refund part or all of the licence fee paid or for any actual or alleged loss of income or profits arising directly or indirectly from such cancellation.

(8) When a licence is cancelled in terms of this section –

(a) the securities lodged by the bookmaker in accordance with the provisions of section 126, must be used to settle any fees or penalties prescribed in this Act, any taxes determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and any betting debts payable by the former bookmaker: Provided that any monies remaining after such settlement must be paid to the former bookmaker concerned: Provided, further, that should such securities not be sufficient to settle any fees, taxes, penalties and betting debts, and the former bookmaker is unable to do so, the proceeds of the sale of the bookmaking right or rights as contemplated in paragraph (b) of this subsection must be used for this purpose; and

(b) the Board must sell the relevant bookmaking right or rights, as prescribed and in a manner which achieves the objects of the Board contemplated in section 6(1)(a), (c), (d), (e) and (f), and the proceeds of such sale must, subject to paragraph (a) of this subsection, be paid to the former bookmaker concerned, after deduction of any costs incurred by the Board in conducting the sale.

(9) Whenever a bookmaker's licence has been cancelled in terms of this section no new licence may be issued to the former holder or holders of the cancelled licence during such period as may

be determined by the Board: Provided that if no period is so determined, no application for a new licence by such former licence holder or holders may be considered by the Board for at least 12 months after the cancellation of the applicable licence.

(10) A bookmaker's licence lapses –

- (a) if a licensee becomes disqualified in terms of section 95 or 96;
- (b) if an application contemplated in section 97 or 98 is not made;
- (c) if an application for the renewal of the licence is not made by the thirty-first day of December of the year for which it was issued or is not made at all;
- (d) in the event of the Board's refusal to authorise the continued operation of the bookmaking business as contemplated in section 45, following upon the death or insolvency of a bookmaker who is a natural person; or
- (e) upon the Board's refusal to authorise the continued operation of the bookmaking business as contemplated in section 45, following upon the liquidation or winding up of a bookmaker which is a corporate body.

(11) When a bookmaker's licence lapses in terms of subsection (10)(a), (b) or (c) –

- (a) the securities lodged by the bookmaker in accordance with the provisions of section 126, must be used to settle any fees or penalties prescribed in this Act, any taxes determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and any betting debts payable by the former bookmaker: Provided that any monies remaining after such settlement must be paid to the former bookmaker concerned: Provided, further, that should such securities not be sufficient to settle any fees, taxes, penalties and betting debts, and the former bookmaker is unable to do so, the proceeds of the sale of the bookmaking right or rights as contemplated in paragraph (b) of this subsection must be used for this purpose; and
- (b) the former bookmaker must apply for a new bookmaker's licence in accordance with the provisions of section 94 within 30 days of the date of the lapsing of the licence, failing which the Board must sell the relevant bookmaking right or rights, as prescribed and in a manner which achieves the objects of the Board contemplated in section 6(1)(a), (c), (d), (e) and (f), and the proceeds of such sale must, subject to the provisions of paragraph (a) of this subsection, be paid to the former bookmaker or corporate body concerned after deduction of any costs incurred by the Board in conducting the sale.

(12)(a) When a bookmaker's licence lapses in terms of subsection (10)(d) the securities which

were lodged, in accordance with the provisions of section 126, by the deceased or insolvent bookmaker must be dealt with in terms of the provisions of the Administration of Estates Act, 1965 (Act No. 66 of 1965), or the Insolvency Act, 1936 (Act No. 24 of 1936), as the case may be.

(13) When a bookmaker's licence lapses in terms of subsection (10)(e) the securities lodged by the bookmaker in accordance with the provisions of section 126, must be dealt with in terms of the provisions of the Insolvency Act, 1936 (Act No. 24 of 1936).

Annual financial statements of bookmaker

100. A bookmaker must annually, not later than six months after the end of the financial year of each bookmaking business for which such bookmaker holds a licence, provide the Board with a copy of the financial statements of such business audited by an accountant or auditor registered with the Public Accountants' and Auditors' Board, in respect of the activities of such business for the financial year in question: Provided that the Board may, on application to it by a bookmaker, extend the period by no more than six months.

Bookmaker's licence to be displayed

101. A bookmaker must display his or her current bookmaker's licence in the bookmaker premises in which he or she operates.

CHAPTER 15 BOOKMAKERS' MANAGERS

Employees of bookmaker to be registered

102.(1) Notwithstanding the provisions of section 93, a person may not be employed by a bookmaker in any job position or capacity referred to in subsection (2) unless he or she is registered by the Board as a manager.

(2) A person is required to be registered as a manager if he or she –

- (a) individually, or as part of a group, formulates operational policy;
- (b) exercises direct control over the activities authorised by the bookmaker's licence including, but not limited to, the setting or changing of a betting price or the activation or deactivation of a computerised record keeping system;

- (c) prepares prescribed returns or statements;
- (d) has the authority to grant credit to a bettor;
- (e) has the authority to handle or resolve bettor disputes or complaints;
- (f) has the authority to appoint other employees, including another manager, or terminate such appointment;
- (g) has the authority to supervise or direct the activities of other employees, including another manager;
- (h) has the authority to manage or is responsible for the management of, but not limited to –
 - (i) the settling of bets;
 - (ii) the reconciliation of betting transactions;
 - (iii) the maintenance of the accounting records of the bookmaking business or management of any part or all of the business's finances;
 - (iv) the printing of the prescribed returns and statements and the electronic storage of the prescribed records at the close of business; or
 - (v) credit and collections; or
- (i) in any other way carries on the business of a bookmaker on behalf of such bookmaker.

(3) The Board may, upon written notification to the bookmaker concerned, determine that a job position, function or individual requires registration in terms of this section.

(4) The Board may make rules regulating the registration of employees of bookmakers who are not registered as managers.

Application for registration and issue of registration certificate

103.(1) Any person who wishes to be registered as a manager must make application to the Board in the manner prescribed by the Board.

(2) An application for registration must be accompanied by the relevant application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.

(3) The Board may –

- (a) grant an application for registration with or without conditions;
- (b) refuse such application; or
- (c) refer an application back to the applicant for the submission of additional information.

(4) A registration certificate is personal to the holder and cannot be transferred or otherwise alienated.

Temporary registration

104.(1) A bookmaker may apply to the Board in writing for a person to be registered as a manager for a temporary period while such person undergoes training and assessment, by the bookmaker concerned, as to his or her competence to be a manager.

(2) An application for temporary registration must be accompanied by the relevant application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.

(3) The Board may –

- (a) grant an application for temporary registration with or without conditions;
- (b) refuse such application; or
- (c) refer an application back to the bookmaker concerned for the submission of additional information.

(4) A temporary registration certificate is valid for the period specified on the certificate: Provided that the period of validity must not exceed six months.

(5) A bookmaker who has applied for the temporary registration of a manager must, at least 30 days prior to the expiration of the validity of a temporary registration certificate, notify the Board, in writing, as to the suitability of a person to be a manager.

(6) The Board may thereafter, without payment of any additional fees –

- (a) issue a certificate of registration with or without conditions;
- (b) refuse to issue such certificate; or
- (c) refer an application back to the applicant for the submission of additional information.

Disqualification from being registered

105.(1) Subject to the provisions of section 133, a person may not be registered as a manager, or if so registered remain registered, if he or she is or becomes subject to a disqualification

contemplated in section 32.

(2) A person is disqualified from being registered as a manager if, in the opinion of the Board, such person does not have sufficient knowledge of this Act, the rules and the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and sufficient and appropriate experience in the operation of a bookmaking business.

Duration of registration

106. A registration certificate, unless cancelled in terms of section 109, is valid for a period of 12 months commencing from the date of issue until the last day of the anniversary of the month of issue, but may be renewed from year to year in the discretion of the Board and subject to the payment to the Board of the relevant renewal fee prescribed in Schedule 2.

Registration certificate to be displayed

107. A manager must display his or her current registration certificate in the bookmaker premises of the bookmaker by whom he or she is employed.

Notification of change of manager

108. Whenever there is a change of manager employed by a bookmaking business, the bookmaker concerned must, within seven days of such change, notify the Board in writing of the date of effect of such change and the particulars of the manager involved in such change.

Cancellation, suspension or lapsing of registration of manager

109.(1) If, after investigation and report by a member, committee established in terms of section 18 or employee of the Board, it appears to the Board that a manager may be guilty of having contravened this Act, the Board must hold an open hearing at which the manager concerned has been given every reasonable opportunity of answering the allegations and bringing evidence in his or her favour.

(2) If a manager –

(a) has, after investigation and hearing by the Board, been shown to be guilty of a breach of

any duty or obligation imposed upon him or her by this Act or the conditions of his or her registration, or has been a party to such breach on the part of any other manager, the Board may cancel or suspend for a stated period the relevant registration; or

(b) is convicted by a competent court of any offence against any provision of this Act, or is convicted of any serious offence involving dishonesty and is sentenced to a term of imprisonment without the option of a fine, or to a fine exceeding the amount prescribed in terms of the National Gambling Act, the manager becomes disqualified from being registered and the Board must accordingly cancel the relevant registration,

in which events the Board will not be liable to refund any of the registration fee paid or for any actual or alleged loss of income or profits arising directly or indirectly from such cancellation or suspension.

(3) Whenever the registration of a manager has been cancelled in terms of this section no new registration may be granted to him or her during such period as may be determined by the Board: Provided that if no period is so determined, no application for a new registration may be made or considered for at least 12 months after the cancellation of the former registration.

(4)(a) Where a manager, having been given written notice to appear before the Board in connection with allegations of conduct contemplated in subsection (2)(a), fails to appear before the Board at the specified time, the Board, notwithstanding the fact that the allegations have not been tested at a hearing, may forthwith suspend the registration of such manager for a fixed period.

(b) The suspension contemplated in paragraph (a) must not be regarded as a penalty, if any, imposed by the Board in respect of the alleged conduct.

(5) The suspension contemplated in subsection (4) terminates on –

(a) the expiry of the period fixed by the Board;

(b) the appearance before the Board of the manager to answer the allegations as contemplated in subsection (2)(a); or

(c) the Board lifting such suspension,

whichever is the sooner.

(6) In the event of a manager becoming disqualified in terms of section 105, the relevant registration lapses forthwith.

CHAPTER 16 TOTALISATORS

Licensing of and betting through totalisator

110.(1) The Board may, on application in the manner determined by it, issue a licence to –

- (a) a racecourse operator to conduct a totalisator on a horse race, sporting event or other event or contingency; and
- (b) a person other than a racecourse operator to conduct a totalisator on a sporting event or other event or contingency,

which licence may be issued conditionally or unconditionally.

(2) The application contemplated in subsection (1) must be accompanied by the application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.

(3) The licence issued in terms of subsection (1) 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;
- (c) the duration of the licence; and
- (d) by way of an addendum to the licence, the premises at, in or from which the licensee is permitted to operate.

(4) A totalisator licence, unless cancelled earlier in terms of section 112, expires on the thirty-first day of December of the year for which it was issued but may be renewed, in the manner prescribed by the Board, from year to year in the discretion of the Board and on payment of the licence renewal fee prescribed in Schedule 2.

Appointment and registration of totalisator operator, totalisator manager and totalisator agent

111.(1) A totalisator licensee –

- (a) must appoint, upon such terms and conditions as he, she or it sees fit, a totalisator operator who is responsible to such licensee for the operation of the totalisator in terms of this Act; and

(b) may, conditionally or unconditionally, appoint one or more persons as –

- (i) a totalisator manager, being a person in the employ of the totalisator licensee, to manage and operate a branch of such totalisator; and
- (ii) a totalisator agent, being a person who is not in the employ of the totalisator licensee, to operate an agency of such totalisator:

Provided that the appointment of such totalisator manager or totalisator agent is subject to the prior approval of the Board.

(2) Notwithstanding the provisions of subsection (1), no person may exercise the powers, duties or functions of a totalisator operator, a totalisator manager or a totalisator agent unless or until such person has been registered by the Board as a totalisator operator, a totalisator manager or a totalisator agent, as the case may be.

(3) The procedure to be followed in making an application for registration contemplated in subsection (2) must be determined by the Board.

(4) The registration of a totalisator operator, totalisator manager or totalisator agent is valid for a period of 12 months commencing from the date of issue until the last day of the anniversary of the month of issue, but may be renewed from year to year in the discretion of the Board.

(5) The fees payable on application for registration or renewal contemplated in this section are as prescribed in Schedule 2 and are payable to the Board.

Suspension, cancellation or lapsing of totalisator licence or registration of totalisator operator, totalisator manager and totalisator agent

112.(1) The relevant provisions of section 99 apply, with the necessary changes, to a totalisator licensee.

(2) The relevant provisions of section 109 apply, with the necessary changes, to a totalisator operator, totalisator manager or totalisator agent.

Disqualification of and changes in totalisator licensee, operator, manager or agent

113.(1) The provisions of sections 95, 96, 97 and 98 apply, with the necessary changes, to any

person who applies for or holds a totalisator licence.

(2) The provisions of sections 105 and 108 apply, with the necessary changes, to any person who applies for registration as or is registered as a totalisator operator, totalisator manager or totalisator agent.

Annual financial statements of totalisator operator

114. A totalisator operator must annually, not later than six months after the end of its financial year, provide the Board with a copy of the financial statements of such totalisator operator audited by an accountant or auditor registered with the Public Accountants' and Auditors' Board, in respect of the activities of such totalisator operator for the financial year in question: Provided that the Board may, on application to it by a totalisator operator, extend the period by no more than six months.

Information in respect of agencies and branches

115. A totalisator licensee must, not later than the last working day in January of each year furnish the Board with such information as the Board may require in respect of each totalisator branch or totalisator agency operated or authorised by such licensee.

Retention of amounts less than 10 cents and augmentation of pool

116. A totalisator licensee may –

- (a) retain any portion of an amount of 10 cents occurring in the apportionment of amounts payable by such licensee to persons who have made winning bets on such totalisator; and
- (b) augment the pool of any totalisator operated by it by any undistributed monies arising from totalisator operations conducted on a prior day.

Registration certificate to be displayed

117. A totalisator operator, totalisator manager or totalisator agent must display his or her current registration certificate in the totalisator premises approved in terms of section 120.

CHAPTER 17 BETTING

Restrictions on betting

118.(1) No person who is –

- (a) under the age of 18 years;
- (b) appointed as an inspector in terms of section 81; or
- (c) a member or employee of the Board,

may, except in the performance of his or her duties as an inspector or member or employee of the Board, bet upon any horse race, sporting event or any other event or contingency and no person may enter into such a bet with any such person.

(2) Any person licensed or registered in terms of Chapter 14, 15 or 16 who suspects that a person seeking to enter into a betting transaction is under the age of 18 years, must require such person to produce proof of his or her identity and age prior to entering into any such betting transaction.

(3) Any person licensed or registered in terms of Chapter 14, 15 or 16 who enters into a bet with a person whom he or she should reasonably have suspected to be under the age of 18 years, is guilty of an offence.

(4) No betting transactions, including take-back bets, may be concluded between two or more parts, outlets or branches of a single bookmaking business.

(5) No person, other than a person acting within the scope of a licence or registration issued in terms of Chapter 14, 15 or 16, may act as an agent of a bookmaker, manager, totalisator operator, totalisator manager or totalisator agent in any matter relating to bets.

(6) No person, other than a person acting within the scope of a licence or registration issued in terms of Chapter 14, 15 or 16, may, for commission or other valuable consideration, act as the agent of or on behalf of any other person in making or arranging a bet or in any matter relating to the making or arranging of a bet.

(7) Where one natural person owns two or more bookmaking outlets outright and operates same as a sole proprietor, all such outlets are to be regarded as part of a single bookmaking business and the bookmaker concerned must render the prescribed tax returns and pay the prescribed

taxes such that all betting transactions stemming from all outlets are consolidated into a single set of prescribed records, which generate a single tax return and a single, consolidated tax payment, in respect of the bookmaking business.

(8) A bookmaking business comprising multiple outlets must render the prescribed tax returns and pay the prescribed taxes such that all betting transactions stemming from all outlets are consolidated into a single set of prescribed records, which generate a single tax return and a single, consolidated tax payment, in respect of the bookmaking business.

(9) Where a bookmaker operates at a racecourse, the transactions stemming from such operations must be consolidated with the transactions stemming from all other bookmaking operations of the bookmaking business concerned, into a single set of prescribed records, which generate a single tax return and a single, consolidated tax payment, in respect of the bookmaking business.

Betting by bookmaker, manager or totalisator

119. A bookmaker, manager, totalisator operator, totalisator manager or totalisator agent may only accept bets on a horse race, sporting event, other event or contingency –

- (a) in bookmaker premises or totalisator premises approved in terms of section 120;
- (b) upon a racecourse operated by a racecourse operator; or
- (c) at such other venue authorised in terms of section 121 or as provided in the Board's rules.

Approval of premises

120.(1) A person licensed in terms of section 94 or 110 must obtain the Board's approval for all premises to be used for the operation of a bookmaking business, totalisator, totalisator branch or totalisator agency, as the case may be, which approval may be granted with or without conditions.

(2) The Board must prescribe the procedures to be followed in making application for an approval contemplated in subsection (1).

Temporary venues for betting transactions

121.(1) A person licensed in terms of section 94 or 110 may make application to the Board, in the manner determined by the Board, for authority to undertake betting transactions, for a fixed period, at any venue, which application the Board may refuse or grant, with or without conditions.

(2) An application contemplated in subsection (1) must be accompanied by the fee prescribed in Schedule 2.

Prohibition of unauthorised betting business or betting premises

122. No person, other than a person acting within the scope of a licence or registration issued in terms of Chapter 14, 15 or 16, is permitted to keep or use or permit to be kept or used any place for the purpose of betting or any purpose connected with betting, or invite members of the public to bet with him or her or any other person.

Use of computerised record keeping system

123.(1) A person licensed in terms of section 94 or 110 may not utilise for the purpose of recording bets and betting transactions, any computerised record keeping system or any amendment to an approved computerised record keeping system, unless such system or amendment has been approved by the Board and certified by the SABS.

(2) Any person who wishes to develop, manufacture or supply a computerised record keeping system or any amendment to an approved computerised record keeping system to a person licensed in terms of this section 94 or 110, must apply to the Board, in the manner prescribed by the Board, for approval of such system or amendment and such application must be accompanied by the relevant application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.

(3) The Board may –

- (a) approve, conditionally or unconditionally, or reject a system or amendment; or
- (b) refer an application back to the supplier for the submission of further information.

(4) The Board may require a person licensed in terms of section 94 or 110 to connect to such monitoring system as the Board may determine.

Betting with bookmaker, manager and totalisator

124. Any person, other than a person appointed as an inspector in terms of section 81 or a member or employee of the Board, who is 18 years of age or older may bet with a bookmaker, manager, totalisator licensee, totalisator operator, totalisator manager or totalisator agent on any horse race, sporting event or any other event or contingency: Provided that such bets are transacted in terms of this Act.

Vicarious responsibility

125. A totalisator licensee or bookmaker is vicariously responsible for the acts and omissions of the employees of such totalisator licensee or bookmaker.

CHAPTER 18
TAXES AND DEDUCTIONS ON BETTING TRANSACTIONS

Security by bookmaker or totalisator licensee

126.(1) Every person licensed in terms of section 94 or 110 must, before transacting any business under his, her or its licence, lodge with the Board such security as the Board may require for the payment of –

- (a) the taxes and deductions payable on the betting transactions of such licensee, as determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010;
- (b) any other payment due to the Provincial Revenue Fund; and
- (c) betting liabilities of such licensee.

(2) Every person licensed in terms of section 94 or 110, on being required thereto by the Board, must forthwith replace one or more existing securities with such other securities, or furnish such additional securities, as may be required by the Board.

(3) If a person licensed in terms of section 94 or 110 fails to lodge and maintain the required security, the Board may, subject to section 99 or 112, cancel or suspend the relevant licence.

(4) At the time of lodging security, persons licensed in terms of section 94 or 110 must furnish to

the Board written authority empowering the Board to sell, realise and give conveyance of so much of the securities lodged as is necessary to settle any outstanding payments contemplated in subsection (1).

(5) Upon the cancellation or lapsing of a licence, the Board must return the securities so lodged, but may sell, realise and give conveyance of so much of the securities lodged as is necessary to settle any outstanding payments contemplated in subsection (1).

Fidelity fund

127. Notwithstanding the provisions of section 126, the Board may, with the conditional or unconditional approval of the responsible Member of the Executive Council, as an alternative to the procedure set out in section 126, approve a fidelity fund or funds which will guarantee the liability of persons licensed in terms of section 94 or 110 for the betting tax and deductions determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and his or her betting liability: Provided that where such fund does not satisfy all such liabilities, such persons are jointly and severally liable for the payment of any unpaid balance.

Taxes and deductions on bets made with bookmaking business

128.(1) A bookmaking business must deduct from the amount won by a bettor, exclusive of the amount staked by the bettor, the taxes and deductions determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and must pay such monies to the Board in accordance with the provisions of section 129.

(2) A bookmaker may claim, in the manner prescribed by the Board and on furnishing a sworn statement showing full details of all take-back bets taken, a rebate on the taxes and deductions that were deducted from winnings on a take-back bet taken with another bookmaking business: Provided that any rebate claimed by the bookmaker must be in respect only of bets, or of selections being part of multiple bets, which do not exceed his or her liability on a particular horse, in a particular horse race.

(3) For the purposes of this section, "liability" means the potential financial loss, exclusive of the amount staked by the bettor, which a bookmaking business could suffer as a direct result of the bookmaking business having laid a bet, or of having laid a selection, being part of a multiple bet.

Bookmaker's returns and payment of taxes and deductions

129.(1) Every bookmaker must, within 10 days after the end of every month –

- (a) pay to the Board all monies that were deducted from bettors in terms of section 128(1) and the betting taxes and deductions determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010; and
- (b) lodge with the Board tax returns in the form determined in terms of section 7(2)(k).

(2) The returns contemplated in subsection (1) must be prepared, signed and submitted by the bookmaker: Provided that the Board may, on written application to it by the bookmaker, authorise a manager nominated by such bookmaker to fulfil the bookmaker's obligations in terms of this section.

(3) Within 15 days after the end of every month, the Board must, with regard to the monies contemplated in subsection (1)(a), effect the distribution to the racecourse operator and to the Provincial Revenue Fund, in accordance with the KwaZulu-Natal Gaming and Betting Tax Act, 2010.

Taxes and deductions on totalisator bets

130. A totalisator licensee must ensure that the tax deductions determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, are made before paying over winnings to persons who have made winning bets with the totalisator.

Totalisator operator's returns and payment of taxes and deductions

131. Every totalisator licensee must, within 10 days after the end of every month, lodge with the Board a return in the form prescribed in terms of section 7(2)(k) and, at the same time, pay to the Board, in the manner prescribed or determined by the Board, the relevant taxes, according to the information contained in the relevant return.

Payment of taxes to the Provincial Revenue Fund and distribution of deductions on betting transactions

132. The Board must, by the fifteenth working day of every month –

- (a) pay into the Provincial Revenue Fund, the taxes determined in terms of the KwaZulu-

Natal Gaming and Betting Tax Act, 2010, and at the same time provide the provincial treasury with a report of all taxes and deductions received by it, the distribution thereof to the beneficiaries specified in the Schedule to the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and details of any action taken to recover late or underpaid taxes; and
(b) distribute to the beneficiaries specified in the Schedule to the KwaZulu-Natal Gaming and Betting Tax Act, 2010, the deductions specified in that Act.

CHAPTER 19 GENERAL PROVISIONS

Rectification of disqualification

133. Where the Board, after investigation, is of the opinion that an applicant for the issue of or the holder of a licence or registration contemplated in Chapter 13, 14, 15 or 16, is or has become disqualified in terms of the said Chapters, it must provide such applicant or holder with full particulars of the perceived disqualification and afford such applicant or holder a reasonable opportunity of remedying such disqualification.

Costs of investigation

134. Where the Board undertakes an investigation to determine the suitability of an applicant for the granting of any licence, registration or authority required under Chapter 13, 14, 15 or 16, or for approval of a computerised record keeping system, the applicant must pay to the Board the amount calculated by the Board to be the actual cost to the Board of undertaking such investigation.

Suspension and penalty for late payment of fees, taxes or deductions

135.(1) Where a fee, tax or deduction payable in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, is not paid by the date on which it becomes payable, the bookmaker's licence or totalisator licence, as the case may be, is automatically suspended and remains suspended until such time as –

- (a) the fee, tax or deduction is paid in full, together with the penalty interest contemplated in subsection (2); and
- (b) the Board has notified the licence holder in writing that the suspension has been lifted

and the date of such lifting.

(2) Where a fee, tax or deduction is not paid by the date on which it becomes payable, there must be added to the amount of such fee, tax or deduction penalty interest at the rate of 30 percent per annum calculated from the date on which such fee, tax, commission or levy became payable to the date of payment.

(3) Notwithstanding the provisions of subsection (1), whenever the Board is satisfied from information placed before it that any person who is liable to make payment of the fees, taxes, commissions or levies contemplated in subsection (1) has been prevented by causes beyond his or her control from making such payment by the due date, the Board may, in writing, determine that the penalty interest payable in terms of this section must be calculated from a date to be stated in the determination.

Payment of grants

136. The responsible Member of the Executive Council may, out of monies appropriated by the Provincial Legislature for that purpose and subject to such terms and conditions as he or she may impose, make grants for any purpose which benefits the horse racing, horse breeding or betting industries or sports development, and furthers the objects of the Board contemplated in section 6(1)(a), (c), (d), (e) and (f).

Horse Racing and Betting Transformation Fund

137.(1) There is hereby established a fund to be known as the Horse Racing and Betting Transformation Fund.

(2) Any funds intended for the development of sport and held in trust by the committee established in terms of section 21A of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), must, on the day on which this Act comes into operation, be paid into the Horse Racing and Betting Transformation Fund established under this section.

(3) The responsible Member of the Executive Council may, out of monies appropriated by the Provincial Legislature for that purpose and subject to such terms and conditions as he or she may impose, make grants to the Horse Racing and Betting Transformation Fund.

- (4) The assets of the Horse Racing and Betting Transformation Fund must, subject to the prior approval of the responsible Member of the Executive Council, be utilized for the purposes of realising the objects of the Board contemplated in section 6(1)(c), (d) and (e).
- (5) The Board must open and maintain a separate banking or savings account at a banking institution in the Province and must deposit therein all monies accruing to the Horse Racing and Betting Transformation Fund from any source.
- (6) The interest on monies deposited in terms of subsection (3) and (4) must accrue to the Horse Racing and Betting Transformation Fund.
- (7) The Board must keep separate and proper accounting records in respect of the Horse Racing and Betting Transformation Fund, containing particulars of any money or interest on money received and any money paid.
- (8) No amount standing to the credit of the Horse Racing and Betting Transformation Fund forms part of the assets of the Board or may be attached on behalf of a creditor or creditors of the Board.
- (9) The accounting and other related records of the Horse Racing and Betting Transformation Fund must, at the expense of the Board, be audited by the Auditor-General.
- (10) The defrayal of expenditure in connection with matters provided for in this section is subject to –
- (a) requests being received, with the necessary changes, in the form as prescribed for the budgetary processes of departments of state; and
 - (b) the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the regulations and instructions issued in terms thereof, as well as the Auditor-General Act, 1989 (Act No. 52 of 1989).

Board as accounting authority

138. The Board is the accounting authority, contemplated in Part 2 of Chapter 6 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), for the Horse Racing and Betting Transformation Fund, and must administer and manage the funds of the Horse Racing and

Betting Transformation Fund in accordance with the provisions of that Act.

Restriction on advertisements

139. It is unlawful to advertise anything relating to gambling –

- (a) at or within sight of any place of worship or any school, place or institution which is frequented predominantly by persons under the age of 18 years; or
- (b) through any written medium or in any broadcast or transmission on radio, television, personal computer or any other electronic medium which is aimed at persons under the age of 18 years:

Provided that this section does not apply to the trading name and associated branding of a licensee or registrant or to any information concerning the availability of resources for the treatment of gambling problems or disorders.

Appeals

140.(1) Any person who is aggrieved by a decision of the Chief Executive Officer made in accordance with the provisions of section 22 or by a delegate of the Board, may appeal to the Board in the manner prescribed.

(2) Any person, other than an applicant for the granting of a licence or registration contemplated in this Act or an applicant for the renewal of such licence or registration, who is aggrieved by a decision of –

- (a) a committee established in terms of section 18, may appeal to the Board in the manner prescribed; or
- (b) the Board, may appeal to the responsible Member of the Executive Council in the manner prescribed.

(3) The provisions of subsections (1) and (2) do not limit the right of any person aggrieved by a decision of the Chief Executive Officer, a committee or the Board from applying to the High Court for a review of such decision.

(4) The responsible Member of the Executive Council may appoint an *ad hoc* committee to hear an appeal contemplated by subsection (2)(b).

Extending credit in connection with gambling

141. Subject to compliance with regulation 4 of the National Gambling Regulations, 2004, the holder of a licence or any manager or employee authorised by such licensee may extend credit, in the manner prescribed, to a person to enable him or her to gamble in licensed premises.

Cheating and cheating devices

142.(1) No person may –

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

(2) For purposes of this section "cheating" means to alter the selection of criteria –

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

Gambling debts enforceable

143. Any gambling debt lawfully incurred by a person in accordance with this Act is enforceable in a court of law.

Reward for information supplied

144.(1) Notwithstanding anything to the contrary in any other law, the responsible Member of the

Executive Council and the Board, from its own funds, may pay a reward in such amount and under such circumstances as he, she or it sees fit to any person furnishing information which results in –

- (a) the arrest and conviction, by a competent court, of any person contravening any provision of this Act; or
- (b) the responsible Member of the Executive Council, the Board or the Executive Council, as the case may be, imposing on a licensee or registrant any of the penalties contemplated in this Act.

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

(3) Where any unpaid taxes or penalties due to the Provincial Revenue Fund in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, are recovered as a result of information provided, the responsible Member of the Executive Council may reward the provider or providers of such information by paying to him, her or them a percentage of the taxes or penalties so recovered: Provided that the total reward paid must not exceed 30 percent of the taxes or penalties so recovered.

Offences, penalties and forfeitures

145.(1) Any person who contravenes any provision of this Act or any rules is, if such contravention is not elsewhere in this Act declared to be an offence, guilty of an offence.

(2) Any person convicted of performing any licensable act appertaining to gambling without a valid licence issued in terms of this Act is, on conviction and in addition to any competent forfeiture contemplated in subsection (4), liable to –

- (a) in the case of a first conviction, imprisonment for a period not exceeding 10 years without the option of a fine; and
- (b) in the case of a second or subsequent conviction, imprisonment for a period not exceeding 20 years without the option of a fine:

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

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

- (a) in the case of a first conviction, a fine not exceeding two million rand or imprisonment for a period not exceeding 10 years; and
- (b) in the case of a second or subsequent conviction, a fine not exceeding four million rand or imprisonment for a period not exceeding 20 years or to such imprisonment without the option of a fine.

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

- (a) all monies, coins, notes, chips, cheques, promissory notes or other negotiable instruments, any documents acknowledging debt or other articles used for securing the payment of money, any other documents, books, lists, cards, equipment, machinery, audio or video recording equipment, tapes or other recording media or records relating to the gambling activity in question found in or at the place where such contravention occurred must be forfeited to the Board for disposal, including destruction, at the discretion of the Board; and
- (b) any gaming equipment or gaming machines or limited payout machines found in or at the place where such contravention occurred must be destroyed forthwith by the Board.

(5) In addition to any other penalty contemplated in this section, a person convicted of performing an act contemplated in subsection (1) or who is convicted of contravening or failing to comply with sections 3(1), 4, 75, 76, 77 and 78 must pay for the benefit of the Provincial Revenue Fund, such amount as the provincial treasury determines is equal to the tax payable in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010: Provided that such amount does not exceed R500 000,00.

(6) In addition to any other penalty contemplated in this section, a person convicted of an offence involving the non-payment or underpayment of any tax or deduction in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, must, on demand by the Board, pay to the Board such amount as, in the opinion of the Board, is equal to the unpaid tax or deduction payable, together with the penalty interest contemplated in section 135: Provided that such tax, deduction and penalty interest is paid by the Board to the Provincial Revenue Fund and the beneficiaries specified in the Schedule to the KwaZulu-Natal Gaming and Betting Tax Act, 2010.

(7) Any penalty imposed by a court under this section accrues to the Provincial Revenue Fund.

Regulations

146. The responsible Member of the Executive Council may by notice in the *Gazette* make regulations not inconsistent with the provisions of this Act in respect of –

- (a) any matter applicable to the Board;
- (b) any matter applicable to any licence or registration required in terms of this Act;
- (c) the procedures to be applied in respect of any licence application;
- (d) the management and control of licensed premises, including any matters relating to security and surveillance in licensed premises;
- (e) the types of premises that site operators or independent site operators may maintain for purposes of making limited payout machines available for play;
- (f) any matter which may be prescribed in terms of this Act;
- (g) the maximum number of gaming machines or limited payout machines allowed on licensed premises;
- (h) the maximum amount that may be staked by a player per game;
- (i) the maximum amount that may be won by a player;
- (j) the maximum number of limited payout machines which a route operator may make available for use in licensed premises in the Province;
- (k) any matter applicable to the electronic monitoring system;
- (l) the registration of certain persons;
- (m) the imposition of fees;
- (n) the appointment of an inspector and any matter relating to such inspectors and to investigations and enquiries;
- (o) the regulation and control of advertisements concerning gambling;
- (p) the extension of credit to players or patrons;
- (q) the directives contemplated in section 6(3);
- (r) the manner in which new bookmaking rights, determined by the Board in terms of section 7(2)(d), must be disposed of;
- (s) the regulation and control of amusement machines, as contemplated in the National Gambling Act; and
- (t) any other matter which is necessary in order to give effect to the objects and purposes of this Act and the KwaZulu-Natal Gaming and Betting Tax Act, 2010.

Repeal, amendment or substitution of Schedules

147. The responsible Member of the Executive Council may, in consultation with the Member of the Executive Council responsible for finance and after consultation with the Board, by notice in the *Gazette*, and with effect from a date to be specified in such notice, repeal, amend or substitute one or both of the Schedules to this Act.

Successor to KwaZulu-Natal Bookmakers Control Committee and KwaZulu-Natal Gambling Board

148. The committee established in terms of section 21A of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), and the board established in terms of section 5 of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996), as they existed prior to the repeal thereof by this Act, will continue in existence until a date determined by the responsible Member of the Executive Council, whereupon all assets, liabilities, rights, duties and obligations which vested in the said committee and board will be vested in the Board.

Transfer of staff

149.(1) Subject to section 25(2), all staff of the committee established in terms of section 21A of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), and the board established in terms of section 5 of KwaZulu-Natal Gambling Act (Act No. 10 of 1996), as they existed prior to the repeal thereof by this Act, must be made an employment offer by the Board for transfer to the Board on a date determined by the responsible Member of the Executive Council.

(2) The remuneration, benefits and privileges offered by the Board, in accordance with subsection (1), may not be less than those payable to the staff member by the committee established in terms of section 21A of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), or the board established by section 5 of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996), immediately prior to his or her transfer.

(3) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer is deemed to have taken place in respect of a staff member who accepts an employment offer contemplated in subsection (1).

- (4) When a person becomes a staff member of the Board in terms of subsection (1) –
- (a) he or she retains all vacation leave which accrued to his or her credit up to the date immediately before the date of transfer, adjusted in accordance with the conditions of employment of the Board; and
 - (b) any inquiry instituted or intended to be instituted in respect of alleged misconduct committed by such person before the date of transfer must be disposed of or instituted by the Board and the Board must take appropriate steps against the person concerned in accordance with the laws, policy and conditions of employment or service applicable to him or her immediately prior to the date of transfer.

Repeal or amendment of laws and savings

150. The laws mentioned in Schedule 1 to this Act are hereby repealed or amended: Provided that the repeal of any law does not affect –

- (a) any regulations or rules made under any law so repealed and in force immediately prior to the coming into operation of this Act, such regulations or rules remaining in force except insofar as they may be repugnant to or inconsistent with the provisions of this Act, until amended, repealed or revoked; or
- (b) any proclamation, notice, order, determination, approval or authority made or given or licence issued under any law repealed by this Act, and in force immediately prior to the coming into operation of this Act, such proclamation, notice, order, determination, approval, authority, registration or licence continuing to be in force as if made, given or issued under this Act, except insofar as repugnant to or inconsistent with this Act.

Transitional arrangements

151.(1) Notwithstanding anything to the contrary contained in this Act, on the date on which this Act comes into operation –

- (a) any valid licence or registration issued or effected under the KwaZulu-Natal Gambling Act (Act No. 10 of 1996), is regarded as having been issued or made under this Act;
- (b) any valid bookmaker's licence, racecourse licence or registration of a manager issued or effected under the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), is regarded as having been issued or made under this Act; and
- (c) any totalisator which has been authorised under the Regulation of Racing and Betting

Ordinance, 1957 (Ordinance No. 28 of 1957), is regarded to have been authorised and licensed under this Act, and such licences, registrations and authorities remain valid until the date on which such licences, registrations or authorities are required to be renewed;

(d) the use of –

(i) any computerised record keeping system approved, in terms of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), for use by bookmakers; and

(ii) any computerised system in use by a totalisator, authorised under the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), is permitted for a period not exceeding six months from the date on which this Act comes into operation, or until such system or systems are approved in terms of this Act;

(e) any on or off course premises used for the purposes of conducting branches or agencies of a totalisator authorised under the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), are regarded to have been approved in terms of this Act, subject to compliance with section 111; and

(f) any other approvals or authorities validly given in terms of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996) or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), are regarded to have been given under this Act.

(2) Subject to the provisions of subsection (3), the totalisator at 15 Mitchell Crescent, Durban, which was authorised to offer fixed-odds bets to its telephone betting clients by way of Ministerial authority granted in terms of paragraph (c) of the definition of “totalisator” in the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), as it existed prior to the repeal thereof by this Act, may continue to operate in the same form.

(3)(a) The corporate body which owns the totalisator fixed-odds operation referred to in subsection (2) must, within six months of the coming into operation of this Act, apply to the Board for a bookmaker's licence, in the manner contemplated in this Act, in respect of such fixed-odds operation and, upon the granting of such licence, the totalisator fixed-odds operation is deemed to be a bookmaking right, determined by the Board in terms of section 7(2)(d), and must be regarded as being part of the bookmaking business so licensed.

(b) The said corporate body must simultaneously pay to the Horse Racing and Betting Transformation Fund an amount determined by the Board to be the value of the bookmaking right

so granted.

(4) Any person who holds a financial interest, licence or registration in terms of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996) or the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), as they existed prior to the repeal thereof by this Act, who, as a result of the provisions of this Act or the National Gambling Act, is disqualified from holding such financial interest, licence or registration upon the coming into operation of this Act, must report such circumstances to the Board within 30 days of the coming into operation of this Act.

(5) The provisions of section 30(1)(a) and (b) do not apply to any person who, immediately prior to the coming into operation of this Act, was disqualified from being issued a licence in terms of section 28 of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996), as it existed prior to the repeal thereof by this Act, and who, upon the coming into operation of this Act, is not so disqualified.

(6) The holder of a racecourse licence may, within 30 days from the date of coming into operation of this Act, cede such licence to a corporate body nominated by such racecourse licence holder: Provided that—

- (a) the cession and nomination must be in the form of a written agreement between the parties;
- (b) the written agreement contemplated in paragraph (a) must be delivered to the Board immediately upon the finalization thereof;
- (c) the corporate body nominated by the racecourse licence holder must apply for a racecourse operator's licence in terms of section 89 within 30 days from the date of finalization of the written agreement contemplated in paragraph (a); and
- (d) should the Board refuse the application contemplated in paragraph (c), the cession by the racecourse licence holder of the licence to a corporate body will thereby be annulled.

Short title and commencement

152.(1) This Act is called the KwaZulu-Natal Gaming and Betting Act, 2010, and comes into operation on a date determined by the responsible Member of the Executive Council by notice in the *Gazette*.

(2) The KwaZulu-Natal Gaming and Betting Tax Act, 2010, comes into operation simultaneously with this Act on the date determined for the coming into operation of this Act in terms of subsection (1).

SCHEDULE 1

Repeal or amendment of laws
(Section 150)

Number and year of law	Short title	Extent of repeal or amendment
Law No. 25 of 1878	Law to Provide for the Discouragement of Gambling	The repeal of so much as is unrepealed
Ordinance No. 28 of 1957	Regulation of Racing and Betting Ordinance, 1957	The repeal of the whole
Ordinance No. 11 of 1959	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1959	The repeal of the whole
Ordinance No. 30 of 1959	Horse Racing and Betting Control Consolidation Further Amendment Ordinance, 1959	The repeal of the whole
Ordinance No. 33 of 1960	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1960	The repeal of the whole
Ordinance No. 3 of 1961	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1961	The repeal of the whole
Ordinance No. 7 of 1963	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1963	The repeal of the whole
Ordinance No. 32 of 1963	Horse Racing and Betting Control Consolidation Further Amendment Ordinance, 1963	The repeal of the whole
Ordinance No. 43 of 1971	Horse Racing and Betting Control Amendment Ordinance, 1971	The repeal of the whole
Ordinance No. 7 of 1973	Horse Racing and Betting Control Amendment Ordinance, 1973	The repeal of the whole
Ordinance No. 31 of 1973	Horse Racing and Betting Control Second Amendment Ordinance, 1973	The repeal of the whole
Ordinance No. 28 of 1974	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1974	The repeal of the whole
Ordinance No. 6 of 1975	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1975	The repeal of the whole
Ordinance No. 2 of 1976	Horse Racing and Betting Control Consolidation Amendment Ordinance,	The repeal of the whole

<i>Number and year of law</i>	<i>Short title</i>	<i>Extent of repeal or amendment</i>
	1976	
Ordinance No. 12 of 1976	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1976	The repeal of the whole
Ordinance No. 21 of 1976	Horse Racing and Betting Control Consolidation Second Amendment Ordinance, 1976	The repeal of the whole
Ordinance No. 14 of 1980	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1980	The repeal of the whole
Ordinance No. 9 of 1982	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1982	The repeal of the whole
Ordinance No. 18 of 1982	Horse Racing and Betting Control Consolidation Second Amendment Ordinance, 1982	The repeal of the whole
Ordinance No. 21 of 1983	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1983	The repeal of the whole
Ordinance No. 35 of 1983	Horse Racing and Betting Control Consolidation Second Amendment Ordinance, 1983	The repeal of the whole
Ordinance No. 21 of 1984	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1984	The repeal of the whole
Ordinance No. 3 of 1986	Horse Racing and Betting Control Consolidation Amendment Ordinance, 1986	The repeal of the whole
Ordinance No. 18 of 1986	Horse Racing and Betting Control Consolidation Second Amendment Ordinance, 1986	The repeal of the whole
Proclamation No. 11 of 1988	-	The repeal of the whole
Proclamation No. 30 of 1990	-	The repeal of the whole
Proclamation No. 19 of 1991	-	The repeal of the whole
Proclamation No. 39 of 1991	-	The repeal of the whole
Proclamation No. 50 of 1991	-	The repeal of the whole
Proclamation No. 25 of 1992	-	The repeal of the whole
Act No. 4 of 1994	Horse Racing and Betting Control Consolidation Amendment Act, 1994	The repeal of the whole
Act No. 5 of 1994	Horse Racing and Betting Control Consolidation Second Amendment Act, 1994	The repeal of the whole
Act No. 10 of 1996	KwaZulu-Natal Gambling Act, 1996	The repeal of the whole
Act No. 1 of 1997	KwaZulu-Natal Gambling Amendment	The repeal of the whole

<i>Number and year of law</i>	<i>Short title</i>	<i>Extent of repeal or amendment</i>
	Act, 1997	
Act No. 8 of 1998	KwaZulu-Natal Regulation of Racing and Betting Ordinance Amendment Act, 1998	The repeal of the whole
Act No. 11 of 1998	KwaZulu-Natal Gambling Amendment Act, 1998	The repeal of the whole
Act No. 2 of 2000	KwaZulu-Natal Gambling Amendment Act, 2000	The repeal of the whole
Provincial Notice No. 274 of 1998 dated 23 September 1998: Regulations made in terms of section 87 of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996).	KwaZulu-Natal Gambling Regulations, 1998	<p>1. The amendment of regulation 1 by –</p> <p>(a) the deletion of the definition of "amusement machine";</p> <p>(b) the substitution for the definition of "limited payout machine" of the following definition:</p> <p>"limited payout machine" means a gaming machine [, as defined in the Act, which –</p> <p>(a) a route operator is authorised to make available to be played on the premises of any licensed site operator and any bingo licensee;</p> <p>(b) a bingo licensee is authorised to make available to be played in a bingo hall;</p> <p>(c) may be played by staking an amount not exceeding the prescribed maximum stake; and</p> <p>(d) has a limited payout capability not exceeding the prescribed maximum prize] outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed by regulations made in terms of the National Gambling Act, 2004 (Act No. 7 of 2004);"</p> <p>(c) the insertion after the definition of "return to player" of the following definition:</p> <p>"site" means premises licensed for the placement of one or more limited payout machines under authority of a site operator or independent site operator licence;"; and</p> <p>(d) the deletion of the definition of "SABS".</p> <p>2. The amendment of regulation 239 by the substitution for paragraph (b) of the following paragraph:</p> <p>"(b) delivers to the person as a reward for successfully playing or operating or playing and operating the machine, apparatus or device, either directly, indirectly or by way of entitlement, a prize [that does not exceed a monetary value of twenty five rands, which prize shall not in any way be redeemed for cash or be converted to cash in any way whatsoever, and "redemption machine" shall have the same meaning]; Provided that such prize shall not be wholly or partially in the form of cash, tokens, credit or any negotiable instrument, but shall be limited to non-cash prizes with a retail value not exceeding the amount prescribed in terms of section 47 of the National Gambling Act, 2004 (Act No. 7 of 2004); Provided, further, that such prize shall not, in any way, be redeemed for or converted to cash."</p> <p>3. The amendment of the regulations by –</p> <p>(a) the substitution for the words "South African Police Services", wherever they occur, of the words "South African Police Service";</p> <p>(b) the substitution for the word "Cabinet", wherever it occurs, of the words "Executive Council"; and</p> <p>(c) the substitution for the word "Minister", wherever it occurs in regulations 11, 27, 55 and 56, of the words "responsible Member of the Executive Council".</p>

SCHEDULE 2**Fees**

(Sections 27(1); 30(1); 39(2); 51(1); 56(1) and (2); 61; 68(1); 73; 74; 75(1) and (3); 76(1); 89(4); 91(2); 94(1) and (7); 103(2); 104(2); 106; 110(2) and (4); 111(5); 121(2) and 123(2))

Application fees

1. All applications made in accordance with the provisions of sections 30, 56, 61, 68, 89, 94, 103, 110 and 111 must be accompanied by the applicable non-refundable fee prescribed in the tables hereunder, which fees are payable to the Board:

(a) Casinos

<i>Type of application</i>	<i>Fee</i>
(i) Application for a casino licence.	R114 000,00 per application
(ii) Application for amendment, substitution or rescission of condition attached to a casino licence, including and application to amend a licence for the purposes of changing any gaming equipment or gaming machine specified therein.	R11 400,00 per application
(iii) Application to relocate a casino to new premises.	R57 000,00 per application
(iv) Application for a certificate of suitability.	R5 700,00 per application
(v) Application for consent to procure or hold an interest in a casino licensee.	R5 700,00 per application
(vi) Application for registration as a special employee	R2 280,00 per employee per application
(vii) Application for amendment, substitution or rescission of condition of registration as special employee.	R1 140,00 per employee per application
(viii) Application for registration as a casino employee	R1 140,00 per employee per application
(ix) Application for amendment, substitution or rescission of condition of registration as a casino employee.	R570,00 per employee per application

(b) Manufacturers, suppliers and maintenance providers

<i>Type of application</i>	<i>Fee</i>
(i) Application for registration as a manufacturer	R57 000,00 per application
(ii) Application for registration as a supplier.	R28 500,00 per application
(iii) Application for registration as a maintenance provider.	R5 700,00 per application
(iv) Application for amendment, substitution or rescission of a condition attached to a certificate of registration.	R2 850,00 per application
(v) Registration as a special employee.	R1 140,00

	per employee per application
(vi) Registration as a service or manufacturing employee.	R1 140,00 per employee per application
(vii) Application for amendment, substitution or rescission of condition of registration as special employee or as service or manufacturing employee.	R570,00 per employee per application
(viii) Application for certificate of suitability.	R2 850,00 per application
(ix) Application for consent to procure or hold an interest in a manufacturer, supplier or maintenance provider.	R2 850,00 per application

(c) Route operators

<i>Type of application</i>	<i>Fee</i>
(i) Application for a route operator licence.	R2 850,00 per application
(ii) Application for amendment, substitution or rescission of condition of a route operator licence, including an application to amend a licence for the purposes of changing any limited payout machine, game and associated equipment specified therein.	R2 850,00 per application, plus R1 140,00 for every limited payout machine added to the licence
(iii) Application for registration as special employee.	R1 140,00 per employee per application
(iv) Application for amendment, substitution or rescission of condition attached to special employee registration.	R570,00 per application
(v) Application for certificate of suitability.	R2 850,00 per application
(vi) Application for consent to procure or hold an interest in a route operator licensee.	R2 850,00 per application

(d) Bingo licensees

<i>Type of application</i>	<i>Fee</i>
(i) Application for a bingo licence.	R50 per seat, subject to a maximum payment of R30 000 per application
(ii) Application to relocate a bingo hall to new premises.	R11 400,00 per application
(iii) Application for certificate of suitability.	R11 400,00 per application
(iv) Application for consent to procure or hold an interest in a bingo licensee.	R11 400,00 per application
(v) Application for registration as a special employee.	R510 per employee per application
(vi) Application for amendment, substitution or rescission of condition of registration as a special employee.	R510,00 per employee per application

(e) Amusement machines

<i>Type of application</i>	<i>Fee</i>
(i) Application for registration of amusement machine.	R57,00 per amusement machine

(ii) Application for authority to keep and make amusement machines available.	R228,00 per application
(iii) Application for amendment of a registration or transfer of authority to keep and make amusement machines available.	R114,00 per application

(f) Site operators

<i>Type of application</i>	<i>Fee</i>	
	<i>Type "A" site</i>	<i>Type "B" site</i>
(i) Application for a site operator licence.	R1 000,00 per site	R5 000,00 per site
(ii) Application for amendment, substitution or rescission of condition of site operator licence, including an application to amend a licence for the purposes of changing any limited payout machine, game and associated equipment specified therein.	R1 000,00 per application, plus R500,00 for every limited payout machine added to the licence	R5 000,00 per application, plus R500,00 for every limited payout machine added to the licence
(iii) Application to relocate to other premises.	R1 000,00 per application	R5 000,00 per application
(iv) Application for a certificate of suitability.	R1 000,00 per application	R5 000,00 per application
(v) Application for consent to procure or hold an interest in a site operator licensee.	R1 000,00 per application	R5 000,00 per application

(g) Independent site operators

<i>Type of application</i>	<i>Fee</i>
(a) Application for an independent site operator licence.	R2 500 per application
(b) Application for amendment, substitution or rescission of condition of independent site operator licence, including an application to amend a licence for purposes of changing any limited payout machine, game and associated equipment specified therein.	R2 500 per application, plus R1 000 for every limited payout machine added to the licence
(c) Application for registration as a special employee.	R1 000 per employee per application
(d) Application for amendment, substitution or rescission of condition attached to a special employee registration.	R500 per application
(e) Application for a certificate of suitability.	R2 500 per application
(f) Application for consent to procure or hold an interest in an independent site operator licensee.	R2 500 per application

(h) Racecourse operators, totalisators and bookmakers

<i>Type of application</i>	<i>Fee</i>
(i) Application for a totalisator licence.	R10 000,00
(ii) Application for registration as a totalisator operator.	R2 000,00
(iii) Application for registration as a totalisator manager or totalisator agent.	R750,00
(iv) Application for a bookmaker's licence.	R2 000,00
(v) Application for registration as a bookmaker's manager.	R750,00
(vi) Application for temporary registration as a bookmaker's manager.	R750,00

(vii) Application to operate at a temporary venue.	R200,00
(viii) Application for approval of a computerised record keeping system.	R2 000,00
(ix) Application for a racecourse operator's licence.	R5 000,00

Licence fees

2. The licence fees and annual licence renewal fees payable in terms of the provisions of sections 75, 76, 89, 94 and 110 are as prescribed in the tables hereunder, which fees are payable to the Board: Provided that in the event that a licence is not renewed by the Board, any fees already paid in respect of such renewal must be refunded to the applicant by the Board:

(a) Casinos

<i>Type of licence fee</i>	<i>Fee</i>
(i) Casino licence fee, including a temporary casino licence fee, which is payable upon the granting of a casino licence.	R114 000,00
(ii) Gaming machine licence and registration fee, which is payable in respect of every gaming machine specified in a casino licence or any amendment thereto, upon: (aa) the granting of a casino licence and the registration of the gaming machines specified in the licence; and (bb) the amendment of an existing casino licence for the purposes of specifying further gaming machines in such licence.	R1 140,00 per gaming machine
(iii) Table game or other casino game licence and registration fee, which is payable in respect of every table game or other casino game specified in a casino licence or any amendment thereto, upon: (aa) the granting of a casino licence and the registration of the table games or other casino games specified in the licence; and (bb) the amendment of an existing casino licence for the purposes of specifying further table games or other games in such licence.	R6 840,00 per table game or other casino game
(iv) Annual casino licence renewal fee, which is payable upon the renewal of a casino licence before 1 April of every year.	R114 000,00
(v) Annual gaming machine licence renewal fee, which is payable in respect of every gaming machine specified in the casino licence at the time of the renewal of the casino licence.	R1 140,00 per gaming machine
(vi) Annual table game or other casino game licence renewal fee, which is payable in respect of every gaming machine specified in the casino licence at the time of the renewal of the casino licence.	R6 840,00 per table game or other casino game

(b) Route operators

<i>Type of licence fee</i>	<i>Fee</i>
(i) Route operator licence fee, which is payable in respect of every limited payout machine – (aa) specified in the route operator licence at the time of issue thereof; and (bb) added to the route operator licence following an application to amend such licence.	R570,00 per limited payout machine specified in the licence, subject to a minimum payment of R2 850,00
(ii) Limited payout machine licence and registration fee, which is payable in respect of every limited payout machine – (aa) specified in the route operator licence at the time of issue of the thereof and registered by the Board in the manner contemplated in section 59(c); and	R570,00 per limited payout machine

(bb) added to the route operator licence following an application to amend such licence.	
(iii) Annual route operator licence renewal fee, which is payable upon the renewal of a route operator licence before 1 April of every year.	R114,00 per limited payout machine specified in the licence, subject to a minimum payment of R570,00
(iv) Annual limited payout machine licence fee, which is payable in respect of every limited payout machine specified in the route operator licence at the time of the renewal of the route operator licence.	R570,00 per limited payout machine

(c) Bingo licensees

<i>Type of licence fee</i>	<i>Fee</i>
(i) Bingo licence fee, which is payable upon the granting of a bingo licence.	R57,00 per seat, subject to a maximum payment of R28 500,00
(ii) Electronic bingo terminal licence and registration fee, which is payable in respect of every electronic bingo terminal specified in a bingo licence or any amendment thereto upon – (aa) the granting of the bingo licence and the registration of the electronic bingo terminals specified in the bingo licence; and (bb) the amendment of an existing bingo licence for the purposes of specifying further electronic bingo terminals in such licence, in which case the minimum payment is not applicable.	R570,00 per terminal, subject to a minimum payment of R11 400,00
(iii) Annual bingo licence renewal fee, which is payable upon the renewal of a bingo licence before 1 April of every year.	R57,00 per seat, subject to a maximum payment of R28 500,00
(iv) Annual electronic bingo terminal licence fee, which is payable in respect of every electronic bingo terminal specified in a bingo licence at the time of the renewal of the bingo licence.	R228,00 per electronic bingo terminal, subject to a minimum payment of R4 560,00

(d) Site operators

<i>Type of licence fee</i>	<i>Fee</i>	
	<i>Type "A" site</i>	<i>Type "B" site</i>
(i) Site operator licence fee, which is payable in respect of every limited payout machine – (aa) specified in the site operator licence at the time of issue thereof; and (bb) added to the site operator licence following an application to amend such licence, in which case the minimum payment is not applicable.	R500,00 per limited payout machine specified in the licence, subject to a minimum payment of R1 000,00	R500,00 per limited payout machine specified in the licence, subject to a minimum payment of R5 000,00
(ii) Annual site operator licence renewal fee, which is payable before 1 April of every year.	R200,00 per limited payout machine	R200,00 per limited payout machine, subject to a minimum payment of R2 000,00

(e) Independent site operators

<i>Type of licence fee</i>	<i>Fee</i>
(i) Independent site operator licence fee.	R500 per limited payout machine specified in the licence, subject to a minimum of R2 500
(ii) Limited payout machine licence and registration fee.	R500 per limited payout machine
(iii) Annual independent site operator licence renewal fee.	R100 per limited payout machine specified in the licence, subject to a minimum of R500
(iv) Annual limited payout machine licence fee.	R500 per limited payout machine

(f) Racecourse operators, totalisators and bookmakers

<i>Type of licence fee</i>	<i>Fee</i>
(i) Totalisator licence fee.	R10 000,00
(ii) Bookmaker's licence fee.	R2 000,00 per bookmaking right authorised by the licence
(iii) Racecourse operator's licence fee.	R5 000,00
(iv) Annual totalisator licence renewal fee.	R10 000,00
(v) Annual bookmaker's licence renewal fee.	R2 000,00 per bookmaking right authorised by the licence
(vi) Annual racecourse operator's licence renewal fee.	R5 000,00

Registration fees

3. The registration fees and annual registration renewal fees payable in terms of the provisions of sections 74, 106 and 111 are as prescribed in the table hereunder, which fees are payable to the Board: Provided that in the event that a registration certificate is not renewed by the Board, any fees already paid in respect of such renewal must be refunded to the applicant by the Board:

<i>Type of registration fee</i>	<i>Fee</i>
(i) Manufacturer's registration fee.	R28 500,00
(ii) Supplier's registration fee.	R14 250,00
(iii) Maintenance provider's registration fee.	R2 850,00
(iv) Totalisator operator's registration fee.	R2 000,00
(v) Totalisator manager or totalisator agent's registration fee.	R1 000,00
(vi) Bookmaker's manager's registration fee.	R1 000,00
(vii) Temporary bookmaker's manager's registration fee.	R1 000,00
(viii) Annual manufacturer's registration renewal fee, which is payable upon renewal of a manufacturer's registration before 1 April of every year.	R28 500,00
(ix) Annual supplier's registration renewal fee, which is payable upon renewal of a supplier's registration before 1 April of every year.	R14 250,00
(x) Annual maintenance provider's registration renewal fee, which is payable upon renewal of a maintenance provider's registration before 1 April of every year.	R2 850,00
(xi) Annual totalisator operator's registration renewal fee.	R2 000,00
(xii) Annual totalisator manager or totalisator agent's registration renewal fee.	R1 000,00
(xiii) Annual bookmaker's manager's registration renewal fee.	R1 000,00

Investigation fees

4.(1) The investigation fees payable in terms of the provisions of sections 73, 89, 94, 103, 104, 110, 123 and 134 are all reasonable and direct expenses incurred by the Board in respect of any investigations undertaken by it in terms of sections 35, 37 and 134.

(2) The Board may estimate the fees contemplated in subsection (1) and require an applicant to lodge with it such security or deposit, as it may determine, before conducting any investigation contemplated in sections 35, 37 and 134.