

REPUBLIC OF SOUTH AFRICA

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# REMOTE GAMBLING BILL

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*(As introduced in the National Assembly (proposed section 76 Bill))  
(Bill and prior notice of its introduction published in Government Gazette No 38221 of 19  
November 2014)  
(The English text is the official text of the bill)*

*(Geordin Gwyn Hill-Lewis, MP)*

[PMB3 - 2015]

## **BILL**

**To provide for the regulation and licensing of remote gambling in the Republic of South Africa; to provide for uniform norms and standards in respect of remote gambling to be applicable throughout the Republic; to prevent minors and vulnerable persons from being exposed to the negative effects of gambling; to ensure compliance with the Financial Intelligence Centre Act; to protect the public and licensed remote gambling operators from fraud and criminal behaviour, money laundering or financing of terrorist and related activities; and to provide for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:—

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## **CHAPTER 1 INTERPRETATION AND APPLICATION**

### **Definitions**

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

**“amusement game”** means a game that has a restricted prize, and that may be regulated and licensed in terms of provincial law contemplated in section 47 of the National Gambling Act;

**“authorised financial institution”** means a financial institution registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), or comparable legislation in approved foreign countries, which regulate institutions that conduct the business of a bank;

**“bet”** means an agreement whereby a person or persons risks money or a valuable consideration on the outcome of an unpredictable event occurring or not occurring, be it a sporting event, game or any contingency, or on the cumulative outcome or likelihood of a combination of sporting events or other events or contingencies occurring or not occurring, and that outcome or cumulative outcome determines the financial benefit, if any, which accrues to either that person or persons, as the case may be, and **“to bet”**, **“betting”** and **“wager”** have a corresponding meaning;

**“bingo”** means a game, including a game played in whole or in part by electronic means—

- (a) played for consideration, using cards or other devices—
  - (i) that are divided into spaces each of which bears a different number, picture or symbol; and
  - (ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols;
- (b) in which an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match each such number, picture or symbol on the card or device as it is called or displayed; and
- (c) in which the player who is first to match all the spaces on the card or device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize,

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

**“bookmaker”** means a person who is licensed to accept offers or stakes in the process of transacting bets on sporting events or contingencies;

**“casino”** means premises where casino games are played, or are available to be played, but does not include premises in which—

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

**“casino game”** means any game, irrespective of whether or not the result thereof is determined by chance or a measure of skill, played with playing cards, dice, a gaming machine or any other device used to determine win or loss in the outcome of a wager for money or other valuable consideration, and includes, without derogating from the generality of the foregoing, roulette, keno, twenty-one, blackjack, bingo, poker, chemin de fer, baccarat, or any other game whose rules closely resembles that of the foregoing;

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

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

**“equal chance gambling”** means a form of gambling that does not involve playing or staking money or any other valuable consideration against the house and in which the chances of winning the gambling game are equally favourable to all participants: Provided that how the house is described in game rules and similar prescripts and whether or not the house is controlled or administered by a player, is irrelevant in determining whether or not a form of gambling, or any game, constitutes equal chance gambling;

**“excluded person”** means a person who has been registered as such in terms of section 14 of the National Gambling Act in order to be prevented from engaging in any gambling activity;

**“external company”** means a foreign company that is carrying on business, or non-profit activities, as the case may be, within the Republic, subject to section 23(2) of the Companies Act, 2008 (Act No. 71 of 2008);

**“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;
- (d) a direct or indirect interest in the voting shares, or voting rights attached to shares, of a company; or
- (e) an interest in a close corporation;

**“Financial Intelligence Centre Act”** means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);

**“foreign national”** means an individual who is neither a citizen nor a resident of the Republic;

**“gambling”** means a bet or a wager or engaging in any activity whereby money or any valuable consideration is staked on the unknown result of a future event at the risk of losing all or a portion of the money or valuable consideration so staked for the sake of a return and is the generic term encompassing all forms of “gaming” and “betting” and **“gamble”** and **“gambling activity”** have a corresponding meaning but excludes—

- (a) any lawful lottery;
- (b) any recognised investment activity undertaken with a financial institution recognised as such in the Republic; and
- (c) any event undertaken solely for the purposes of fundraising;

**“inspector”** means a person appointed in terms of section 76 of the National Gambling Act or by any provincial licensing authority;

**“key employee”** means—

- (a) the senior management of the remote gambling operator;
- (b) if the remote gambling operator is a corporate body, every director, officer or equivalent of such body; and
- (c) any individual who has been represented by the remote gambling operator to the provincial licensing authority to be a key employee;

**“licensed”** when used in relation to—

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

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

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

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

**“manufacturer, supplier or maintenance provider”** means a person whose business is to import, manufacture, sell, lease, make available, distribute, maintain or repair remote gambling equipment or remote gambling software;

**“Minister”** means the Cabinet member responsible for the administration of this Act;

**“minor”** means a person under the age of 18 years;

**“money laundering”** means an activity which has or is likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities or any interest which anyone has in such proceeds, and includes any activity which constitutes an offence in terms of section 64 of the Financial Intelligence Centre Act or section 4, 5 or 6 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);

**“national board”** means the National Gambling Board as retained and constituted by Part B of Chapter 4 of the National Gambling Act;

**“National Gambling Act”** means the National Gambling Act, 2004 (Act No. 7 of 2004);

**“National Revenue Fund”** means the National Revenue Fund referred to in section 213 of the Constitution;



**“other event”** means any event or contingency, including a horse race or a sporting event;

**“organ of state”** means an organ of state as defined in section 239 of the Constitution;

**“person”** includes a 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 persons gamble against each other, facilitated by an operator and involves gambling by the participants on, *inter alia*, equal chance gambling games such as poker, or sports betting;

**“player account”** means an account held in the name of the player with a remote gambling operator;

**“political office bearer”** means—

- (a) a member of the National Assembly, the National Council of Provinces or the Cabinet;
- (b) a member of a provincial legislature;
- (c) a member of a municipal council or local authority;
- (d) a diplomatic representative of the Republic who is not a member of the public service; or
- (e) a national or provincial office bearer of a political party;

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

**“prescribed”** means prescribed by regulation in terms of this Act and **“prescribe”** has a corresponding meaning;

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

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

**“Provincial Revenue Fund”** means the Provincial Revenue Fund referred to in section 226 of the Constitution;

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

**“register of excluded persons”** means the register required to be maintained by the national board in terms of section 14 of the National Gambling Act;

**“regulations”** means the regulations made in terms of this Act;

**“relative or family member”** means a person’s—

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

**“remote communication”** means communication using—

- (a) the internet;
- (b) the telephone or mobile phone;
- (c) the television;
- (d) the radio; or
- (e) any other kind of electronic or other technology for facilitating communication over a distance;

**“remote gambling”** means gambling in which persons participate by means of remote communication;

**“remote gambling activity”** means gambling in which persons participate by the use of remote communication and includes but is not limited to—

- (a) gambling on virtual gambling games;
- (b) engaging in person-to-person gambling;
- (c) participation in equal chance gambling; and
- (d) participation in a casino game, bingo game or sports betting;

**“remote gambling employment licence”** means a licence permitting a key employee to work in the remote gambling industry within the Republic;

**“remote gambling equipment”** means electronic or other equipment used by or on behalf of a person providing facilities for remote gambling—

- (a) to store information relating to a person’s participation in the gambling;
- (b) to present, to persons who are participating or may participate in the gambling, a virtual game, virtual race or other virtual event or process by reference to which the gambling is conducted;
- (c) to determine all or part of a result or of the effect of a result; or
- (d) to store information relating to a result of gambling activity;

**“remote gambling licence”** means any of the licences referred to in section 15;

**“remote gambling manufacturer, supplier or maintenance provider licence”** means a licence to import, manufacture, sell, lease, make available, distribute, maintain or repair remote gambling equipment or remote gambling software;

**“remote gambling operator”** means a person, who for a monetary commission or other reward, directly facilitates or makes available a remote gambling activity but excludes—

- (a) an electronic communications service licensee licensed in terms of the Electronic Communications Act, 2005 (Act No. 36 of 2005), which acts only as a carrier of a betting transaction and does not facilitate such transaction in any other way; and

(b) a person acting within the scope of a bookmaker, totalisator, casino or bingo licence unless such person has obtained a licence to operate as a remote gambling operator in terms of section 18(9);

**“remote gambling operator licence”** means a licence issued in terms of this Act permitting a person to operate as a remote gambling operator;

**“remote gambling software”** means computer software designated for use in connection with remote gambling activities;

**“remote gambling transaction”** means a transaction which commences when a player account is debited in the amount of a wager and concludes when the player account is credited with the amount of winnings, in the case of a winning bet or the player loses the game;

**“responsible Member of the Executive Council”** means the member of the Executive Council of a Province responsible for gambling in that Province;

**“SABS”** means the South African Bureau of Standards referred to in section 3 of the Standards Act, 2008 (Act No. 8 of 2008);

**“SANS 1718 - series standard”** means the collection of standards for gaming equipment published by SABS;

**“sports”** or **“sporting event”** means any contest, match, competition, tournament or game, 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 any other measure connected with determining the result of any sporting event, and **“sports betting”** has a corresponding meaning;

**“spouse”** means a person's—

- (a) partner in a marriage;
- (b) partner in a customary marriage;
- (c) partner in a civil union; or
- (d) partner in a permanent relationship in which the parties live together in a manner resembling a marital partnership or customary union;

**“this Act”** includes the regulations and any rules made by the national board in respect of remote gambling;

**“valuable consideration”** means—

- (a) 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, whether it is transferred directly or indirectly, unless the context indicates a contrary intention;

**“virtual gambling game”** means a gambling game, the playing of which is based upon an artificially generated depiction of a process, a horse race, a sporting event or other event or contingency, comprising of—

(a) images generated by computer so as to resemble all or part of a process, a horse race, a sporting event or other event or contingency, which might occur in reality and which might involve actual people, real animals or physical things; and

(b) the result of which is determined by a computer software programme, such as, but not limited to, a random number generator;

**“web site”** means any location on the Internet containing a home page or web page.

### **Purpose of Act**

2. The purpose of this Act is to—

- (a) provide a legal basis for the regulation and control of all remote gambling activities;
- (b) preserve the integrity of the Republic as a responsible global citizen by ensuring an efficient and effective remote gambling regulatory regime;
- (c) promote the development of a responsible remote gambling industry in the Republic;
- (d) ensure that all remote gambling activities are conducted responsibly, fairly and honestly;
- (e) ensure that all players are treated fairly and that the privacy of a player is respected;
- (f) prevent minors and other vulnerable persons from being exposed to the negative effects of gambling; and
- (g) prevent remote gambling from being a source of, or associated, with crime or disorder, or being used to support crime, disorder or money laundering.

### **Application of Act and other laws**

3. (1) This Act does not apply to an activity that is regulated in terms of the Lotteries Act, 1997 (Act No. 57 of 1997) or any remote gambling activity offered, played or available to be played in any licensed casino, bookmaking or totalisator’s premises, in instances where the holder of such licence is authorised to make such remote gambling activity available for play in the Republic.

(2) The granting of any licence in terms of this Act does not relieve the licensee from complying with any other law or legal requirement in relation to the business in question, or any applicable provision of the National Gambling Act.

(3) This Act regulates remote gambling in the Republic of South Africa which may only be conducted via a remote gambling operator licensed in terms of this Act.

(4) If any piece of remote gambling equipment, used in the provision of a remote gambling activity which is offered in or made available for play to persons in the Republic, then this Act applies to the provider of such remote gambling activity or the person making such remote gambling activity available.

(5) A player located outside of the Republic is deemed to be gambling in the Republic when he or she registers as a player of a remote gambling operator licensed in the Republic.

## **CHAPTER 2**

### **PROHIBITED REMOTE GAMBLING AND STATUS OF REMOTE GAMBLING DEBT**

#### **Unlicensed remote gambling activity unlawful**

4. A person may not engage in, facilitate or make available a remote gambling activity unless such remote gambling activity is provided by a licensed remote gambling operator in terms of this Act.

#### **Remote gambling in relation to illegal activities unlawful**

5. A person may not—

- (a) engage in, conduct or make available a remote gambling activity if the outcome of that activity depends directly, indirectly, partly or entirely on a contingency related to an event or activity that is itself unlawful in terms of South African law;
- (b) permit any remote gambling equipment or remote gambling software under the person's control to be used for the purposes of a remote gambling activity contemplated in paragraph (a);
- (c) maintain or operate any premises, whether or not such premises are licensed premises, for the purposes of a remote gambling activity contemplated in paragraph (a); or
- (d) permit any premises under the person's control, whether or not such premises are licensed premises, to be used for the purposes of a remote gambling activity contemplated in paragraph (a).

#### **Unlicensed use of premises unlawful**

6. Despite any other law, a person may not maintain or operate any premises for the purposes of a remote gambling activity, unless that remote gambling activity in, on or from those premises has been authorised in terms of a licence under this Act.

#### **Enforceability of remote gambling debts and forfeiture of unlawful winnings**

7. (1) Despite any other law—

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

- (b) a debt incurred by a person in the course of any remote gambling activity that is unlawful in terms of this Act is not enforceable in law;
  - (c) a debt incurred in the course of a remote gambling activity—
    - (i) by a minor is not enforceable in law; or
    - (ii) by an excluded person is not enforceable in law, unless that excluded person gained access to that remote gambling activity by fraudulently claiming to be a different person; and
  - (d) an informal bet, as defined in the National Gambling Act, is not enforceable in law.
- (2) A person must not knowingly pay any winnings from a remote gambling activity to—
- (a) a minor;
  - (b) an excluded person; or
  - (c) any other person who won those winnings in a remote gambling activity that is unlawful in terms of this Act.
- (3) Any person who is prevented from paying winnings referred to in subsection (2) must remit those winnings to the national board in the prescribed manner and form, to be held by the national board in trust, pending a decision in terms of subsection (4).
- (4) Upon receiving any winnings under subsection (3), the national board must investigate the circumstances of the relevant remote gambling activity, and either—
- (a) deliver the winnings to the person who won them, if the national board is satisfied that the remote gambling activity was lawful, and the winner was not a minor or excluded person at the time of the activity; or
  - (b) apply to the High Court for an order declaring the winnings to be forfeited to the State.

### CHAPTER 3 PRIZES AND REMITTANCE

#### **Payment of prizes and remittance of profits and winnings**

- 8.** (1) If a player in a remote gambling activity conducted by a remote gambling operator wins a monetary prize, the remote gambling operator must credit the amount to the player account.
- (2) If a player in a remote gambling activity conducted by the remote gambling operator wins a non-monetary prize, the remote gambling operator must—
- (a) have the prize delivered by courier or by post to the player; or
  - (b) give the player written notice of an address within the Republic where the prize may be collected.

(3) If a non-monetary prize in a remote gambling activity conducted by a remote gambling operator has not been collected within a year after notification to the player, at the place where it may be collected, the remote gambling operator may dispose of the prize by public auction or tender or in some other way approved by the national board and must—

- (a) pay for the disposal of the prize from the proceeds of the sale;
- (b) pay the remainder of the proceeds into the player account; and
- (c) if there is no current player account, subject to an order of the High Court for the forfeiture of such funds, pay the funds over to the State.

(4) If a claim for a prize in a remote gambling activity is made to a remote gambling operator within a year of the date of identification of the player, the remote gambling operator must—

- (a) settle the claim; or
- (b) if the remote gambling operator cannot settle the claim immediately, the remote gambling operator must, by notice in the prescribed manner and form, immediately inform the claimant—
  - (i) of the remote gambling operator's inability to settle the claim; and
  - (ii) that the claimant may, within 10 days of receiving the prescribed notice, request the national board, in the prescribed form, to resolve the claim.

(5) The claim against the remote gambling operator lapses if—

- (a) it is not settled within a year from the date of identification of the player; and
- (b) after a diligent search, the remote gambling operator has not located the player.

(6) If there is a dispute arising out of a remote gambling activity or any matter in relation thereto, either party may, within the prescribed period, refer the dispute to the national board for resolution.

### **Remittance to foreign nationals and external companies**

**9.** Subject to exchange control regulations and taxation laws—

- (a) a foreign national player may remit prize money to a foreign destination; and
- (b) an external company that is a licensed remote gambling operator in terms of this Act, may remit dividends or profits to a foreign destination if the external company is able to meet its financial commitments in terms of this Act, which include prize money and other liabilities, in the Republic.

## **CHAPTER 4**

### **RESPONSIBILITIES AND FUNCTIONS OF THE PROVINCIAL LICENSING AUTHORITIES AND THE NATIONAL BOARD**

#### **Powers and functions of provincial licensing authorities in respect of remote gambling**

- 10.** Each provincial licensing authority, within its jurisdiction, must—
- (a) accept and review applications for any of the remote gambling licences referred to in section 15;
  - (b) make a recommendation to the national board in terms of section 19(2);
  - (c) consider whether any conditions should be imposed on an applicant for a remote gambling licence and if so, recommend to the national board that such conditions be imposed;
  - (d) undertake or instruct 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 remote gambling licence;
  - (e) in its discretion, grant or refuse any request made by a remote gambling operator or manufacturer, supplier or maintenance provider to relocate their business premises to other premises within the Province;
  - (f) conduct an enquiry into any alleged contravention of this Act and take appropriate action against any licensee or any person, which may include—
    - (i) instituting legal action against such licensee or person; or
    - (ii) imposing a fine or penalty on such licensee or person provided that the amount of such fine or penalty does not exceed the prescribed amount;
  - (g) 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 provincial licensing authority, have been used in connection with or will reveal a contravention of this Act;
  - (h) monitor the activities of remote gambling operators, persons associated with remote gambling operators and persons who are in a position to exercise direct or indirect control over remote gambling operators or persons associated with such operators;
  - (i) monitor all remote gambling activities within its Province; and
  - (j) perform any other function or exercise any other power which the responsible Member of the Executive Council may empower the relevant provincial licensing authority to perform or exercise.

#### **Responsibilities of provincial licensing authorities**

- 11.** Each provincial licensing authority, within its jurisdiction, is required to—
- (a) take reasonable steps to ensure—
    - (i) that unlawful activities relating to remote gambling and unlicensed remote gambling activities are prevented, detected, investigated and prosecuted;



- (ii) that undertakings made by licensees holding a licence to make remote gambling activities available, are carried out to the extent required by the licence;
  - (iii) that employees within the remote gambling industry are licensed to the extent required by this Act;
  - (iv) that each item of remote gambling equipment or remote gambling software, being used or made available for use by a licensee, is registered and certified; and
  - (v) the complete and timely collection and remittance of provincial taxes, levies and fees relating to remote gambling activities;
- (b) inspect web sites on which remote gambling activities are conducted and inspect premises where remote gambling equipment and software are located;
  - (c) inspect remote gambling equipment and remote gambling software used for any activity that is permitted in terms of a remote gambling operator licence; and
  - (d) supervise and enforce compliance by licensees with the obligations of accountable institutions in terms of the Financial Intelligence Centre Act, to the extent required by that Act, in so far as it relates to the remote gambling industry.

### **Information to national board**

#### **12. Each provincial licensing authority must—**

- (a) inform the national board of all the applications received by it for a remote gambling licence;
- (b) after reviewing the applications received for a remote gambling licence, submit the applications and any supporting documents to the national board; and
- (c) indicate to the national board, together with any findings made following a review, investigation or inspection contemplated in section 10, whether or not the applicant complies with—
  - (i) the provisions of this Act; and
  - (ii) the norms and standards issued by the national board.

### **Responsibilities and functions of the national board**

#### **13. (1) The responsibilities of the national board in terms of this Act are to—**

- (a) conduct evaluations of the performance of the provincial licensing authorities, so as to ensure that the national norms and standards in respect of remote gambling, developed by the national board in terms of this Act, are applied uniformly and consistently throughout the Republic;
- (b) assist the provincial licensing authorities to ensure that unlicensed remote gambling activities are detected and prosecuted;
- (c) develop national norms and standards for the remote gambling industry;
- (d) ensure that minors and vulnerable persons are protected in relation to remote gambling activities; and

- (e) ensure that the relevant provincial licensing authorities monitor, inspect and evaluate applicants and review applications for remote gambling licences.

(2) In addition to any other powers, functions and obligations that the national board has in terms of this Act, the national board is empowered to—

- (a) receive applications for remote gambling licences put forward to it by the provincial licensing authorities;
- (b) consider and determine whether or not an application for a remote gambling licence should be granted;
- (c) evaluate whether the relevant provincial licensing authority has complied with this Act and whether any further conditions or restrictions must be attached to the remote gambling licence before issuing such licence;
- (d) monitor remote gambling activities in the Republic; and
- (e) conduct an enquiry into any alleged contravention of this Act and take appropriate legal action against any provincial licensing authority, any licensee or any other person.

### **Register of remote gambling licences**

**14.** (1) The national board must establish and maintain, in the prescribed manner and form, a register containing the information relating to every person to whom it issues a remote gambling licence.

(2) The register must include the following information:

- (a) The full name and contact details of the licensee;
- (b) the activities permitted under the licence issued;
- (c) the address of the licensee's business premises and the address at which the remote gambling equipment is located;
- (d) the names of each person who has a shareholding of 10% or more of the total financial interest in a remote gambling licensee;
- (e) the date of expiry of the licence; and
- (f) any other information as prescribed by the Minister from time to time.

## **CHAPTER 5 CATEGORIES OF LICENCES AND JURISDICTION**

### **Categories of licences**

**15.** Any person may, in accordance with this Act, apply to a provincial licensing authority for—

- (a) a remote gambling operator licence;
- (b) a remote gambling manufacturer, supplier or maintenance provider licence; or
- (c) a remote gambling employment licence.

### **Authority to issue licences**

**16.** (1) The national board may, in accordance with this Act, issue to a person who complies with this Act—

- (a) a remote gambling operator licence;
- (b) a remote gambling manufacturer, supplier or maintenance provider licence; or
- (c) a remote gambling employment licence.

(2) A remote gambling licence issued in terms of this Act applies throughout the Republic and authorises the licensee to conduct, engage in, or make available the licensed remote gambling activities anywhere within the Republic.

(3) Subsection (2) does not preclude persons located outside of the Republic from registering as a player of the remote gambling operator and entering into a remote gambling transaction with a licensee in the Republic.

### **Jurisdiction of provincial licensing authority**

**17.** A person who wishes to apply for any of the licences referred to in section 15 must apply to the provincial licensing authority within the province —

- (a) in which the applicant ordinarily resides, or in which the applicant intends to take up employment under the licence, if the applicant is an individual; or
- (b) where the applicant's place of business within the Republic is or will be located.

## **CHAPTER 6 APPLICATIONS, REFUSALS, DISQUALIFICATIONS, RENEWALS, CANCELLATIONS, TRANSFERS AND SURRENDER OF LICENCES**

### **Application for a remote gambling licence**

**18.** (1) Any person who wishes to obtain a remote gambling licence in terms of this Act, must apply to the relevant provincial licensing authority for such a licence, in the prescribed manner, and must pay the application fee, as prescribed by the responsible Member of the Executive Council, to the provincial licensing authority concerned, provided that—

- (a) any person whose remote gambling licence has been cancelled, may not apply for a remote gambling licence for a period of 12 months from the date of such cancellation, and any person who has a shareholding of 10% or more in the business or premises of such applicant or licensee may not apply for a remote gambling licence within 12 months from the date of such cancellation if such person was the direct or effective cause of such cancellation; or

(b) any person whose application for a remote gambling licence has been refused, as described in subsection (2), more than once or whose remote gambling licence has been cancelled more than once, may not reapply for a remote gambling licence within three years from the date of the most recent refusal or cancellation, and any person who has a shareholding interest of 10% or more in the business of such applicant may not apply for a remote gambling 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 purposes of subsection (1), “refused” means an application which has been refused because the applicant is disqualified in terms of this Act from obtaining a remote gambling licence, or the investigation contemplated in section 21 has revealed that the applicant is not a fit and proper person to be granted a remote gambling licence under this Act.

(3) The applicant for a remote gambling licence must furnish the prescribed information to the relevant provincial licensing authority when applying for a remote gambling licence in terms of subsection (1).

(4) When submitting an application in terms of subsection (1), an applicant may identify any particulars, documents and information included in the application, which he or she regards as being confidential or which must not be disclosed to the public.

(5) The provincial licensing authority may only make such particulars, documents and information referred to in subsection (4) available to a person who assists it with an investigation.

(6) Any particulars, documents and information referred to in subsection (4) which the applicant has submitted as confidential must not be open to public inspection and must not be made available for public inspection.

(7) On receipt of an application for a remote gambling licence, the provincial licensing authority concerned must, unless the application may not be processed because the provisions contained in subsection (1)(a) and (b) apply, institute the prescribed procedures for the processing of such applications.

(8) Existing holders of a bookmaker, totalisator, casino or bingo licence or of a limited pay-out machine site licensed in the Republic are eligible to apply for a licence as a remote gambling operator or for a licence as a remote gambling manufacturer, supplier or maintenance provider in terms of this Act.

(9) In instances where a provincial licensing authority determines that existing holders of a bookmaker, totalisator, casino or bingo licence or of a limited pay-out machine site licensed in the Republic are operating entirely via remote communication, such licences must be converted by the national board to a remote gambling operator licence provided that all the provisions of this Act have been complied with.

(10) When reviewing an application for a remote gambling licence made in terms of subsection (1) or subsection (8), other than an application for a remote gambling employment licence, the provincial licensing authority must consider the economic and social development issues contemplated in section 53 of the National Gambling Act and the competition issues contemplated in section 54 of the National Gambling Act.

(11) The provincial licensing authority must ensure and require of every licensed remote gambling operator that some part of the remote gambling equipment used by the remote gambling operator must be situated within the Province in which the application for the licence has been made.

### **Process after receiving an application for a remote gambling licence**

**19.** (1) The provincial licensing authority, upon receiving an application for a remote gambling licence in terms of section 18(1), must—

- (a) notify the national board of the application;
- (b) conduct an investigation as described in section 21, in order to confirm compliance with this Act or any other prescribed matters; and
- (c) conduct any prescribed hearings or other proceedings in respect of the application.

(2) The provincial licensing authority must, after completing the investigations, hearings or other proceedings referred to in subsection (1), inform the national board in the prescribed manner —

- (a) that the applicant has complied with the requirements of this Act and the national norms and standards in respect of remote gambling and that they recommend the granting of the application; or
- (b) that they do not recommend the granting of the application together with reasons for such recommendation.

(3) The provincial licensing authority must thereafter notify the applicant in the prescribed manner that it proposes to recommend to the national board—

- (a) not to grant the remote gambling licence applied for, together with reasons for its recommendation; or
- (b) to grant the remote gambling licence as applied for.

### **Review of recommendation to issue remote gambling licence**

**20.** (1) The national board, after receiving a notice referred to in section 19(2) from the provincial licensing authority—

- (a) must consider the application and the recommendations made by the provincial licensing authority and may rely on the information provided by the provincial licensing authority; and
- (b) may conduct an evaluation or investigation if there are reasonable grounds to believe that the requirements of this Act have not been met.

(2) The national board, after considering the application and the recommendations of the provincial licensing authority, must advise the provincial licensing authority in the prescribed manner—

- (a) whether there are objections to issuing the remote gambling licence as recommended; or
- (b) whether the remote gambling licence will be issued as recommended.

(3) If the national board intends to issue the licence as recommended, the national board must, where it deems appropriate, consider—

- (a) imposing particular or additional conditions before issuing the licence; or
- (b) altering any proposed conditions before issuing the licence.

(4) If the national board advises the provincial licensing authority that it does not support the recommendation of the provincial licensing authority to issue a remote gambling licence as recommended, the national board must furnish a report to the provincial licensing authority—

- (a) setting out the reasons for not supporting the recommendation to grant the license; and
- (b) allow the provincial licensing authority the opportunity to resubmit the application.

#### **Investigation of application by the provincial licensing authority**

**21.** (1) Upon receipt of an application for a remote gambling licence in terms of section 18(1), the provincial licensing authority must undertake or cause to be undertaken all such investigations, including the inspection of any premises, it deems necessary to enable it to review the application comprehensively.

(2) An investigation referred to in subsection (1) must establish whether or not the applicant—

- (a) is a fit and proper person ;
- (b) has any business association with any person or body or any association which, in the opinion of the provincial licensing authority, is not fit and proper;
- (c) has at any time, whether in the Republic or elsewhere, been convicted of any offence which, in the opinion of the provincial licensing authority, should be taken into account for the purposes of reviewing the application;
- (d) is an unrehabilitated insolvent; or
- (e) is disqualified from holding a licence in terms of section 26 or 27.

(3) The provincial licensing authority may request the Provincial Commissioner of the South African Police Service, or his or her delegate, to assist in undertaking background investigations into an applicant for a remote gambling 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.

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

(5) Any person who assists the provincial licensing authority in the manner contemplated by subsections (3) and (4), may not disclose any document or information whatsoever to any other person.

### **Obtaining further information in connection with application**

22. The provincial licensing authority may, by notice in writing, require an applicant for a remote gambling licence or any person whose business is to be directly associated with the proposed remote gambling activity of the applicant, to provide such additional information as the provincial licensing authority may require to enable it to review the application.

### **Representations by municipalities and interested persons, and response by applicant**

23. (1) The provincial licensing authority, when reviewing an application for a remote gambling licence, must invite municipalities within the province, interested persons or other bodies who wish to submit written representations in response to an application made for a remote gambling licence, to do so in the manner prescribed.

(2) The provincial licensing authority must furnish any written representations, received in terms of subsection (1), to the applicant for his or her response in the manner prescribed.

### **Application and representations open to public inspection and confidential information**

24. (1) Any application, representation, response and further information lodged with the provincial licensing authority in respect of an application for a remote gambling licence must, subject to subsection (2) and section 18(4), be open to public inspection by interested persons during the normal office hours of the provincial licensing authority for the prescribed period.

(2) The provincial licensing authority 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 provincial licensing authority 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 open for public inspection.

**Grounds for refusing a remote gambling licence**

**25.** The national board must refuse to issue a remote gambling licence to an applicant who is disqualified from holding a remote gambling licence in terms of section 26 or 27 of this Act.

**Disqualifications for remote gambling employment licence**

**26.** (1) A person is disqualified from being issued a remote gambling employment licence in terms of this Act, and from retaining or holding such licence already issued, if he or she—

- (a) is a minor;
- (b) is a public servant or political office bearer;
- (c) is listed on the register of excluded persons;
- (d) is subject to an order of a competent court declaring that person to be mentally unfit or mentally unsound;
- (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 ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, 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), the Financial Intelligence Centre Act, the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), or an offence in terms of this Act or applicable provincial law, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence;
- (g) has been convicted during the previous ten years of any computer or computer software related crime; or
- (h) is an unrehabilitated insolvent.

(2) A remote gambling employment licence issued in terms of this Act is automatically cancelled if the licensee becomes disqualified in terms of subsection (1) at any time after the licence was issued.

**Disqualifications and restrictions for the other remote gambling licences excluding remote gambling employment licences**

**27.** (1) A person is disqualified from being issued a remote gambling licence in terms of this Act, and from retaining or holding any such licence already issued, if he or she or any person acting as his or her principal—

- (a) is a public servant;
- (b) is a political office-bearer;
- (c) is a minor on the date the application is being considered by the provincial licensing authority;
- (d) is an unrehabilitated insolvent;
- (e) is subject to an order of a competent court declaring that person to be mentally unfit or mentally unsound;



- (f) has at any time been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money;
- (g) has been convicted during the previous 10 years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, 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), the Financial Intelligence Centre Act, the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), or an offence in terms of this Act or the National Gambling Act, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the amount prescribed in terms of the National Gambling Act, unless the person has received a grant of amnesty or free pardon for the offence;
- (h) is the spouse of a person referred to in paragraph (a);
- (i) is a relative or family member, other than a brother or sister, of a member of the board of the relevant provincial licensing authority or the national board;
- (j) is or was, during the preceding 12 months, a member or employee of the national board or the relevant provincial licensing authority;
- (k) is listed on the register of excluded persons;
- (l) is not a fit and proper person; or
- (m) has been convicted during the previous 10 years of any computer or computer software related crime.

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

- (a) the provisions of subsections 1(a), 1(b), 1(h), 1(i) and 1(j) –
  - (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)—
  - (i) has a shareholding 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 the applicant or licensee disqualified must be given a reasonable opportunity to rectify the disqualifying circumstances, prior to the disqualification.

(3) A person is disqualified from being issued a remote gambling licence 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 national 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 remote gambling business.

(4) The State and any organ of state at any level of government may not have any financial interest, apart from a financial interest in taxes and levies payable, in any remote gambling activity contemplated in this Act.

(5) 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.

### **Communication of decision and issue of licence including conditions**

**28.** (1) The national board must, within 10 days after it 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;
- (b) the relevant provincial licensing authority where the application was made; and
- (c) any person who made representations where the application has been granted.

(2) Where the national board has granted an application and the applicant has paid the licence fee prescribed by the Minister, the national board must, within 10 days after it has granted the application—

- (a) issue the relevant remote gambling licence in the prescribed form, including all the relevant information as prescribed and any conditions imposed on the licensee; and
- (b) issue a licence certificate in the prescribed form to the licensee.

### **Renewal of remote gambling licence and amendment of conditions of licence**

**29.** (1) Any remote gambling licence issued in terms of this Act, subject to the conditions under which it was granted, remains in force until the date of renewal or the date of expiry.

(2) The licensee must apply to the provincial licensing authority concerned for the renewal of a remote gambling licence at least 60 days prior to the date on which the remote gambling licence becomes renewable or expires and must pay the licence fee prescribed by the responsible Member of the Executive Council.

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

- (a) cease the activities authorised by the remote gambling licence; and

- (b) if he or she so wishes, apply to the provincial licensing authority for a new licence in accordance with the provisions of section 18, in which event all the provisions of this Act relating to an application for a remote gambling licence apply, with the necessary changes.

(4) A licensee may apply to the national board, upon the payment of the fee prescribed by the Minister, and in the prescribed manner, for any conditions attached to a remote gambling licence to be amended, substituted or rescinded.

### **Suspension of remote gambling licence**

**30.** (1) The national board may at any time, or upon receiving a recommendation from the provincial licensing authority, and after giving the licensee concerned an opportunity to be heard, suspend for such period as it may determine, any remote gambling licence if—

- (a) any information—
  - (i) given to the provincial licensing authority and relied on by the provincial licensing authority when making its recommendation to the national board; or
  - (ii) contained in any application made by the licensee for the purposes of obtaining a remote gambling licence, a variation to any specification or condition attached to a licence, the renewal or transfer of a licence, was false in any material respect or was subject to any material omission with the intention to mislead the provincial licensing authority or the national board at the time of being furnished;
- (b) the licensee is disqualified from holding a licence in terms of sections 26 or 27;
- (c) the licensee, an employee of such licensee or any other person acting on his or her behalf has—
  - (i) failed to comply with any term or condition of the remote gambling licence;
  - (ii) failed to comply with any provision of this Act; or
  - (iii) not complied with a term or condition of the remote gambling licence or provision of this Act within 30 days, or such further period as the national board or provincial licensing authority may have allowed, after delivery of a written notice by the national board or provincial licensing authority to the licensee requiring such failure or non-compliance to be remedied;
- (d) the licensee fails to pay any amount prescribed in terms of this Act or relevant provincial law within the prescribed period;
- (e) the licensee, in the case of a remote gambling operator, fails to pay out any prize legitimately won in betting conducted under the remote gambling licence; or
- (f) the licensee fails to comply with any other provision of this Act or its licensing conditions which the national board considers to be of such a nature as to warrant the suspension of the licence concerned.

(2) The national board may, pending an investigation into the contravention of this Act, immediately suspend the licence of any licensee for a material contravention of any provision of this Act or a condition of a remote gambling licence.

(3) The national 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 national board.

(4) When a remote gambling licence is suspended in terms of subsection (1), the national board must immediately, in writing, inform the licensee—

- (a) of such suspension and of the reasons for the suspension; and
- (b) that the licensee has no claim to a refund of any licence fees paid or any portion thereof.

### **Cancellation of remote gambling licence**

**31.** (1) Where the national board is of the opinion, or upon the recommendation from a provincial licensing authority, that sufficient grounds exist for the cancellation of a remote gambling licence, the national board must notify the licensee in writing that the national board intends to cancel the licence concerned.

(2) The written notice referred to in subsection (1) must—

- (a) state clearly the ground or grounds for cancellation;
- (b) invite the licensee to, within 30 days after the date of the written notice—
  - (i) make written representations to the national board; or
  - (ii) notify the national board in writing that he or she intends making oral representations to the national board; and
- (c) state clearly that, should the licensee fail to respond to the written notice in the manner contemplated in paragraph (b), the national board will take a decision as to whether or not the licence concerned should be cancelled.

(3) Where the licensee notifies the national board that he or she intends to make oral representations to the national board, the national board must inform the licensee of the date and venue for such oral representations to be made and the process that will be followed for the hearing of such oral representations.

### **Surrender of remote gambling licence and conditions imposed**

**32.** (1) A licensee may surrender a licence by giving written notice to the national board.

(2) The surrender takes effect—

- (a) three months after the date on which the notice is received; or
- (b) on a date stated in the notice.

(3) The national board may impose any conditions on the surrender of a licence.

### **Transfer of licence**

**33.** (1) A remote gambling operator or a remote gambling manufacturer, supplier or maintenance provider may at any time make an application to the relevant provincial licensing authority for his or her licence to be transferred to another person and, in such event, the provisions of sections 18 to 28 apply, with the necessary changes.

(2) When an application referred to in subsection (1) is granted by the national board, the national board must cause the name of the licensee to be altered appropriately on the licence.

### **Removal of business to other premises**

**34.** (1) A licensee may at any time request the removal, whether permanently or temporarily, of his or her business from the premises specified in the licence to other premises within the province.

(2) The relevant provincial licensing authority may grant or refuse the request made in terms of subsection (1).

(3) Where the request referred to in subsection (1) is granted, the provincial licensing authority —

- (a) may impose any conditions it sees fit; and
- (b) must cause the licence to be altered appropriately.

(4) When the request referred to in subsection (1) is refused, the provincial licensing authority must provide the licensee with reasons that are reasonable and justifiable for such refusal.

### **Disqualification after licence issued**

**35.** (1) This section does not apply to a remote gambling employment licence.

(2) If a licensee or a person who holds an interest in a licensee, becomes disqualified in terms of section 27 after the licence was issued—

- (a) the licensee or the person that holds an interest in the licensee, as the case may be, must advise the national board in the prescribed manner and form of such disqualification; and
- (b) where that person—
  - (i) holds an interest in the licensee, that person must dispose of that interest within a period of not more than 3 years, determined by the national board after considering the circumstances, and the nature of the disqualification; or
  - (ii) is a manager of the business concerned, the national board may impose reasonable conditions on the continuation of the licence with the object of ensuring continuing compliance with the principles of this Act.

**Costs of investigation**

**36.** (1) Where either the provincial licensing authority or the national board undertakes an investigation to determine the suitability of an applicant for any remote gambling licence in terms of this Act, or for approval of remote gambling equipment, the applicant must pay to the relevant provincial licensing authority or the national board conducting the investigation, the amount calculated by them to be the actual cost to the provincial licensing authority or national board for undertaking such investigation, as being all reasonable and direct expenses incurred by the relevant provincial licensing authority or national board in respect of the investigation.

(2) The provincial licensing authority or national 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.

**Appeals and review**

**37.** Any person who is aggrieved by a decision of either the national board or the provincial licensing authority, made in accordance with the provisions of this Act, may apply to the High Court for a review or appeal of such decision.

**CHAPTER 7****CONDITIONS RELATING TO KEY PERSONS EMPLOYED IN  
REMOTE GAMBLING INDUSTRY****Licensing of key persons employed in the remote gambling industry**

**38.** (1) A remote gambling operator may not employ a person, classified as a key employee, to engage in any work within the remote gambling industry unless that employee has satisfied the requirements of subsection (2).

(2) A person who is classified as a key employee must not engage in any work within the remote gambling industry in terms of this Act unless that person has been issued with a valid remote gambling employment licence permitting that work.

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

**Conditions of employment licensing**

**39.** A remote gambling employment licence and certificate issued to a person in terms of this Act is not transferable to another person.

## **CHAPTER 8**

### **RESTRICTIONS AND RESTRICTED ACTIVITIES**

#### **Minors**

**40.** (1) A minor may not—

- (a) operate remote gambling equipment for the purpose of engaging or using such remote gambling equipment to engage in remote gambling;
- (b) conduct or make available a remote gambling activity;
- (c) engage in a remote gambling activity other than an amusement game; or
- (d) falsely claim to be 18 years of age or over, in order to—
  - (i) gain access to remote gambling equipment for the purposes of engaging in remote gambling; or
  - (ii) engage in, conduct or make available a remote gambling activity.

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

- (a) gain access to remote gambling equipment for the purposes of engaging in remote gambling; or
- (b) engage in, conduct or make available a remote gambling activity.

(3) A licensed remote gambling operator or a licensed remote gambling employee may not knowingly permit a minor to, and must take every reasonable effort to prevent a minor from being able to—

- (a) engage in remote gambling or a remote gambling activity, other than an amusement game; or
- (b) register as a player for a remote gambling activity.

(4) A licensed remote gambling operator or a licensed remote gambling employee must take reasonable measures to determine accurately whether or not a person is a minor, before permitting that person to engage in a remote gambling activity.

#### **Restrictions on granting credit to gamblers**

**41.** A remote gambling operator may not extend credit to any person for the purposes of engaging in a remote gambling activity.

#### **Excluded persons**

**42.** A person who wishes to be prevented from engaging in any remote gambling activity may register as an excluded person in terms of section 14 of the National Gambling Act.

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

**43.** (1) A person may not advertise or promote any remote gambling activity—

- (a) in a false or misleading manner; or
- (b) in a manner that is unlawful in terms of this Act or applicable provincial law.

(2) Any advertisement of a remote gambling activity or a website at which remote gambling activities are available –

- (a) must include a statement, in the prescribed manner and form, warning against the dangers of addictive and compulsive gambling; and
- (b) must not include any element that directly or indirectly promotes or encourages the removal of a person from the register of excluded persons.

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

(4) The Minister may by regulation—

- (a) prescribe the manner and form for remote gambling advertising; and
- (b) exempt any specific type of advertising or advertising media from the application of this section if the Minister is satisfied that the advertising is not targeted at the general public.

**Provision of remote gambling activities**

**44.** (1) A remote gambling operator may—

- (a) not permit a person to participate in a remote gambling activity offered by the remote gambling operator unless that person—
  - (i) is registered as a player and has opened a player account with that remote gambling operator in that person's name;
  - (ii) has an account held with an authorised financial institution for the movement of funds into and out of the player account in the prescribed manner; and
  - (iii) has set a limit on the funds that may be transferred into that person's player account, in the prescribed manner, for the purpose of participating in the remote gambling activity; and
- (b) not make any payout to a remote gambling player unless the remote gambling operator has, in the prescribed manner and form—
  - (i) established and verified the identity of the player;
  - (ii) recorded the identity, address and account information of the player;
  - (iii) obtained appropriate confirmation that the player is not a minor; and



- (iv) in respect of foreign players, obtained and recorded a statement from a player confirming that the law of the country within which the player primarily resides, does not prohibit the player from playing or engaging in remote gambling activities.
- (2) The national board must develop standard procedures for—
- (a) the registration of players;
  - (b) the registration and control of player accounts; and
  - (c) dealing with remote gambling activities that commenced but were discontinued because of human error or a failure in the operating or telecommunication system.

### **Restrictions on remote gambling activities**

**45.** (1) No person may operate as a remote gambling operator in the Republic, except in accordance with the provisions of this Act.

- (2) No person who is—
- (a) a minor;
  - (b) appointed as an inspector by either the national board or the provincial licensing authority; or
  - (c) a member or employee of the provincial licensing authority or of the national board, may, except in the performance of his or her duties as an inspector or member or employee of the provincial licensing authority or national board, enter into remote gambling transactions or engage in remote gambling activities.
- (3) A licensee under this Act or a licensee's employee or any person authorised by the licensee to take charge of remote gambling activities authorised in or by the licensee's licence must—
- (a) take all reasonable steps to ensure that minors do not gamble via the remote gambling operator concerned; and
  - (b) for the purposes of this subsection, request any person suspected of being a minor to produce identification and proof of age.
- (4) Any licensee who enters into a remote gambling transaction with a person whom he or she should reasonably have suspected to be a minor, is guilty of an offence.
- (5) No person, other than a person acting within the scope of a remote gambling operator licence issued in terms of this Act, 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.
- (6) A remote gambling operator may not employ or offer employment to any key employee in any remote gambling activity, unless he or she is the holder of a valid remote gambling employment licence issued in terms of this Act.

(7) A person may not possess remote gambling equipment or remote gambling software, used or intended to be used for any remote gambling activity that is permitted under a remote gambling operator licence, unless he or she is in possession of a licence authorising such possession, as issued in terms of this Act.

(8) A remote gambling operator must inform the relevant provincial licensing authority of any person who participates in any code of sports as—

- (a) a player, rider, driver, team member or similar participant;
- (b) a referee, linesman, assistant referee, umpire or similar participant;
- (c) a team coach, team or player manager, trainer, or similar participant; or
- (d) a team owner, horse owner, dog owner, or similar participant,

and bets via a remote gambling operator on any sporting event, in which—

- (i) that person participates;
- (ii) a team which that person manages, owns, trains or coaches participates;
- (iii) a player, rider, driver, team member or similar participant which that person manages, trains or coaches participates; or
- (iv) an animal which that person owns, trains or coaches participates,

with the intent to unfairly or illegally manipulate the outcome of that sporting activity.

(9) A remote gambling player may not enter into a gambling transaction with a remote gambling operator that is not licensed in terms of this Act.

(10) A remote gambling operator is deemed to enter into a gambling transaction with a remote gambling player when such operator directly facilitates transactions, participates in or engages in remote gambling with or between such player and another person, or persons.

(11) Any person who contravenes or fails to comply with the provisions of this section is guilty of an offence.

## **CHAPTER 9**

### **STANDARDS FOR WEB SITES AND REMOTE GAMBLING EQUIPMENT**

#### **Standards for remote gambling web sites**

**46.** (1) Every remote gambling operator licensed in terms of this Act must ensure that its web sites at or on which remote gambling activities are conducted or accessed contains, in the prescribed manner and form, a prominent notice warning of the dangers of compulsive and addictive gambling.

(2) Every remote gambling operator licensed to make a remote gambling activity available to the public must on its web site—

- (a) make available the prescribed form in terms of section 14 of the National Gambling Act to be used by a person wishing to register as an excluded person;
- (b) make available a directory of local recognised counselling, treatment or education services addressing the problems of compulsive and addictive gambling; and
- (c) prominently post a notice advertising the availability of those materials, in the prescribed manner and form.

(3) The web sites at or on which remote gambling activities are conducted or accessed, must comply with prescribed standards relating to their design, use and maintenance of such licensed web sites.

(4) The national board must, within six months after this Act has come into operation, develop the national norms and standards for the security, access and maintenance of a remote gambling operator's web site and the requirements for the disclosure of information that must be met.

#### **Requirements for remote gambling equipment**

**47.** (1) A licensed remote gambling operator must ensure that the remote gambling equipment used to process remote gambling transactions—

- (a) have been approved by the provincial licensing authority and certified by the SABS; and
- (b) meets the requirements, standards, criteria and technical specifications as determined by the national board.

(2) The requirement that the equipment be certified by the SABS, as referred to in subsection 1(a), need only be met if an applicable SANS 1718 - series standard against which the remote gambling equipment can be tested, exists.

#### **Cheating, cheating devices and manipulation of outcomes**

**48.** (1) A licensed remote gambling operator must not knowingly allow participants in remote gambling transactions which they facilitate via their equipment or operations, to cheat in a remote gambling activity, or otherwise manipulate the outcome of sports or other events and contingencies which form the subject matter of bets placed via that remote gambling operator.

(2) In the case of person-to-person gambling, a licensed remote gambling operator must employ all reasonable means to prevent cheating by skilled, experienced, or computerised players.

## **CHAPTER 10 PLAYER PROTECTION**

### **Display of information to player**

**49.** (1) A remote gambling operator must ensure that it makes clear and sufficient information available to a player—

- (a) regarding the amount of money being gambled by the player, including any conversions from one form of currency to another, or from currency to credits, chips or other tokens, at the point of conversion;
- (b) regarding the result of the remote gambling activity or event and the player's gamble, which must be displayed for a reasonable length of time in order for the player to understand the result of the game or event in the context of his or her gamble and the result must be able to be recalled even after it has ended;
- (c) regarding the applicable rules for the remote gambling activity which must be—
  - (i) easily available to the player before he or she commits to gamble; and
  - (ii) sufficient to explain all of the applicable rules on how to participate;
- (d) to enable the player to make an informed decision about his or her chances of winning, which information must be easily available before the player commits to gamble; and
- (e) regarding the way in which the remote gambling activity works and the way in which winners are determined and prizes allocated.

### **Requirements to reduce risk to players with time critical events**

**50.** A remote gambling operator must ensure that, where the speed of the interaction has a significant effect on the player's chance of winning, the level of risk is assessed and that reasonable and demonstrable steps are taken to inform the player of such risk and, if possible, reduce the risk to players.

### **Requirements regarding measures intended to deter, prevent and detect collusion and cheating**

**51.** (1) A remote gambling operator must ensure that it has measures in place to deter, prevent and detect collusion and cheating in any remote gambling activity it offers to a player.

(2) In order to facilitate investigations into suspected collusion or cheating, the remote gambling operator must retain a record of relevant activities, as prescribed.

(3) A remote gambling operator must investigate player complaints about cheating and must report valid complaints to the relevant provincial licensing authority.

### **Requirements for players to impose their own financial limits**

**52.** (1) A remote gambling operator's gambling system must provide easily accessible facilities that make it possible for players to impose their own financial limits on their gambling.

(2) Players must be given the opportunity to set a limit as part of the registration process or at the point at which the player makes the first deposit or payment.

(3) The self-imposed financial limits referred to in subsection (1) could be in the form of—

- (a) deposit limits, where the amount a player deposits into his or her account is limited over a particular duration;
- (b) spend limits where the amount a player spends on gambling or specific gambling products is restricted for a given period; and
- (c) loss limits, where the amount lost is restricted.

(4) The duration of a self-imposed financial limit must not be less than 24 hours.

(5) A remote gambling operator must take all reasonable steps to ensure that a player's self-imposed financial limits are only rescinded or amended at the player's request, and only after a cooling-off period of 48 hours has elapsed.

(6) The player must, where it is practical to do so, be required to confirm that he or she still wishes to rescind or amend the limit at the end of the cooling-off period.

(7) Unless a systems or technical failure prevents it, a player's instruction that his or her—

- (a) deposit limit amount should be decreased;
- (b) spend limit amount should be decreased; or
- (c) loss limit amount should be decreased,

must be implemented within 24 hours of the instruction being received.

### **Requirements regarding enticements to gamble**

**53.** A remote gambling operator must ensure that it does not actively encourage players to chase their losses, increase their stake or increase the amount they have decided to gamble, or continue to gamble after they have indicated that they wish to stop.

### **Requirements regarding operators' policies on cheating**

**54.** A remote gambling operator must make available information about its policies and procedures with regard to—

- (a) cheating; and
- (b) how to complain if a player suspects other participants are cheating.

## **CHAPTER 11 ENFORCEMENT AND OFFENCES**

### **Inspectors**

**55.** (1) The national board, in terms of section 76 of the National Gambling Act, or a provincial licensing authority in terms of any applicable provincial law may—

(a) appoint any suitably qualified person as an inspector in order to ensure compliance with this Act and to effectively monitor remote gambling activities in the Republic or relevant province; or

(b) instruct the inspector appointed in terms of paragraph (a) to monitor, investigate or evaluate any matter on behalf of the national board or provincial licensing authority, as the case may be.

(2) An inspector appointed in terms of subsection (1), has the powers and duties referred to in section 77(2) and (5) of the National Gambling Act.

### **Breach of confidence**

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

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

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

(2) Subsection (1) does not apply to information disclosed—

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

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

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

### **Obstructing administration of Act**

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

### **Self incrimination**

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

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

### **Failure to comply with Act**

**59.** In addition to any other provision in this Act, a person commits an offence if he or she—

- (a) does anything intended to improperly influence the national board or a provincial licensing authority concerning any matter connected with an investigation;
- (b) does anything in connection with an investigation that would have been contempt of court if the proceedings had occurred in a court of law;
- (c) knowingly provides false information to the national board or the provincial licensing authority;
- (d) falsely claims to be—
  - (i) an inspector;
  - (ii) a provincial licensing authority or the national board; or
  - (iii) a person authorised to act on behalf of a provincial licensing authority or the national board; or
- (e) refuses or fails to comply to the best of his or her ability with any request of an inspector under section 77 of the National Gambling Act.

### **Offences and breach of licence condition**

**60.** (1) A person commits an offence if he or she contravenes or fails to comply with sections 4, 5, 6, 7(2), 38(1), 38(2), 40, 41, 43(1), 43(2), 43(3), 44(1), 45, 46(1), 46(2), 46(3), 47(1), 48(1) and 53 of this Act.

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

### **Proof of facts**

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

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

### **Penalties and forfeitures**

**62.** (1) Any person convicted of performing any act, pertaining to a remote gambling activity in respect of which a valid licence is required, 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.

(2) Where the person is a juristic person, such 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 therein 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, 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 remote gambling activity in question found in or at the place where such contravention occurred must be forfeited to the provincial licensing authorities for disposal, including destruction, at the discretion of the responsible Member of the Executive Council.

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

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

## **CHAPTER 12 GENERAL PROVISIONS**

### **Regulations by Minister**

**63.** (1) The Minister must make regulations regarding—

- (a) the manner and form in which winnings must be remitted to the national board as contemplated in section 7(3);
- (b) the manner and form of the notices and periods contemplated in section 8;
- (c) the fine or penalty that may be imposed on a licensee in terms of section 10(f)(ii);
- (d) the manner in which the remote gambling register must be established and maintained and the type of information that must be included in the register as contemplated in section 14;



- (e) the manner and form of the notices contemplated in section 19(2);
- (f) the manner in which the national board must advise the provincial licensing authority of its decision as contemplated in section 20(2);
- (g) the manner and form in which a remote gambling licence must be issued, the relevant information that must be included on such licence, the nature of the conditions that may be imposed on a licensee and the manner and form in which a licence certificate must be issued as contemplated in section 28(2)(a) and (b);
- (h) prescribing the licence fee contemplated in section 28(2);
- (i) prescribing the fees payable in respect of any application made for amending, substituting or rescinding a licence condition as contemplated in section 29(4);
- (j) regarding the manner and form in which an application contemplated in section 29(4) must be made;
- (k) the manner and form in which the national board must be advised of any disqualification as contemplated in section 35(2)(a);
- (l) the restrictions for remote gambling advertising and the types of warnings that must be included on an advertisement or website as contemplated in section 43; and
- (m) the matters contemplated in sections 44(1)(ii) and (iii), 44(1)(b), 46(1), 46(2)(c), 46(3) and 51(2).

(2) The Minister may make regulations regarding—

- (a) additional criteria to be taken into account by the provincial licensing authorities when recommending conditions to be attached to a licence which may include—
  - (i) technical specifications and standards for remote gambling equipment and remote gambling software used by the remote gambling operator in connection with the licensed activities;
  - (ii) standards in respect of—
    - (aa) a system used for the generation of results in a game, race or other event or process used in the course of remote gambling;
    - (bb) internal systems and controls of a remote gambling operator, in particular regarding the identification of players, protection of minors and excluded persons and reporting of suspicious transactions; and
    - (cc) any other aspect of the process of remote gambling;
  - (iii) the provision of assistance to persons who are or may be affected by problems related to remote gambling;
- (b) the exercise by the national board of its monitoring, investigative and evaluation functions in terms of this Act;
- (c) the uniform manner and form in which applications for remote gambling licences are to be submitted, the minimum fees payable, the manner of payment, the procedures for the

consideration of applications, including the investigations that must be conducted and the circumstances under which hearings in respect of remote gambling licence applications must be conducted; or

- (d) any incidental matter that may be considered necessary or expedient to prescribe in order to achieve the objects of this Act.

### **Regulations by responsible Member of the Executive Council**

**64.** (1) The responsible Member of the Executive Council must, by notice in the *Provincial Gazette* make regulations—

- (a) regarding the manner and form in which applications for a remote gambling licence must be made to the provincial licensing authority, the information that must accompany the application and the manner in which such applications must be processed as contemplated in section 18;
- (b) prescribing the application fees payable in respect of an application contemplated in section 18(1);
- (c) regarding the manner and form of the notices contemplated in section 19(3);
- (d) regarding the manner and form in which any representations or response contemplated in section 23 must be made;
- (e) regarding the period that the application, representation, response or further information referred to in section 24(1) be open to public inspection;
- (f) prescribing the fees payable for any copies or extracts contemplated in section 24(3);
- (g) the fee to be paid for the renewal of a licence as contemplated in section 29(2); and
- (h) regarding the information that must be disclosed to the provincial licensing authority regarding a licensed employee or agent of the employer and the period within which such information must be disclosed as contemplated in section 38(3).

(2) The responsible Member of the Executive Council may by notice in the *Provincial Gazette* make regulations not inconsistent with the provisions of this Act in respect of—

- (a) any matter applicable to the processing of any application for a remote gambling licence required in terms of this Act; or
- (b) the imposition of relevant taxes or any additional levies which are deemed necessary for the relevant provincial licensing authority to fulfil its obligations, duties and responsibilities in terms of this Act.

### **Tax on remote gambling**

**65.** Tax in respect of remote gambling activities must be imposed in terms of appropriate provincial legislation, provided that seventy percent (70%) of this revenue must go to the Provincial Revenue Fund of the Province in which the remote gambling operator is licensed and thirty percent (30%) of the revenue collected must go to the national revenue fund.

**Repeal of laws**

**66.** The following sections of the National Gambling Act (as amended by the National Gambling Amendment Act, 2008 (Act No. 10 of 2008) are hereby repealed to the extent indicated in column 4 of the table hereunder:

Act No.	Year	Name of Act	Extent of amendment or repeal
7	2004	National Gambling Act (as amended by the National Gambling Amendment Act, 2008)	<ol style="list-style-type: none"> <li>1. The definitions of “interactive gambling equipment”, “interactive game”, “interactive provider”, “interactive gambling licence”, “interactive gambling software”, “player account” and “registered player” in section 1 are hereby repealed.</li> <li>2. Sections 3(c)(iii), 5(3)(a), 5A, 6A, 6B, 6C(b), 11, 11A, 12(3)(e), 13(2), 15(4)(a), 17(4) and 18A are hereby repealed.</li> <li>3. Section 30 is hereby amended by the deletion of the words “other than interactive gambling” in paragraph (b) of subsection (2).</li> <li>4. Section 31 is hereby amended by the deletion of the words “other than interactive gambling” in paragraph (e) of subsection (1).</li> <li>5. Sections 32(a) and (b), 33(a), (b), (c) and (d), 37(1A), 37(3), 37(4), 37A and 38(2A) are hereby repealed.</li> <li>6. Section 39 is hereby amended by the deletion of the words “except a licence contemplated in section 38(2A)(a)”.</li> <li>7. Section 39A is hereby repealed.</li> <li>8. Section 40(3) is hereby amended by the deletion of the words “except in respect of a licence contemplated in section 38(2A)(a)”.</li> </ol>

			<p>9. Sections 43(3), 46(1)(eA), 56(c) and 65(2)(g) are hereby repealed.</p> <p>10. Section 82(1) is hereby amended by the deletion of reference to section “6A” in that section.</p> <p>11. Section 87(1)(g) is hereby amended by the deletion of reference to sections “6A” and “11A” in that section.</p> <p>12. Section 88A is hereby repealed.</p>
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### Short title and commencement

**67.** This Act is called the Remote Gambling Act, 2014, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

## MEMORANDUM ON THE OBJECTS OF THE REMOTE GAMBLING BILL OF 2013

### 1. BACKGROUND

- 1.1 The National Gambling Act, 2004 (Act No. 7 of 2004) (“the Gambling Act”) was assented to on 6 August 2004 and came into operation on 1 November 2004. Item 5(5) of the Schedule (which sets out all the transitional provisions) to the Gambling Act provides that the Minister, within two years after the effective date, must introduce legislation in Parliament to regulate interactive gambling within the Republic.
- 1.2 On 10 July 2008, the National Gambling Amendment Act, 2008 (Act No. 10 of 2008) (“the Gambling Amendment Act”) was assented to. The purpose of the Gambling Amendment Act is to provide, *inter alia*, for the regulation of interactive gambling; the registration of players and opening of players accounts; the conditions applicable to interactive gambling licences; the further protection of minors and other persons vulnerable to the negative effects of gambling; and to ensure that the gambling industry complies with the Financial Intelligence Centre Act.
- 1.3 During 2009, the Department of Trade and Industry also published the Interactive Gambling Regulations. These regulations were not approved by the Portfolio Committee on Trade and Industry and to date, the Gambling Amendment Act has also not been brought into operation and hence interactive gambling is currently not regulated in South Africa.
- 1.4 However, over the past 10 years, the South African public has been exposed to and has participated in online and remote gambling. By not regulating this gambling activity, the erosion of the rule of law and criminal activity is being encouraged, while the public is not effectively protected. At the same time, a lack of regulation is resulting in revenue and jobs being lost to other gambling jurisdictions.

### 2. PURPOSE OF THE BILL

The purpose of the Remote Gambling Bill, 2014 (“the Bill”) is to provide a legal basis for the regulation and control of all remote gambling activities; preserve the integrity of the Republic as a responsible global citizen by ensuring an efficient and effective remote gambling regulatory regime; promote the development of a responsible remote gambling industry in the Republic; ensure that all remote gambling activities are conducted responsibly, fairly and honestly; ensure that all players are treated fairly and that the privacy of a player is respected; prevent minors and other vulnerable persons from being exposed to the negative effects of gambling; and prevent remote gambling from being a source of, or associated, with crime or disorder, or being used to support crime, disorder or money laundering.

### 3. CHAPTERS OF THE BILL

- 3.1 Chapter 1 deals with the interpretation and application of the Bill. This chapter contains definitions for the various terms used in the Bill. It also sets out the purpose of the Bill, which is largely to provide a legal basis for the regulation and control of all remote gambling activities and to ensure an efficient and effective remote gambling regulatory regime in the Republic of South Africa. This chapter further stipulates the extent of the applicability of the Bill by, *inter alia*, expressly stating that the Bill does not apply to an activity that is regulated in terms of the Lotteries Act, 1997 (Act No. 57 of 1997).
- 3.2 Chapter 2 describes the remote gambling activities and other activities which are prohibited and considered unlawful. This chapter also describes the type of remote gambling debts that would be enforceable in law and those that will not be enforceable. It further sets out circumstances when winnings from a remote gambling activity may not be paid out and when unlawful winnings must be forfeited.
- 3.3 Chapter 3 deals with the payment of prizes and the remittance of profits and winnings. It provides that monetary prizes must be credited to the player account and that non-monetary prizes must be delivered by courier or post to the player or the player must be given written notice of an address within the Republic where the prize may be collected. It also stipulates what must happen when a prize is not collected and what must be done when a claim for a prize is made to the remote gambling operator within a year of the date of identification of the player. This chapter also provides for prize money to be remitted by a foreign national or external company to a foreign destination under certain circumstances.
- 3.4 Chapter 4 deals with the responsibilities and functions of the provincial licensing authorities and the national board. The powers and functions of the provincial licensing authorities are, *inter alia*, largely to accept and review applications for any of the remote gambling licences; make recommendations to the national board on whether to issue or not issue the licence; recommend to the national board whether any conditions should be imposed on the applicant; undertake or instruct any person, law enforcement agency or company to undertake any investigation or inspection necessary to determine the suitability of an applicant; and monitor remote gambling activities within the Province. A provincial licensing authority is also required to, *inter alia*, take steps to ensure that unlawful activities relating to

remote gambling and unlicensed remote gambling activities are prevented, detected, investigated and prosecuted; that employees within the remote gambling industry are licensed to the extent required by the Act; that remote gambling equipment and software being used or made available by a licensee is certified. They are also required to inspect remote gambling web sites and equipment and enforce compliance by licensees. Each provincial licensing authority is also required to inform the national board of all the applications received by it for a remote gambling licence and indicate to the national board whether or not the applicant complies with the provisions of the Act and the norms and standards issued by the national board.

The responsibilities of the national board are, *inter alia*, largely to conduct evaluations of the performance of provincial licensing authorities; assist provincial licensing authorities to ensure that unlicensed remote gambling activities are detected and prosecuted; develop national norms and standards for the remote gambling industry; ensure that minors and vulnerable persons are protected in relation to remote gambling activities; and ensure that the relevant provincial licensing authority is adequately able to effectively monitor, inspect and evaluate applicants for remote gambling licences. In addition, the national board must receive applications for remote gambling licences put forward to it by the provincial licensing authorities; consider and determine whether or not an application for a remote gambling licence should be granted; determine whether the relevant provincial licensing authority has complied with this Act and whether any further conditions or restrictions must be attached to the remote gambling licence before issuing such licence; monitor remote gambling activities in the Republic; and conduct an enquiry into any alleged contravention of this Act and take appropriate legal action against any provincial licensing authority, any licensee or any other person. Furthermore, the national board must establish and maintain a register containing the information relating to every person to whom it issues a remote gambling licence.

- 3.5 Chapter 5 deals with the categories of licences that may be issued, namely a remote gambling operator licence; a remote gambling manufacturer, supplier or maintenance provider licence; or a remote gambling employment licence. It also provides that these licences are issued by the national board and that they apply throughout the Republic and authorises the licensee to conduct, engage in, or make available the licensed remote gambling activities anywhere within the Republic. This chapter further describes the jurisdiction of a provincial licensing authority and explains that a person who wishes to apply for any of the remote gambling licences must apply to the provincial licensing authority within the province in which the applicant

ordinarily resides, or in which the applicant intends to take up employment under the licence, or where the applicant's place of business is or will be located within the Republic.

- 3.6 Chapter 6 deals with the application procedure, the grounds for refusing a remote gambling licence, the disqualifications from holding a licence, and the renewals, cancellations, transfers and surrender of licences. In terms of this chapter, all applications for any of the remote gambling licences must be made to the relevant provincial licensing authority accompanied by the prescribed information. The provincial licensing authority must then proceed to review the application and undertake all necessary investigations in order to make a recommendation to the national board on whether or not to grant the application. On receiving the application and recommendation from the provincial licensing authority, the national board must consider the recommendation and determine whether the licence should be issued or not issued. On taking a decision, the national board must communicate such decision to the applicant, and where the national board has taken the decision to grant the application, the national board must issue the relevant remote gambling licence and the prescribed licence certificate.
- 3.7 Chapter 7 deals with the conditions relating to key persons employed in the remote gambling industry. This chapter provides that a person who is classified as a key employee (namely the senior management of the remote gambling operator, the director or officer of a corporate body, or any individual who has been represented by the remote gambling operator to be a key employee) must not engage in any work within the remote gambling industry unless that person has been issued with a valid remote gambling employment licence. It also provides that a remote gambling employment licence is not transferrable to another person.
- 3.8 Chapter 8 deals with various restrictions and restricted activities. It firstly addresses the issue of protecting minors and specifies the conduct which a minor may not engage in with regard to remote gambling and remote gambling activities. It also deals with the restrictions on granting credit to gamblers by providing that a remote gambling operator may not extend credit to any person for the purposes of engaging in a remote gambling activity. It also provides for the registration of persons as excluded persons. The chapter further deals with various restrictions on advertising and the promotion of gambling activities; the circumstances under which remote gambling



activities may be provided; and various other restrictions on remote gambling activities.

- 3.9 Chapter 9 deals with standards for web sites and remote gambling equipment. It stipulates that web sites at or on which remote gambling activities are conducted or accessed, must contain a notice which warns the public of the dangers of compulsive and addictive gambling. It also provides for the types of forms, documents and materials that must be made available on the website, and also that the web site must comply with the prescribed standards relating to their design, use and maintenance. This chapter also stipulates that remote gambling equipment used to process remote gambling transactions must be approved by the provincial licensing authority and certified by SABS, and also must meet the requirements, standards, criteria and technical specifications determined by the national board.
- 3.10 Chapter 10 deals with player protection. It stipulates the type of information that must be made available to the player by the remote gambling operator. This chapter also deals with when a remote gambling operator must assess the level of risk to a player and that the remote gambling operator must take reasonable steps to inform the player of such risk and where possible, to reduce the risk to the player. It also provides an obligation on a remote gambling operator to ensure that it has measures in place to deter, prevent and detect collusion and cheating in any remote gambling activity it offers to a player, and that the remote gambling operator must make available information about its policies and procedures regarding cheating. This chapter also provides for players to impose their own financial limits.
- 3.11 Chapter 11 deals with enforcement and describes the nature of the offences that can be committed. It also describes the penalties that can be imposed if convicted for committing an offence.
- 3.12 Chapter 12 deals with the general provisions such as the making of regulations, tax, the repeal of laws, the short title and also the commencement of the Act.

#### **4. BODIES, ORGANISATIONS AND INSTITUTIONS CONSULTED**

The following persons, experts and organisations were consulted:

- Adheera Bodasing, Polarity Consulting;
- Barry Wilkinson; and
- Interested parties and stakeholders within the industry.

#### **5. FINANCIAL IMPLICATIONS**

It is anticipated that additional personnel might need to be appointed to implement this Act. However, the different fees charged will generate revenue which is expected to reduce this impact.

#### **6. PARLIAMENTARY PROCEDURE**

- 6.1 It is proposed that this Bill be dealt with in accordance with the procedure prescribed by section 76 of the Constitution since it deals, *inter alia*, with gambling.
  - 6.2 It is further proposed that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it contains no provisions pertaining to customs of traditional communities.
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